Question referred

Is Article 7 of Regulation (EC) No 261/2004 ([1]) to be interpreted as meaning that, where flights with different air carriers are the subject of a single reservation made via an online agency, a right to compensation exists against the operating air carrier of the first leg of the journey where, although the delay in arrival of the flight of the first leg was less than 3 hours, this led to the connecting flight being missed and, as a result, the delay in arrival of the passenger at the final destination was in excess of 3 hours, and where the operating air carrier of the first leg was neither a party to the contract of carriage for the second leg nor aware that a connecting flight had been booked at the same time with a different air carrier?

By order of the President of the Court of Justice of 28 June 2021, the case was removed from the register of the Court.

([1]) Regulation 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).

Request for a preliminary ruling from the Sąd Rejonowy dla m. st. Warszawy w Warszawie (Poland) lodged on 7 June 2021 — J.K. v TP S.A.

(Case C-356/21)

(2021/C 391/08)

Language of the case: Polish

Referring court

Sąd Rejonowy dla m. st. Warszawy w Warszawie

Parties to the main proceedings

Applicant: J.K.

Defendant: TP S.A.

Question referred

Must Article 3(1)(a) and (c) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ([1]) be construed as permitting the exclusion from the scope of Council Directive 2000/78/EC, and consequently also as permitting the exclusion from the application of the sanctions laid down in national law pursuant to Article 17 of Council Directive 2000/78/EC, of the freedom of choice of parties to a contract so long as that choice is not based on sex, race, ethnic origin or nationality, in a situation where the alleged discrimination consists in a refusal to enter into a civil-law contract under which work is to be carried out by a self-employed natural person when that refusal is based on the sexual orientation of the prospective counterparty?

([1]) OJ 2000 L 303, p. 16.

Request for a preliminary ruling from the Sąd Okręgowy w Warszawie (Poland) lodged on 14 June 2021 — Hewlett Packard Development Company LP v Senetic Spółka Akcyjna

(Case C-367/21)

(2021/C 391/09)

Language of the case: Polish

Referring court

Sąd Okręgowy w Warszawie

Parties to the main proceedings

Applicant: Hewlett Packard Development Company LP

Defendant: Senetic Spółka Akcyjna

Questions referred

1. Must the second sentence of Article 36 TFEU, read in conjunction with Article 15(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark, ([1]) and in conjunction with the second sentence of Article 19(1) of the Treaty on European Union, be interpreted as precluding the practice of the national courts of the Member States, which is that the courts

   — when upholding claims by right holders to prohibit the importation, exportation and advertising of goods bearing the EU trade mark or to order their withdrawal from the market;

   — when ruling, in proceedings to secure claims, on the seizure of goods bearing the EU trade mark,

   refer in their rulings to 'goods which have not been put on the market within the European Economic Area by the right holder or with his consent', with the result that it is left to the enforcement authority, in view of the general wording of the ruling, to determine which items bearing the EU trade mark are subject to the injunctions and prohibitions granted (that is to say, which items have not been put on the market within the European Economic Area by the right holder or with his consent) [and the authority relies, in making the findings set out, on statements of the right holder or tools supplied by him (including IT tools and databases)], while the possibility of challenging the aforementioned findings of the enforcement authority before a court in declaratory proceedings is excluded or limited by the nature of the legal remedies available to the defendant in proceedings to secure claims and in enforcement proceedings?

2. Must Articles 34, 35 and 36 of the Treaty on the Functioning of the European Union be interpreted as precluding the holder of the registration of a Community (now EU) trade mark from relying on the protection provided for in Articles 9 and 102 of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (now Articles 9 and 130 of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark) in a situation where:

   — the holder of the registration of the Community (EU) trade mark distributes, within and outside the European Economic Area, goods bearing that mark through authorised distributors, who may resell the goods bearing the trade mark to persons who are not the final recipients of those goods, belonging exclusively to the official distribution network — and at the same the authorised distributors are required to purchase the goods only from other authorised distributors or from the right holder;

   — the goods bearing the trade mark have no other markings or distinctive characteristics which would make it possible to determine where they have been put on the market by the right holder or with his consent;

   — the defendant acquired the goods bearing the mark in the European Economic Area;

   — the defendant collected statements from the sellers of goods bearing the mark to the effect that they may be marketed, in accordance with the law, in the European Economic Area;

   — the holder of the registration of the EU trade mark does not provide any IT tool (or other tool) or use a system of markings — which enables the potential purchasers of the goods bearing the mark to verify independently the legality of marketing those goods in the European Economic Area before purchasing them — and refuses to carry out such verification at the purchaser's request?

([1]) OJ 2017 L 154, p. 1.