Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

2 September 2021 *

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* Language of the case: English.

(Reference for a preliminary ruling – Maritime transport – Rights of passengers when travelling by sea and inland waterway – Regulation (EU) No 1177/2010 – Articles 18 and 19, Article 20(4), and Articles 24 and 25 – Cancellation of passenger services – Late delivery of a vessel to the carrier – Notice given prior to the originally scheduled date of departure – Consequences – Right to re-routing – Procedures – Payment of the additional costs – Right to compensation – Calculation – Concept of ticket price – National body responsible for the enforcement of Regulation No 1177/2010 – Competence – Concept of a complaint – Assessment of validity – Articles 16, 17, 20 and 47 of the Charter of Fundamental Rights of the European Union – Principles of proportionality, legal certainty and equal treatment)

In Case C-570/19,

REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland), made by decision of 22 July 2019, received at the Court on 26 July 2019, in the proceedings

Irish Ferries Ltd

v

National Transport Authority,

THE COURT (Fourth Chamber),

composed of M. Vilaras, President of the Chamber, N. Piçarra, D. Šváby (Rapporteur), S. Rodin and K. Jürimäe, Judges,

Advocate General: M. Szpunar,

Registrar: C. Strömholm, Administrator,

having regard to the written procedure and further to the hearing on 9 September 2020,

after considering the observations submitted on behalf of:

– Irish Ferries Ltd, by V. Power, T. O'Donnell, B. McGrath and E. Roberts, Solicitors, C. Donnelly and P. Sreenan, Senior Counsel,

– the National Transport Authority, by M. Collins, D. McGrath, Senior Counsel, S. Murray, Barrister-at-Law, M. Doyle, K. Quigley and E. O'Hanrahan, Solicitors,

– Ireland, by M. Browne, G. Hodge, J. Quaney and A. Joyce, acting as Agents, and by P. McGarry, Senior Counsel, and M. Finan, Barrister-at-Law,

– the European Parliament, by L.G. Knudsen and A. Tamás, acting as Agents,

– the Council of the European Union, by O. Segnana and R. Meyer, acting as Agents,

– the European Commission, by N. Yerrell, L. Armati and S. L. Kalėda, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 4 March 2021,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 18 and 19, Article 20(4), and Articles 24 and 25 of Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ 2010 L 334, p. 1), and the validity of that regulation.

2 The request has been made in proceedings between Irish Ferries Ltd and the National Transport Authority (Ireland) ('the Irish Transport Authority') concerning the conditions for compensating passengers affected by the cancellation of sailings between Dublin (Ireland) and Cherbourg (France).

Legal context

EU law

Regulation (EU) No 1177/2010

3 Recitals 1, 2, 3, 12 to 15, 17 and 19 of Regulation No 1177/2010 state:

'(1) Action by the Union in the field of maritime and inland waterway transport should aim, among other things, at ensuring a high level of protection for passengers that is comparable with other modes of transport. Moreover, full account should be taken of the requirements of consumer protection in general.

(2) Since the maritime and inland waterway passenger is the weaker party to the transport contract, all passengers should be granted a minimum level of protection. Nothing should prevent carriers from offering contract conditions more favourable for the passenger than the conditions laid down in this Regulation. At the same time, the aim of this Regulation is not to interfere in commercial business-to-business relationships concerning the transport of goods. In particular, agreements between a road haulier and a carrier should not be construed as transport contracts for the purposes of this Regulation and should therefore not give the road haulier or its employees the right to compensation under this Regulation in the case of delays.

(3) The protection of passengers should cover not only passenger services between ports situated in the territory of the Member States, but also passenger services between ports and ports situated outside the territory of the Member States, taking into account the risk of distortion of competition on the passenger transport market. Therefore the term "Union carrier" should, for the purposes of this Regulation, be interpreted as broadly as possible, but without affecting other legal acts of the Union, such as Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of

the Treaty to maritime transport [(OJ 1986 L 378, p. 4)] and Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) [(OJ 1992 L 364, p. 7)].

…

(12) Passengers should be adequately informed in the event of cancellation or delay of any passenger service or cruise. That information should help passengers to make the necessary arrangements and, if needed, to obtain information about alternative connections.

(13) Inconvenience experienced by passengers due to the cancellation or long delay of their journey should be reduced. To this end, passengers should be adequately looked after and should be able to cancel their journey and have their tickets reimbursed or to obtain re-routing under satisfactory conditions. Adequate accommodation for passengers may not necessarily consist of hotel rooms but also of any other suitable accommodation that is available, depending in particular on the circumstances relating to each specific situation, the passengers' vehicles and the characteristics of the ship. In this respect and in duly justified cases of extraordinary and urgent circumstances, carriers should be able to take full advantage of the available relevant facilities, in cooperation with civil authorities.

