

Case C-443/20

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 between

Flightright GmbH

[...] Potsdam

– Applicant –

[...]

and

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(s) set out in the operative part of this order

2 II. Description of the subject matter of the proceedings

- 3 The applicant is seeking 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 Palma de Mallorca to Nuremberg (flight number FR2158) that was to be operated by the defendant. The flight was due to depart from Palma de Mallorca at 17.50 (local time) on 25 July 2018 and arrive in Nuremberg at 20.05 (local time) on the same day. The flight was cancelled. The reason for the cancellation was a strike by the defendant's cabin crew on 25 July 2018.
- 5 The defendant had conducted collective bargaining talks with the trade union CGIL (national trade union in Italy). Strikes were held in Italy, Spain, Portugal and Belgium and hence also affected airports used by the defendant in Spain. The defendant was given 7 days' notice of the strike on 18 July 2018.
- 6 The defendant prepared an emergency plan. Of the 1 900 flights scheduled for that day, 486 were cancelled. **[Or. 4]**

[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