

Case C-444/20

Request for a preliminary ruling

Date lodged:

21 September 2020

Referring court:

Amtsgericht Nürnberg (Germany)

Date of the decision to refer:

11 September 2020

Applicant:

Flightright GmbH

Defendant:

Ryanair Designated Activity Company

Amtsgericht Nürnberg

[...]

In the case of

Flightright GmbH,

... Potsdam

– Applicant –

Ryanair Designated Activity Company, [...] Dublin, Ireland

– Defendant –

[...] **[Or. 2]**

concerning a claim [for compensation]

the Amtsgericht Nürnberg [...] (Local Court, Nuremberg) made, on 11 September 2020 [...], the following

Order

I. The proceedings are stayed.

II. The following questions are referred to the Court of Justice of the European Union pursuant to Article 19(3)(b) of the Treaty on European Union and Article 267 of the Treaty on the Functioning of the European Union on the interpretation of Article 5(3) 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:

(a) Does a trade-union-organised strike by an operating air carrier's own staff constitute 'extraordinary circumstances' within the meaning of Article 5(3) of Regulation (EC) No 261/2004?

(b) Is it of any significance that the strike was held in connection with staff demands not previously agreed by contract between the staff and the operating air carrier?

(c) Is it of any significance that the strike in question was triggered by the operating air carrier's conduct during negotiations with the trade union? **[Or. 3]**

Grounds

1 I. [...] [stay of proceedings]

2 The decision on the dispute, which is not open to challenge by ordinary appeal, is dependent on a preliminary ruling from the Court of Justice of the European Union in answer to the question set out in the operative part of this order.

2 II. Description of the subject matter of the proceedings

3 The applicant claims compensation in the amount of EUR 250.00 from the defendant.

4 The passenger, who has transferred his claims to the applicant, had a confirmed booking on a flight from Nuremberg (NUE) to Manchester (MAN) (flight number

FR3504) that was to be operated by the defendant. The flight was due to depart from Nuremberg at 11.10 (local time) on 10 August 2018 and arrive in Manchester at 12.15 (local time) on the same day. The flight was cancelled. The reason for the cancellation was a strike by the defendant's pilots on 10 August 2018.

- 5 The defendant had conducted collective bargaining talks with the 'Vereinigung Cockpit' ('the VC'), including on the conclusion of a framework agreement on employment conditions and pay. Negotiations had commenced in December 2017. The trade union wanted a 42% pay rise. The defendant agreed to a 20% rise, which it had in fact paid since the beginning of 2018. On 3 August 2018, the defendant presented an improved offer to VC, [Or. 4] on which negotiations had not yet taken place. On 8 August 2018, VC called a pilots' strike.
- 6 Flights were cancelled in Germany and other countries as a result of the strike on 10 August 2018. The remaining flights proceeded following reorganisation of the flight schedule and allocation of other pilots. The defendant also had to contend with strikes in Ireland, Belgium, Sweden and the Netherlands.

[See, with regard to the relevant provisions of law, the national case-law, the legal opinions of the parties and the stage of the proceedings, the request for a preliminary ruling in case C-442/20]

[...]

WORKING DOCUMENT