(14) Carriers should provide for the payment of compensation for passengers in the event of the cancellation or delay of a passenger service based on a percentage of the ticket price, except when the cancellation or delay occurs due to weather conditions endangering the safe operation of the ship or to extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.

(15) Carriers should, in accordance with generally accepted principles, bear the burden of proving that the cancellation or delay was caused by such weather conditions or extraordinary circumstances.

…

(17) Extraordinary circumstances should include, but not be limited to, natural disasters such as fires and earthquakes, terrorist attacks, wars and military or civil armed conflicts, uprisings, military or illegal confiscations, labour conflicts, landing any sick, injured or dead person, search and rescue operations at sea or an inland waterways, measures necessary to protect the environment, decisions taken by traffic management bodies or port authorities, or decisions by the competent authorities with regard to public order and safety as well as to cover urgent transport needs.

…

(19) The Court of Justice of the European Union has already ruled that problems leading to cancellations or delays can be covered by the concept of extraordinary circumstances only to the extent that they stem from events which are not inherent in the normal exercise of the activity of the carrier concerned and are beyond its actual control. It should be noted that weather conditions endangering the safe operation of the ship are indeed beyond the actual control of the carrier.'

4 Article 2 of Regulation No 1177/2010 provides:

‘1. This Regulation shall apply in respect of passengers travelling:

(a) on passenger services where the port of embarkation is situated in the territory of a Member State;

(b) on passenger services where the port of embarkation is situated outside the territory of a Member State and the port of disembarkation is situated in the territory of a Member State, provided that the service is operated by a Union carrier as defined in Article 3(e);

(c) on a cruise where the port of embarkation is situated in the territory of a Member State. However, Articles 16(2), 18, 19 and 20(1) and (4) shall not apply to those passengers.

2. This Regulation shall not apply in respect of passengers travelling:

(a) on ships certified to carry up to 12 passengers;

(b) on ships which have a crew responsible for the operation of the ship composed of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way;

(c) on excursion and sightseeing tours other cruises; or

(d) on ships not propelled by mechanical means as well as original, and individual replicas of, historical passenger ships designed before 1965, built predominantly with the original materials, certified to carry up to 36 passengers.

3. Member States may, for a period of 2 years from 18 December 2012, exempt from the application of this Regulation seagoing ships of less than 300 gross tons operated in domestic transport, provided that the rights of passengers under this Regulation are adequately ensured under national law.

4. Member States may exempt from the application of this Regulation passenger services covered by public service obligations, public service contracts or integrated services provided that the rights of passengers under this Regulation are comparably guaranteed under national law.

…’

5 Article 3 of that regulation contains the following definitions:

‘…

(f) “passenger service” means a commercial passenger transport service by sea or inland waterways operated according to a published timetable;

…

(m) “transport contract” means a contract of carriage between a carrier and a passenger for the provision of one or more passenger services or cruises;

(n) "ticket" means a valid document or other evidence of a transport contract;

…

(r) "reservation" means a booking of a specific departure of a passenger service or a cruise;

…'

6 Article 4 of that regulation, entitled 'Tickets and non-discriminatory contract conditions', provides in paragraph 2:

'Without prejudice to social tariffs, the contract conditions and tariffs applied by carriers or ticket vendors shall be offered to the general public without any direct or indirect discrimination based on the nationality of the final customer or on the place of establishment of carriers or ticket vendors within the Union.'

7 In Chapter II of that regulation, entitled 'Rights of disabled persons and persons with reduced mobility', Article 7(2), entitled 'Right to transport', provides:

'Reservations and tickets shall be offered to disabled persons and persons with reduced mobility at no additional cost under the same conditions that apply to all other passengers.'

8 In Chapter III of Regulation No 1177/2010, entitled 'Obligations of carriers and terminal operators in the event of interrupted travel', Article 18 of that regulation, entitled 'Re-routing and reimbursement in the event of cancelled or delayed departures', provides:

'1. Where a carrier reasonably expects a passenger service to be cancelled or delayed in departure from a port terminal for more than 90 minutes, the passenger shall immediately be offered the choice between:

(a) re-routing to the final destination, under comparable conditions, as set out in the transport contract, at the earliest opportunity and at no additional cost;

(b) reimbursement of the ticket price and, where relevant, a return service free of charge to the first point of departure, as set out in the transport contract, at the earliest opportunity.

2. Where a passenger service is cancelled or delayed in departure from a port for more than 90 minutes, passengers shall have the right to such re-routing or reimbursement of the ticket price from the carrier.

