

*Defendants:* Ministerul Justiției, Consiliul Superior al Magistraturi, Curtea de Apel Suceava, Tribunalul Botoșani

### Question referred

Must Article 7 of Directive 2003/88/EC<sup>(1)</sup> be interpreted as precluding a provision of national law which, in determining the duration of a worker's annual leave, does not consider the period of parental leave for a child under two a period of service completed?

<sup>(1)</sup> Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9).

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**Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 13 January 2017 — TGE Gas Engineering GmbH — Sucursal em Portugal v Autoridade Tributária e Aduaneira**

**(Case C-16/17)**

(2017/C 104/49)

*Language of the case: Portuguese*

### Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

### Parties to the main proceedings

*Applicant:* TGE Gas Engineering GmbH — Sucursal em Portugal

*Defendant:* Autoridade Tributária e Aduaneira

### Questions referred

Must Articles 44, 45, 132(1)(f), 167, 168, 169, 178, 179 and 192a, 193, 194 and 196 of the VAT Directive (Directive 2006/112),<sup>(1)</sup> Articles 10 and 11 of Implementing Regulation (EU) No 282/2011<sup>(2)</sup> and the principle of neutrality be interpreted as meaning that they preclude the Portuguese tax authorities from refusing the right to deduction of VAT by a branch of a German company, in circumstances where:

- the German company obtained a tax identification number in Portugal to carry out an isolated act, namely 'acquisition of shares', corresponding to a non-resident entity without a permanent establishment;
- subsequently, the branch of that German company was registered in Portugal and was assigned its own tax number, as a permanent establishment of that company;
- later, the German company, using the first identification number, entered into a contract with another company to establish an economic interest group (ACE) to carry out a works contract in Portugal;
- subsequently, the branch, using its own tax number, entered into a subcontract with the ACE, setting out the reciprocal services between the branch and the ACE and agreeing that the latter would invoice the subcontractors, in the agreed proportions, for the costs which it incurred;
- the ACE indicated the branch's tax identification number in the debit notes it issued to invoice costs to that branch, and charged VAT;
- the branch deducted the VAT charged in the debit notes;

- the transactions of the ACE (by way of subcontracting) consist of the transactions of the branch and of the other company forming part of the ACE, these latter having invoiced to the ACE the entire revenue that the ACE invoiced to the developer?

<sup>(1)</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax  
OJ 2006 L 347, p. 1.

<sup>(2)</sup> Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax  
OJ 2011 L 77, p. 1.

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**Request for a preliminary ruling from the Lietuvos apeliacinis teismas (Lithuania) lodged on 19 January 2017 — AB ‘flyLAL-Lithuanian Airlines’, in liquidation, v Starptautiskā lidosta ‘Rīga’ VAS, ‘Air Baltic Corporation A/S’**

**(Case C-27/17)**

(2017/C 104/50)

*Language of the case: Lithuanian*

**Referring court**

Lietuvos apeliacinis teismas

**Parties to the main proceedings**

*Applicant:* AB ‘flyLAL-Lithuanian Airlines’, in liquidation

*Defendants:* Starptautiskā lidosta ‘Rīga’ VAS, ‘Air Baltic Corporation A/S’

**Questions referred**

1. In the circumstances of the present case, is the notion ‘place where the harmful event occurred’ in Article 5(3) of the Brussels I Regulation <sup>(1)</sup> to be understood as meaning the place of conclusion of the defendants’ unlawful agreement infringing Article 82(c) of the Treaty establishing the European Community (Article 102(c) TFEU), or the place of commission of acts by which the financial benefit obtained from that agreement was exploited, by means of predatory pricing (cross-subsidisation) when competing with the applicant in the same relevant markets?
2. In the present case, can the damage (loss of income) suffered by the applicant on account of the specified unlawful acts of the defendants be regarded as damage for the purpose of Article 5(3) of the Brussels I Regulation?
3. Are the operations of the branch of Air Baltic Corporation in the Republic of Lithuania, in the circumstances of the present case, to be regarded as operations of a branch within the meaning of Article 5(5) of the Brussels I Regulation?

<sup>(1)</sup> Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

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**Reference for a preliminary ruling from the High Court (Ireland) made on 24 January 2017 — Eamonn Donnellan v The Revenue Commissioners**

**(Case C-34/17)**

(2017/C 104/51)

*Language of the case: English*

**Referring court**

High Court (Ireland)