

Questions referred

1. Must Article 9(1) of Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the European Union ⁽¹⁾ be interpreted as precluding national legislation, such as that at issue in the main proceedings, which in order to penalise failure to comply with the obligation to declare under Article 3 of that regulation permits a fine to be imposed of up to double the value of the means of payment used?
2. Must Article 9(1) of Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the European Union be interpreted as precluding national legislation, such as that at issue in the main proceedings, which lays down as aggravating circumstances in the case of failure to comply with the obligation to declare, lack of proof of the lawful origin of the means of payment and inconsistency between the activity carried on by the person concerned [and the amount of the movement]?
3. In the event that the two preceding questions are answered in the affirmative, must Article 9(1) of Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the European Union be interpreted as meaning that the imposition of a financial penalty which, independently of the amount of the movement, can be up to 25 % of the undeclared cash satisfies the requirement of proportionality?

⁽¹⁾ OJ 2005 L 309, p. 9.

Request for a preliminary ruling from the Amtsgericht Hannover (Germany) lodged on 13 April 2017 — Helga Krüsemann and Others v TUIfly GmbH

(Case C-195/17)

(2017/C 221/12)

Language of the case: German

Referring court

Amtsgericht Hannover

Parties to the main proceedings

Applicants: Helga Krüsemann, Gabriele Heidenreich, Doris Manneck, Rita Juretschke

Defendant: TUIfly GmbH

Questions referred

1. Is the absence on sick leave of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? ⁽¹⁾ In the event that the first question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?
2. In the event that the first question is answered in the negative: is the spontaneous absence, due to unauthorised work stoppage under employment law or collective agreements ('wildcat strike'), of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? In the event that the second question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?
3. In the event that the first or the second question is answered in the affirmative: must the extraordinary circumstance itself have been present at the time the flight was cancelled or is the operating air carrier entitled to devise a new flight plan pursuant to economic considerations?

4. In the event that the first or the second question is answered in the affirmative: does the avoidability criterion relate to the extraordinary circumstance or, rather, to the consequences of the occurrence of the extraordinary circumstance?

⁽¹⁾ 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.

Request for a preliminary ruling from the Amtsgericht Hannover (Germany) lodged on 13 April 2017 — Rita Hoffmeyer and Rudolf Meyer v TUIfly GmbH

(Case C-199/17)

(2017/C 221/13)

Language of the case: German

Referring court

Amtsgericht Hannover

Parties to the main proceedings

Applicants: Rita Hoffmeyer, Rudolf Meyer

Defendant: TUIfly GmbH

Questions referred

1. Is the absence on sick leave of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? ⁽¹⁾ In the event that the first question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?
2. In the event that the first question is answered in the negative: is the spontaneous absence, due to unauthorised work stoppage under employment law or collective agreements ('wildcat strike'), of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? In the event that the second question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?
3. In the event that the first or the second question is answered in the affirmative: must the extraordinary circumstance itself have been present at the time the flight was cancelled or is the operating air carrier entitled to devise a new flight plan pursuant to economic considerations?
4. In the event that the first or the second question is answered in the affirmative: does the avoidability criterion relate to the extraordinary circumstance or, rather, to the consequences of the occurrence of the extraordinary circumstance?

⁽¹⁾ 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.

Request for a preliminary ruling from the Amtsgericht Hannover (Germany) lodged on 13 April 2017 — Eberhard Schmeer v TUIfly GmbH

(Case C-203/17)

(2017/C 221/14)

Language of the case: German

Referring court

Amtsgericht Hannover