

Questions referred

1. In circumstances such as those of the main proceedings, in which, on 17 October 2012, a German family benefits office granted and paid (by way of set-off) the child benefit due for the period from October 2006 to November 2011 in the amount of the difference between the family allowances payable in the Swiss Confederation and the corresponding German benefits, in accordance with Article 10(1)(a) of Regulation (EEC) No 574/2,⁽¹⁾ is the conversion of Swiss family allowances from Swiss francs into euros to be carried out in accordance with Article 107(1) of Regulation (EEC) No 574/72, Article 107(6) of Regulation (EEC) No 574/72 or Article 90 of Regulation (EC) No 987/2009,⁽²⁾ in conjunction with Decision No H3 of 15 October 2009⁽³⁾ concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009?
2. If the answer to Question 1 is that the conversion must be carried out wholly or in part in accordance with Article 107(6) of Regulation (EEC) No 574/72: in the circumstances set out in Question 1, is the relevant date for the purposes of conversion the date on which the foreign benefit to be set off was paid or the date on which the domestic benefit against which the foreign benefit is set off is paid?
3. If the answer to Question 1 is that the conversion must be carried out wholly or in part in accordance with Article 107(1) of Regulation (EEC) No 574/72: in circumstances such as those of the main proceedings, how must the reference period provided for in Article 107(2) and (4) of Regulation (EEC) No 574/72 be determined? Is the relevant date for the purposes of conversion the date on which the Swiss institution granted or paid the family benefit to be set off?
4. If the answer to Question 1 is that the conversion must be carried out wholly or in part in accordance with Article 90 of Regulation (EC) No 987/2009, in conjunction with Decision No H3 of 15 October 2009: in accordance with which provision (paragraph 2, paragraph 3(a) or paragraph 3(b)) of Decision No H3 of 15 October 2009 and in what manner must the conversion of family benefits be carried out if the national law relating to the domestic family benefit itself provides for an exclusion of benefits (Paragraph 65(1), point 2, of the German Law on Income Tax) and the benefit is granted on the basis of European Union law alone? Is the relevant date for the purposes of conversion the date on which the Swiss institution granted or paid the family benefits?

⁽¹⁾ Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and their families moving within the Community (OJ, English Special Edition 1972(I), p. 160) (updated version).

⁽²⁾ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ 2009 L 284, p. 1).

⁽³⁾ Decision No H3 of 15 October 2009 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ 2010 C 106, p. 56).

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 13 May 2013 — Elena Recinto-Pfingsten v Swiss International Air Lines AG

(Case C-259/13)

(2013/C 260/34)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Elena Recinto-Pfingsten

Defendant: Swiss International Air Lines AG

Question referred

Is the Agreement⁽¹⁾ on air transport between the Swiss Confederation and the European Community of 21 June 1999, as amended by Decision No 2/2010⁽²⁾ of the Community/Switzerland Air Transport Committee of 26 November 2010, to be interpreted as meaning that Regulation (EC) No 261/2004⁽³⁾ 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, is applicable, in accordance with Article 3(1)(a), also to passengers who embark on a flight to a third country from airports in Switzerland?

⁽¹⁾ Agreement between the European Community and the Swiss Confederation on Air Transport — Final Act — Joint Declarations — Information relating to the entry into force of the seven Agreements with the Swiss Confederation in the sectors free movement of persons, air and land transport, public procurement, scientific and technological cooperation, mutual recognition in relation to conformity assessment, and trade in agricultural products (OJ 2002 L 114, p. 73).

⁽²⁾ Decision No 2/2010 of the Joint Community/Switzerland Air Transport Committee set up under the Agreement between the European Community and the Swiss Confederation on Air Transport of 26 November 2010 replacing the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport (OJ 2010 L 347, p. 54).

⁽³⁾ 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).
