

Order of the Court (Eighth Chamber) of 10 March 2023 (request for a preliminary ruling from the Landgericht Düsseldorf — Germany) — Eurowings GmbH v Flightright GmbH

(Case C-607/22, ⁽¹⁾ Eurowings (Non-existent flight))

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Air transport — Regulation (EC) No 261/2004 — Common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights — Article 2 — Concept of ‘operating air carrier’ — Flight booked through a tour operator — Allegedly non-existent flight)

(2023/C 179/14)

Language of the case: German

Referring court

Landgericht Düsseldorf

Parties to the main proceedings

Appellant: Eurowings GmbH

Respondent: Flightright GmbH

Operative part of the order

Article 2(b) 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 an air carrier cannot be classified as an ‘operating air carrier’, within the meaning of that provision, where a passenger has concluded a contract with a tour operator for a particular flight, with a flight number and a date, which was supposed to be operated by that air carrier, without the air carrier ever having scheduled a flight with that flight number for that date, but may be regarded as an ‘operating air carrier’, within the meaning of that provision, where it has made an offer which, as the case may be, has been the subject of subsequent amendments on its part.

⁽¹⁾ Date lodged: 20.9.2022.

Appeal brought on 18 July 2022 by KO against the order of the General Court (President) delivered on 19 May 2022 in Case T-119/22 AJ, KO v Council of the European Union, European Commission, European External Action Service (EEAS) and Eulex Kosovo

(Case C-485/22 P)

(2023/C 179/15)

Language of the case: English

Parties

Appellant: KO (represented by: P. Koutrakos, dikigoros, F. Randolph, advocaat, and J. Stojisavljevic-Savic, Solicitor)

Other parties to the proceedings: Council of the European Union, European Commission, European External Action Service (EEAS), Eulex Kosovo

By order of 31 March 2023, the Court of Justice (Sixth Chamber) held that the appeal was dismissed due to a manifest lack of jurisdiction of the Court and that KO should bear her own costs.