

Parties to the main proceedings

Applicant: Abubacarr Jawo

Defendant: Bundesrepublik Deutschland

Questions referred

1. Is an asylum seeker absconding within the meaning of the second sentence of Article 29(2) of Regulation (EU) No 604/2013⁽¹⁾ only where he purposefully and deliberately evades apprehension by the national authorities responsible for carrying out the transfer in order to prevent or impede the transfer, or is it sufficient if, for a prolonged period, he ceases to live in the accommodation allocated to him and the authority is not informed of his whereabouts and therefore a planned transfer cannot be carried out?

Is the person concerned entitled to rely on the correct application of the provision and to plead in proceedings against the transfer decision that the transfer time limit of six months has expired, because he was not absconding?

2. Does an extension of the time limit provided for under the first subparagraph of Article 29(1) of Regulation (EU) No 604/2013 arise solely as a result of the fact that the transferring Member State informs the Member State responsible, before the expiry of the time-limit, that the person concerned has absconded, and at the same time specifies an actual time limit, which may not exceed 18 months, by which the transfer will be carried out, or is an extension possible only in such a way that the Member States involved stipulate by mutual agreement an extended time limit?
3. Is transfer of the asylum seeker to the Member State responsible inadmissible if, in the event of international protection status being granted, he would be exposed there, in view of the living conditions then to be expected, to a serious risk of experiencing treatment as referred to in Article 4 of the Charter of Fundamental Rights?

Does this question as formulated still fall within the scope of application of EU law?

According to which criteria under EU law are the living conditions of a person recognised as a beneficiary of international protection to be assessed?

⁽¹⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ 2013 L 180, p. 31).

Request for a preliminary ruling from the Amtsgericht Hamburg (Germany) lodged on 18 May 2017 — Andreas Niemeyer v Brussels Airlines SA/NV

(Case C-269/17)

(2017/C 318/04)

Language of the case: German

Referring court

Amtsgericht Hamburg

Parties to the main proceedings

Applicant: Andreas Niemeyer

Defendant: Brussels Airlines SA/NV

Question referred

Is the second sentence of Article 7(1) of Regulation (EC) No 261/2004⁽¹⁾ ('the Regulation') to be interpreted as meaning that the concept of 'distance' relates only to the direct distance calculated between the point of departure and the last destination on the basis of the 'great circle' method, regardless of the distance actually flown?

⁽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.