

3. Is the first sentence of Article 21g(2) of Law 241/1990, as interpreted by the administrative case-law — in relation to the obligation to state reasons for an administrative measure laid down by Article 3 of Law 241/1990 and by Sicilian Regional Law 10/1991, read in conjunction with the obligation to state reasons for the acts of public authorities laid down by the second paragraph of Article 296 of the Treaty on the Functioning of the European Union and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union — compatible with Article 1 of Law 241/1990, which requires the administrative authorities to apply the principles of European Union law, and, consequently, are the interpretation and application of that interpretation whereby the authorities may supplement a statement of reasons for an administrative measure in court proceedings compatible and admissible?

Reference for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 29 June 2012 — J. Sebastian Guevara Kamm v TAM Airlines S.A./TAM Linhas Aéreas S.A.

(Case C-316/12)

(2012/C 295/30)

Language of the case: German

Referring court

Landgericht Frankfurt am Main

Parties to the main proceedings

Applicant: J. Sebastian Guevara Kamm

Defendant: TAM Airlines S.A./TAM Linhas Aéreas S.A.

Question referred

Is Article 2(j) of Regulation (EC) No 261/2004 ⁽¹⁾ to be interpreted, with regard to the 'reasonable grounds' mentioned therein, to the effect that 'reasonable grounds' can only be grounds pertaining to the person of the passenger which jeopardise the safety of air transport or of other passengers or which affect other public or contractual interests, or can 'reasonable grounds' also be other grounds not pertaining to the person of the passenger, in particular cases of *force majeure*?

⁽¹⁾ 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).

Reference for a preliminary ruling from the Curtea de Apel București (Romania) of 5 July 2012 — E.On Energy Trading SE v Agenția Națională de Administrare Fiscală, Direcția Generală a Finanțelor Publice a Municipiului București — Serviciul de administrare a contribuabililor nerezidenți

(Case C-323/12)

(2012/C 295/31)

Language of the case: Romanian

Referring court

Curtea de Apel București

Parties to the main proceedings

Applicant: E.On Energy Trading SE

Defendants: Agenția Națională de Administrare Fiscală, Direcția Generală a Finanțelor Publice a Municipiului București — Serviciul de administrare a contribuabililor nerezidenți

Questions referred

1. May a taxable person having its principal place of business in a Member State of the European Union other than Romania, and that has identified for VAT purposes a tax representative in Romania, on the basis of the provisions of domestic law in force before Romania acceded to the European Union, be regarded as a 'taxable person not established in the territory of the country', within the meaning of Article 1 of Eighth Council Directive 79/1072/EEC ⁽¹⁾ of 6 December 1979 on the harmonisation of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in the territory of the country?
2. Does the requirement, laid down in Article 1472(1)(a) of Law No 571/2003 on the Tax Code and transposing the provisions of the Directive, that the legal person should not be identified for VAT purposes, represent a further condition in addition to those expressly provided for in Articles 3 and 4 [of the Eighth Directive] and, if so, is a further condition of this kind permitted, having regard to Article 6 of the Directive?
3. Can Articles 3 and 4 [of the Eighth Directive] have direct effect, or does satisfaction of the conditions explicitly regulated by those provisions rather confer on the legal person not established in the territory of Romania, in accordance with Article 1, the right to refund of VAT, regardless of the form they are given in the national legislation?

⁽¹⁾ OJ L 331, p. 11, Special Edition, 09/vol. 1, p.34.