

**Case C-10/20**

**Request for a preliminary ruling**

**Date lodged:**

10 January 2020

**Referring court:**

Amtsgericht Düsseldorf (Germany)

**Date of the decision to refer:**

18 December 2019

**Applicant:**

Flightright GmbH

**Defendant:**

Eurowings GmbH

---

**Certified copy**

...

**Amtsgericht Düsseldorf (Local Court, Düsseldorf)**

**Order**

In the case of

Flightright GmbH v Eurowings GmbH

The Amtsgericht Düsseldorf (Local Court, Düsseldorf)

on 18 December 2019

[...]

made the following order:

I. The proceedings are stayed.

II. The following questions are referred to the Court of Justice of the European Union for a preliminary ruling on the interpretation of Articles 5 and 7 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:

1. Is the scheme on compensation in the event of a cancellation under Article 5 in conjunction with Article 7 of Regulation (EC) No 261/2004 to be interpreted as meaning that passengers who are re-routed to the final destination more than one hour before the scheduled departure time, and who then by virtue of the alternative flight arrive earlier at the final destination than would otherwise have been the case with the scheduled (cancelled) flight, also receive compensation by way of an application by analogy of Article 7 of that regulation?

2.

(a) If Question 1 is answered in the affirmative, can that compensation, which, in principle, is to be granted under Article 7(1) of Regulation (EC) No 261/2004, then be reduced under Article 7(2) of that regulation according to the flight distance [Or. 2] if the arrival time of the alternative flight is before the scheduled arrival of the flight that was originally booked?

(b) If Question 2(a) is answered in the affirmative, are there grounds for excluding the possibility of a reduction if the arrival time of the alternative flight is too far ahead of the scheduled arrival time of the flight that was originally booked, for example more than three hours?

**Grounds:**

**I.**

The applicant is seeking, on the basis of rights assigned to it by an assignor, compensation in the initial amount of EUR 250 under Article 7(1)(a) of Regulation (EC) No 261/2004. The defendant is a German air carrier. The assignor booked with the defendant the following flight from Nuremberg to Düsseldorf:

Flight number:	EW9067
Scheduled departure time:	20 May 2018, 20:50, Nuremberg
Scheduled arrival time:	20 May 2018, 21:50, Düsseldorf

That flight was cancelled. The assignor was put on the following replacement flight:

Flight number: EW9069  
 Scheduled departure time: 20 May 2018, 16:50, Nuremberg  
 Scheduled arrival time: 20 May 2018, 18:00, Düsseldorf

The assignor therefore departed 4 hours and 25 minutes before the original scheduled departure time and reached their final destination 3 hours and 50 minutes before the original scheduled arrival time. The flight distance from Nuremberg to Düsseldorf is 365 km.

The defendant notified the applicant, by letter of 21 September 2018, of a reduction in the applicant's entitlement to compensation by 50% under Article 7(2)(a) of Regulation (EC) No 261/2004.

By letter of 23 October 2018, the applicant then declared the dispute to be settled in the sum of EUR 125. The letter was delivered to the defendant on 5 November 2018. The defendant objected to that settlement declaration by letter of [Or. 3] 19 November 2018, a copy of which was also sent to the court by fax on the same date.

## II.

1.

The success of the claim depends on the interpretation of Article 5 and Article 7(1) and (2) of Regulation (EC) No 261/2004. The questions referred to the Court of Justice for a preliminary ruling on the interpretation of that regulation are relevant to the issue of the merits of the claim brought by the applicant for compensation in the sum of EUR 125, and also of the application for a declaratory judgment now maintained by the applicant with regard to the unilateral declaration for part settlement of the dispute in the sum of EUR 125.

2.

The reference to the Court of Justice for a preliminary ruling is necessary pursuant to the third paragraph of Article 267 TFEU.

3.

...

[Signatures]...

...