3. The payment of the reimbursement provided for in paragraphs 1(b) and 2 shall be made within 7 days, in cash, by electronic bank transfer, bank order or bank cheque, of the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made where the journey no longer serves any purpose in relation to the passenger's original travel plan. Where the passenger agrees, the full reimbursement may also be paid in the form of vouchers and/or other services in an amount equivalent to the price for which the ticket was purchased, provided that the conditions are flexible, particularly regarding the period of validity and the destination.'

9 Article 19 of that regulation, entitled 'Compensation of the ticket price in the event of delay in arrival', states:

'1. Without losing the right to transport, passengers may request compensation from the carrier if they are facing a delay in arrival at the final destination as set out in the transport contract. The minimum level of compensation shall be 25% of the ticket price for a delay of at least:

(a) 1 hour in the case of a scheduled journey of up to 4 hours;

(b) 2 hours in the case of a scheduled journey of more than 4 hours, but not exceeding 8 hours;

(c) 3 hours in the case of a scheduled journey of more than 8 hours, but not exceeding 24 hours; or

(d) 6 hours in the case of a scheduled journey of more than 24 hours.

If the delay exceeds double the time set out in points (a) to (d), the compensation shall be 50% of the ticket price.

2. Passengers who hold a travel pass or a season ticket and who encounter recurrent delays in arrival during its period of validity may request adequate compensation in accordance with the carrier's compensation arrangements. These arrangements shall state the criteria for determining delay in arrival and for calculation of compensation.

3. Compensation shall be calculated in relation to the price which the passenger actually paid for the delayed passenger service.

4. Where the transport is for a return journey, compensation for delay in arrival on either the outward or the return leg shall be calculated in relation to half of the price paid for the transport by that passenger service.

5. The compensation shall be paid within 1 month after the submission of the request for compensation. The compensation may be paid in vouchers and/or other services, provided that the conditions are flexible, particularly regarding the period of validity and the destination. The compensation shall be paid in money at the request of the passenger.

6. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Carriers may introduce a minimum threshold under which payments for compensation will not be paid. This threshold shall not exceed EUR 6.'

10 Article 20 of that regulation, entitled 'Exemptions', is worded as follows:

'1. Articles 17, 18 and 19 shall not apply to passengers with open tickets as long as the time of departure is not specified, except for passengers holding a travel pass or a season ticket.

2. Articles 17 and 19 shall not apply if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger.

3. Article 17(2) shall not apply where the carrier proves that the cancellation or delay is caused by weather conditions endangering the safe operation of the ship.

4. Article 19 shall not apply where the carrier proves that the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or by extraordinary circumstances hindering the performance of the passenger service which could not have been avoided even if all reasonable measures had been taken.'

11 In Chapter IV of that regulation, entitled 'General rules on information and complaints', Article 24, entitled 'Complaints', states:

'1. Carriers and terminal operators shall set up or have in place an accessible complaint-handling mechanism for rights and obligations covered by this Regulation.

2. Where a passenger covered by this Regulation wants to make a complaint to the carrier or terminal operator, he shall submit it within 2 months from the date on which the service was performed or when a service should have been performed. Within 1 month of receiving the complaint, the carrier or terminal operator shall give notice to the passenger that his complaint has been substantiated, rejected or is still being considered. The time taken to provide the final reply shall not be longer than 2 months from the receipt of a complaint.'

12 In Chapter V of Regulation No 1177/2010, entitled 'Enforcement and national enforcement bodies', Article 25 of that regulation, entitled 'National bodies responsible for enforcement', provides:

'1. Each Member State shall designate a new or existing body or bodies responsible for the enforcement of this Regulation as regards passenger services and cruises from ports situated on its territory and passenger services from a third country to such ports. Each body shall take the measures necessary to ensure compliance with this Regulation.

Each body shall, in its organisation, funding decisions, legal structure and decision-making, be independent of commercial interests.

2. Member States shall inform the Commission of the body or bodies designated in accordance with this Article.

3. Any passenger may submit a complaint, in accordance with national law, to the competent body designated under paragraph 1, or to any other competent body designated by a Member State, about an alleged infringement of this Regulation. The competent body shall provide passengers with a substantiated reply to their complaint within a reasonable period of time.

A Member State may decide:

(a) that the passenger as a first step shall submit the complaint covered by this Regulation to the carrier or terminal operator; and/or

(b) that the national enforcement body or any other competent body designated by the Member State shall act as an appeal body for complaints not resolved under Article 24.

4. Member States that have chosen to exempt certain services pursuant to Article 2(4) shall ensure that a comparable mechanism of enforcement of passenger rights is in place.'

