

Re:

Reference for a preliminary ruling — Commissione tributaria provinciale di Roma — Interpretation of Articles 149 EC and 151 EC — National income tax legislation — Deduction of the costs of attending secondary and university courses held abroad from the gross tax payable in respect of taxable income — Limitation of the recognition of costs

Operative part of the judgment

1. Article 49 EC must be interpreted as:

- precluding national legislation which allows taxpayers to deduct from gross tax the costs of attending university courses provided by universities situated in that Member State but excludes generally that possibility for university tuition fees incurred at a private university established in another Member State;
- not precluding national legislation which allows taxpayers to deduct from gross tax university tuition fees incurred at a private university established in another Member State up to the maximum amount set for the corresponding costs of attending similar courses at the national State university nearest to the taxpayer's residence for fiscal purposes.

2. Article 18 EC must be interpreted as:

- precluding national legislation which allows taxpayers to deduct from gross tax the costs of attending university courses provided by universities situated in that Member State but excludes generally that possibility for university tuition fees incurred at a university established in another Member State;
- not precluding national legislation which allows taxpayers to deduct from gross tax university tuition fees incurred at a university established in another Member State up to the maximum amount set for the corresponding costs of attending similar courses at the national State university nearest to the taxpayer's residence for fiscal purposes.

Judgment of the Court (Third Chamber) of 6 May 2010 (reference for a preliminary ruling from the Juzgado de lo Mercantil nº 4 de Barcelona — Spain) — Axel Walz v Clickair S.A.

(Case C-63/09) ⁽¹⁾

(Air transport — Montreal Convention — Liability of carriers in respect of checked baggage — Article 22(2) — Limits of liability in case of destruction, loss, damage or delay of baggage — Concept of 'damage' — Material and non-material damage)

(2010/C 179/15)

Language of the case: Spanish

Referring court

Juzgado de lo Mercantil nº 4 de Barcelona

Parties to the main proceedings

Applicant: Axel Walz

Defendant: Clickair S.A.

Re:

Reference for a preliminary ruling — Juzgado de lo Mercantil nº 4 (Barcelona) — Interpretation of Article 22(2) of the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention), (Council Decision 2001/539/EC, OJ 2001 L 194, p. 39) — Jurisdiction of the Court — Interpretation of Article 3 of Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents (OJ 1997 L 285, p. 1) — Air carrier liability in respect of the carriage of passengers and their baggage by air — Limit of liability in case of destruction, loss, damage or delay of baggage — Material and non-material damage

Operative part of the judgment

The term 'damage', which underpins Article 22(2) of the Convention for the Unification of Certain Rules for International Carriage by Air, concluded in Montreal on 28 May 1999, that sets the limit of an air carrier's liability for the damage resulting, *inter alia*, from the loss of baggage, must be interpreted as including both material and non-material damage.

⁽¹⁾ OJ C 90, 18.04.2009.

⁽¹⁾ OJ C 102, 1.5.2009.