

**Question referred**

Do Articles 49 and 63 of the Treaty on the Functioning of the European Union preclude national legislation such as that at issue in the present case (Articles 11(2) and 29(3) of Legea nr. 571/2003 privind Codul fiscal (Law No 571/2003 establishing the Romanian Tax Code)), which provides that a bank transfer of money from a company branch resident in one Member State to the parent company resident in another Member State may be reclassified as a revenue-generating transaction, with the consequent obligation to apply the rules on transfer pricing, whereas, if the same transaction had been effected between a company branch and a parent company, both of which were resident in the same Member State, that transaction could not have been reclassified in the same way and the rules on transfer pricing would not have been applied?

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**Request for a preliminary ruling from the Juzgado de lo Mercantil n.º 3 de Valencia (Spain) lodged on 23 July 2019 — GT v Air Nostrum Líneas Aéreas del Mediterráneo, S.A.**

**(Case C-560/19)**

(2019/C 372/16)

*Language of the case: Spanish*

**Referring court**

Juzgado de lo Mercantil n.º 3 de Valencia

**Parties to the main proceedings**

*Applicant:* GT

*Defendant:* Air Nostrum Líneas Aéreas del Mediterráneo, S.A.

**Questions referred**

1. Can a company which provides air passenger transport and which sells the ticket but which does not actually operate the flight be considered to come within the concept of ‘operating air carrier’?
2. If the answer to the previous question is in the negative, does the right to compensation for passengers under Article 7 of Regulation [(EC) No] 261/2004 <sup>(1)</sup> exist where the flight is composed of more than one leg and, as a result of a short delay (less than three hours) on one leg, there is a long delay (more than three hours) on arrival at the final destination because of a missed connection? If the answer is in the affirmative, where the different legs are operated by different carriers, is the obligation to pay compensation under Article 7 of Regulation [(EC) No] 261/2004 incumbent on the operating carrier on whose leg there was a short delay (less than three hours) which, however, caused the missed connection and, therefore, a long delay (more than three hours) on arrival at the final destination?

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<sup>(1)</sup> 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).

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