

**Operative part of the judgment**

1. Article 12(7) of Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of open network provision (ONP), as amended by Directive 98/61/EC of the European Parliament and of the Council of 24 September 1998, and Article 4c of Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services, as amended by Commission Directive 96/19/EC of 13 March 1996, the latter article read in conjunction with recitals 5 and 20 in the preamble to Directive 96/19, must be interpreted as precluding a national regulatory authority from requiring an operator of a network interconnected with a public network to pay to the market-dominant subscriber network operator a connection charge which is additional to an interconnection charge and is intended to compensate the latter operator for the deficit incurred as a result of providing the local loop for the year 2003.
2. Article 4c of Directive 90/388, as amended by Directive 96/19, and Article 12(7) of Directive 97/33, as amended by Directive 98/61, produce direct effect and can be relied on directly before a national court by individuals to challenge a decision of the national regulatory authority.

(<sup>1</sup>) OJ C 140, 23.6.2008.

**Judgment of the Court (Fourth Chamber) of 10 July 2008**  
(reference for a preliminary ruling from the Oberlandesgericht Frankfurt am Main — Germany) —  
Emirates Airlines Direktion für Deutschland v Diether Schenkel

(Case C-173/07) (<sup>1</sup>)

*(Carriage by air — Regulation (EC) No 261/2004 — Compensation for passengers in the event of cancellation of a flight — Scope — Article 3(1)(a) — Concept of ‘flight’)*

(2008/C 223/21)

Language of the case: German

**Referring court**

Oberlandesgericht Frankfurt am Main

**Parties to the main proceedings**

*Applicant:* Emirates Airlines Direktion für Deutschland

*Defendant:* Diether Schenkel

**Re:**

Reference for a preliminary ruling — Oberlandesgericht Frankfurt am Main — Interpretation of Article 3(1)(a) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1) — Concept of ‘departure’ — Outward and return ticket from a Member State to a non-member country — Cancellation of the return flight

**Operative part of the judgment**

Article 3(1)(a) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, must be interpreted as not applying to the case of an outward and return journey in which passengers who have originally departed from an airport located in the territory of a Member State to which the EC Treaty applies travel back to that airport on a flight from an airport located in a non-member country. The fact that the outward and return flights are the subject of a single booking has no effect on the interpretation of that provision.

(<sup>1</sup>) OJ C 155, 7.7.2007.

**Judgment of the Court (Third Chamber) of 17 July 2008 —**  
Commission of the European Communities v Kingdom of Spain

(Case C-207/07) (<sup>1</sup>)

*(Failure of a Member State to fulfil obligations — Articles 43 EC and 56 EC — National law making the acquisition of shareholdings in undertakings which carry on regulated activities in the energy sector and of the assets necessary to carry on those activities subject to prior approval)*

(2008/C 223/22)

Language of the case: Spanish

**Parties**

*Applicant:* Commission of the European Communities (represented by: H. Støvlbæk and R. Vidal Puig, acting as Agents)

*Defendant:* Kingdom of Spain (represented by: N. Díaz Abad, acting as Agent)