

Order of the Court (Ninth Chamber) of 4 October 2021 (request for a preliminary ruling from the Corte dei conti — Sezione regionale di controllo per la Campania — Italy) — Comune di Camerota

(Case C-161/21) ⁽¹⁾

(Reference for a preliminary ruling — Article 53(2) of the Rules of Procedure of the Court — Directive 2011/85/EU — Directive 2011/7/EU — Economic and monetary policy — Local authority in financial difficulty — Financial rebalancing plan — National legislation suspending the investigative powers of the Court of Auditors due to the health crisis related to the COVID-19 pandemic — Article 267 TFEU — Definition of ‘court or tribunal of a Member State’ — No dispute before the referring body — Manifest inadmissibility)

(2022/C 51/17)

Language of the case: Italian

Referring court

Corte dei conti — Sezione regionale di controllo per la Campania

Parties to the main proceedings

Applicant: Comune di Camerota

Operative part of the order

The request for a preliminary ruling from the Corte dei conti — Sezione regionale di controllo per la Campania (Court of Auditors — Regional Audit Division for Campania, Italy), made by decision of 9 March 2021, is manifestly inadmissible.

⁽¹⁾ OJ C 217, 7.6.2021.

Order of the Court (Ninth Chamber) of 6 October 2021 (request for a preliminary ruling from the Landgericht Hamburg — Germany) — TUIfly GmbH v FI, RE

(Case C-253/21) ⁽¹⁾

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court — Air transport — Regulation (EC) No 261/2004 — Article 5 — Article 7 — Article 8(3) — Denied boarding, cancellation or long delay of a flight — Compensation and assistance to passengers — Concept of ‘cancellation’ — Diversion of a flight to an airport not serving the same town, city or region as that for which the booking was made — Re-routing of passengers by coach)

(2022/C 51/18)

Language of the case: German

Referring court

Landgericht Hamburg

Parties to the main proceedings

Appellant: TUIfly GmbH

Respondents: FI, RE

Operative part of the order

Article 5(1)(c), Article 7(1) and Article 8(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 a diverted flight landing at an airport which is not that for which the booking was made and which does not serve the same town, city or region is capable of conferring on the passenger a right to compensation for cancellation of a flight.

(¹) OJ C 289, 19.7.2021.

Appeal brought on 2 July 2021 by the Council of the European Union against the judgment of the General Court (Second Chamber) delivered on 21 April 2021 in Case T-252/19, Pech v Council

(Case C-408/21 P)

(2022/C 51/19)

Language of the case: English

Parties

Appellant: Council of the European Union (represented by: A. de Gregorio Merino, E. Dumitriu-Segnana, K. Pavlaki, E. Rebasti, Agents)

Other parties to the proceedings: Laurent Pech, Kingdom of Sweden

Form of order sought

The Appellant claims that the Court should:

- set aside the judgment of the General Court;
- give final judgment in the matters that are the subject of this appeal, and
- order the applicant in Case T-252/19 to pay the costs of the Council arising from that case and from the present appeal.

Pleas in law and main arguments

In support of the appeal, the Council relies on three pleas in law:

First plea: misinterpretation and misapplication of the second indent of Article 4(2) of regulation 1049/2001 (¹)

First limb of the plea: the General Court erred in its assessment of whether the requested opinion has a particularly wide scope and has interpreted this criterion, set by the case law, in a way that renders it inoperative. By failing to address the Council's arguments in that regard, the General Court has also breached its duty to state reasons.

Second limb of the plea: the General Court erred in law in not taking into consideration the sensitivity of the legal opinion in view of the specific circumstances of the context in which it was given, in particular its crucial character for the decision-making process. The interpretation of the sensitive nature of legal advice suggested by the General Court, which isolates the content of a legal opinion from its surrounding circumstances, is legally flawed and deprives the protection afforded under the second indent of Article 4(2) of the Regulation of a large part of its substance.

Third limb of the plea: the General Court erred in its assessment of whether disclosure of the legal opinion would adversely affect forthcoming court proceedings by compromising the equality of the parties before the judge and the Council's right of defence.