Request for a preliminary ruling from the Amtsgericht Hannover (Germany) lodged on 1 June 2015 — Michael Ihden, Gisela Brinkmann v TUIfly GmbH

(Case C-257/15)

(2015/C 279/23)

Language of the case: German

Referring court

Amtsgericht Hannover

Parties to the main proceedings

Applicants: Michael Ihden, Gisela Brinkmann

Defendant: TUIfly GmbH

Questions referred

1. Must Article 5(3) of Regulation (EC) No 261/2004 ([1]) be interpreted as meaning that extraordinary circumstances which arise during a preceding flight continue to constitute extraordinary circumstances in relation to the flight at issue in the case where the airline operator has the possibility to avoid delay in the remaining flights of the flight sequence by not carrying out certain flights within that flight sequence?

2. If the Court's answer to Question 1 is in the affirmative: Must the extraordinary circumstances have arisen on the same day, the previous day or, more generally, only within the scheduled flight sequence?

([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 (Text with EEA relevance) — Commission Statement (OJ 2004 L 46, p. 1).

Request for a preliminary ruling from the Cour d'appel de Bruxelles (Belgium) lodged on 8 June 2015 — Fernand Ullens de Schooten v Ministre des Affaires Sociales et de la Santé Publique and Ministre de la Justice

(Case C-268/15)

(2015/C 279/24)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Applicant: Mr Fernand Ullens de Schooten

Defendants: Ministre des Affaires Sociales et de la Santé Publique and Ministre de la Justice

Questions referred

1. Does Community law, and in particular the principle of effectiveness, in certain circumstances and, in particular, those described in paragraph 38 of the present judgment, require the national limitation period, as [that prescribed by] Article 100 of the Coordinated Laws on State Accounting applicable to a claim for compensation made by an individual against the Belgian State for infringement of Article 43 of the EC Treaty (now Article 49 TFEU) by the legislature, not to start to run until that infringement has been ascertained or, on the contrary, is the principle of effectiveness sufficiently well upheld in those circumstances by the opportunity open to that individual to interrupt the limitation period by having process served by a *huissier de justice*?

2. Must Articles 43 EC, 49 EC and 56 EC and the concept of a 'purely internal situation', which is liable to limit reliance on those provisions by a litigant in proceedings before a national court, be interpreted as precluding the application of [EU] law in proceedings between a Belgian citizen and the Belgian State in which redress is sought for damage caused by an alleged infringement of Community law resulting from the adoption and maintaining in force of Belgian legislation of the same kind as Article 3 of Royal Decree No 143 of 30 December 1982 which applies without distinction to Belgian nationals and nationals of other Member States?

3. Must the principle of the primacy of Community law and Article 4(3) TEU be interpreted as not allowing the rule of the authority of *res judicata* to be disapplied in connection with the re-examination or setting aside of a judicial decision which has become *res judicata* and which proves to be contrary to [EU] law but, on the contrary, as allowing a national rule establishing the authority of *res judicata* to be disapplied when the latter requires the adoption, on the basis of that judicial decision which has become *res judicata* but is contrary to [EU] law, of another judicial decision which would perpetuate the infringement of [EU] law by the first judicial decision?

4. Could the Court confirm that the question whether the rule of the authority of *res judicata* must be set aside in the event of a judicial decision which has become *res judicata* but is contrary to [EU] law in the context of an application for review or setting aside of that decision is not a question materially identical, within the meaning of the judgments [*DaCosta and Others* (28/62 to 30/62, EU:C:1963:6) and *Cilfit and Others* (283/81, EU:C:1982:335)], to the question whether the rule of the authority of *res judicata* is contrary to [EU] law in the context of an application for a (new) decision which would repeat the infringement of [EU] law, so that the court giving judgment at last instance cannot escape its obligation to make a reference for a preliminary ruling?

Reference for a preliminary ruling from Court of Appeal (England & Wales) (Civil Division) made on 8 June 2015 — Swiss International Air Lines AG v The Secretary of State for Energy and Climate Change, Environment Agency

(Case C-272/15)

(2015/C 279/25)

Language of the case: English

Referring court

Court of Appeal (England & Wales) (Civil Division)

Parties to the main proceedings

Applicant: Swiss International Air Lines AG

Defendants: The Secretary of State for Energy and Climate Change, Environment Agency

Questions referred

1. Does Decision 377/2013/EU ([1]) of the European Parliament and of the Council of 24 April 2013 ('the Decision') infringe the general EU principle of equal treatment insofar as it establishes a moratorium on the requirements to surrender emissions allowances imposed by Directive 2003/87/EC ([2]) of the European Parliament and of the Council of 13 October 2003 (as amended by various instruments, including Directive 2008/101/EC ([3]) of the European Parliament and of the Council of 19 November 2008) in respect of flights between EEA states and almost all non-EEA states, but does not extend that moratorium to flights between EEA states and Switzerland?

2. If so, what remedy must be provided to a claimant in the position of Swiss International Airlines AG, which has surrendered emissions allowances in respect of flights that took place during 2012 between EEA states and Switzerland, to restore that claimant to the position it would have been in, but for the exclusion from the moratorium of flights between EEA states and Switzerland? In particular: