



Judgment of the Court (Ninth Chamber) of 16 May 2024 (request for a preliminary ruling from the Landgericht Köln - Germany) – Touristic Aviation Services Limited v Flightright GmbH

(Case C-405/23, (1) Touristic Aviation Services)

(Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Compensation for air passengers in the event of long delay of flights – Article 5(3) – Exemption from the obligation to pay compensation – Extraordinary circumstances – Shortage of staff of the airport operator providing baggage loading services)

(C/2024/3887)

Language of the case: German

Referring court

Landgericht Köln

Parties to the main proceedings

Appellant: Touristic Aviation Services Limited

Respondent: Flightright GmbH

Operative part of the judgment

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,

must be interpreted as meaning that

the fact of there being an insufficient number of staff of the airport operator responsible for the operations of loading baggage onto planes may constitute an 'extraordinary circumstance' within the meaning of that provision. However, in order to be exempted from its obligation to pay compensation to passengers provided for in Article 7 of that regulation, the air carrier whose flight has experienced a long delay on account of such an extraordinary circumstance is required to show that that circumstance could not have been avoided even if all reasonable measures had been taken and that it adopted measures appropriate to the situation to avoid the consequences thereof.

⁽¹⁾ OJ C 329, 18.9.2023.