

Anonymised version

Translation

C-578/20 – 1

Case C-578/20

Request for a preliminary ruling

Date lodged:

4 November 2020

Referring court:

Tribunal Judicial da Comarca dos Açores (Juízo Local Cível de Ponta Delgada – Juiz 1) (District Court, Azores – Civil Chamber, Ponta Delgada – Court No 1) (Portugal)

Date of the decision to refer:

8 July 2020

Applicants:

NM

NR

BA

XN

FA

Defendant:

Sata Air Açores – Sociedade Açoriana de Transportes Aéreos, SA

[...]

Tribunal Judicial da Comarca dos Açores (District Court, Azores)

Civil Chamber, Ponta Delgada— Court No 1

[...]

[...]

Claim in ordinary proceedings

[...]

[...]

NM, NR, BA, XN and FA each lodged claims in ordinary proceedings against **SATA AIR AÇORES – SOCIEDADE AÇORIANA DE TRANSPORTES AÉREOS, SA**, asking that the defendant be ordered to pay the applicants compensation of EUR 400.00 in the case of the first applicant and [EUR] 250.00 in the case of the other applicants.

They based their claims on the cancellation of flights operated by the defendant, relying on 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].

In its defence, the defendant stated that the cancellations were due to a strike by its aircraft maintenance staff, but that it had done everything in its power to prevent the strike, and therefore the court should declare that this was an extraordinary circumstance which exempted it from the requirement to pay the compensation in question.

[...]

The following decision has been made:

1. Under reservation number OE05VI, **NM** purchased a ticket for flight No SP465, operated by the defendant, and flight No S4124, both scheduled for 13 July 2018, departing from Ilha de São Jorge airport (SJZ) at 11:50 (local time) and due to arrive at Lisbon airport (LIS) at 18:10 (local time) on 13 July 2018, with a transfer at Ponta Delgada airport ([PDL]), with a scheduled arrival time of 13:30 (local time) and a departure time of 15:00 (local time).
2. Under reservation number ORQNPR, **NR, BA and XN** purchased tickets for flight No SP571, operated by the defendant, scheduled for 6 July 2018, departing from Ilha das Flores airport (FLW) at 11:25 (local time) and due to arrive at Horta airport (HOR) at 12:10 (local time).
3. Under reservation number UGOV97, **FA** purchased a ticket for flight No 5P1403, operated by the defendant, scheduled for 14 July 2018, departing from Ilha Terceira airport (TER) at 08:10 (local time) and due to arrive at Ponta Delgada airport (PDL) at 08:50 (local time).
4. All the flights were cancelled.

5. The defendant did not give the applicants two weeks' notice of the flight cancellations.
6. The cancellations were caused by the strike by the defendant's aircraft maintenance staff.
7. The strike was called by the Union of Aircraft Maintenance Technicians (SITEMA) and the National Union of Civil Aviation Workers (SINTAC).
8. The strike affected the number of technicians on duty from 00:00 to 08:00 (the period used to carry out maintenance and checks after the day's flights) during the period from 6 July to 26 July 2018.
9. The objectives of the strike were to obtain a pay increase and to reach a conclusion in negotiations over an agreement concerning travel for work purposes and reconciling timetables.
10. The defendant took part in negotiations in an attempt to avert the strike.
11. An agreement was reached with effect from 00:00 on 27 July 2018.

[...] [...] [factual grounds for the decision]

[...] [identification of the party requesting the reference]

The facts underlying the requested interpretation or assessment of validity have been verified, and this court therefore makes an order for reference, which is mandatory, since, in view of the sum involved, there is no right of appeal in the case [point (b) of the first paragraph of Article 267 of the Treaty on the Functioning of the European Union].

[...] [reference to the lack of agreement between the parties over the wording of the request for a preliminary ruling]

[...] The dispute solely concerns the interpretation of the concept of 'extraordinary circumstances' referred to in Article 5(3) of Regulation (EC) No 261/2004 of the European Parliament and of the Council.

Having regard to the above, **the proceedings are stayed pursuant to Article 269(1)(c) and Article 272(1) of the Código de Processo Civil (Code of Civil Procedure) until the Court of Justice of the European Union has given a preliminary ruling on the following question:**

Must a strike by an airline's aircraft maintenance staff be deemed to constitute an extraordinary circumstance within the meaning of Article 5(3) of Regulation (EC) No 261/2004 when the airline has held meetings and negotiations in an unsuccessful attempt to avert the strike?

[...]

[...] [subsequent conduct of the proceedings]

[...]

[...] [date]

[...] [signature]

WORKING DOCUMENT