Regulation (EC) No 261/2004

13 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), includes Article 5 entitled 'Cancellation', paragraph 1 of which states:

'In case of cancellation of a flight, the passengers concerned shall:

…

(c) have the right to compensation by the operating air carrier in accordance with Article 7, unless:
   (i) they are informed of the cancellation at least two weeks before the scheduled time of departure; or
   (ii) they are informed of the cancellation between two weeks and seven days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than two hours before the scheduled time of departure and to reach their final destination less than four hours after the scheduled time of arrival; or
   (iii) they are informed of the cancellation less than seven days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than one hour before the scheduled time of departure and to reach their final destination less than two hours after the scheduled time of arrival.'

Irish law

14 The European Union (Rights of Passengers when Travelling by Sea and Inland Waterway) Regulations 2012 ('the 2012 Statutory Instrument'), adopted on 10 October 2012, designates, in Regulation 3, the Irish Transport Authority as the enforcement body within the meaning of Article 25 of Regulation No 1177/2010.

15 In accordance with Regulation 4(1) of the 2012 Statutory Instrument, the Irish Transport Authority may, on its own initiative or following a complaint by a passenger, being of the opinion that a provider is failing to comply with Regulation No 1177/2010, cause to be served on the provider 'a notice specifying the failure or infringement concerned and requiring the provider to take such measures as are specified in the notice, within such period as may be specified, for the purposes of complying with the notice'.

16 Regulation 4(2) of the 2012 Statutory Instrument stipulates that a provider on whom notice is served under Regulation 4(1) may make representations to the Irish Transport Authority within 21 days. That authority must consider any such representations and confirm, modify or withdraw the notice.

17 Finally, under Regulation 4(3) of the 2012 Statutory Instrument, a provider on whom a notice has been served under that Statutory Instrument, who fails to comply with the notice commits an offence and is liable on summary conviction to a fine of EUR 5 000, or on conviction on indictment to a fine not exceeding EUR 250 000.

The dispute in the main proceedings and the questions referred for a preliminary ruling

18 In 2016, Irish Continental Group plc, the parent company of Irish Ferries, concluded a contract with Flensburger Schiffbau-Gesellschaft ('the shipyard'), a company governed by German law, to build a vessel scheduled for delivery with full certification no later than 26 May 2018.

19 That vessel was to enter into operation for the summer season of 2018 in order to provide various routes, including a new route consisting of continuous return sailings between Dublin and Cherbourg ('the Dublin-Cherbourg route').

20 In view of the sailing time (approximately 18 hours), Irish Ferries had planned to operate the vessel on the Dublin-Cherbourg route on alternate days in conjunction with another vessel which it operated during the 2018 season on the Rosslare (Ireland) – Cherbourg and Rosslare – Roscoff (France) routes, thereby offering a daily service between Ireland and France, albeit from and to different ports.

21 In January 2017, the shipyard informed Irish Ferries that the vessel would be delivered no later than 22 June 2018.

22 On 27 October 2017, Irish Ferries registered bookings for the 2018 season, since most passengers reserve advance sailings. On 1 November 2017, the shipyard confirmed that the ship in question would be delivered on 22 June 2018 so that it would be ready for the first sailing scheduled for 12 July 2018.

23 However, on 18 April 2018, the shipyard informed Irish Ferries that the vessel in question would not be delivered before 13 July 2018 in view of the delay by accommodation outfitters engaged as subcontractors. Consequently, the sailings could not start as scheduled on 12 July 2018, and certain other sailings would also be affected.

24 Accordingly, having established, on 20 April 2018, that it could not replace that vessel with one from its fleet or by chartering a replacement vessel through a shipbroker, Irish Ferries cancelled the scheduled sailings with the vessel in question until its new delivery date, plus a leeway period. Irish Ferries thus cancelled the sailings from 12 to 29 July 2018.

25 Irish Ferries took various steps in relation to that cancellation. First, it notified all the passengers concerned of the cancellation of sailings giving 12 weeks' notice. Secondly, it offered those passengers an immediate, no-quibble reimbursement of the ticket price or the opportunity to rebook alternative sailings of their choice ('the alternative sailings'). Since there was no other identical service on the Dublin-Cherbourg route, Irish Ferries offered the passengers concerned a range of alternative sailings with various ports of departure and arrival directly between Ireland and France or indirectly, that is to say via Great Britain (United Kingdom). However, the Irish Transport Authority challenges the fact that Irish Ferries offered all passengers the option of re-routing via the landbridge.

26 In the case of passengers rerouted to and from Rosslare, rather than Dublin, and/or to and from Roscoff, rather than Cherbourg, Irish Ferries did not offer to reimburse any additional costs incurred by those passengers. Irish Ferries took the view that not all passengers incurred any additional costs, given that certain passengers were located closer to Roscoff than Cherbourg.

27 On 9 May 2018, the Irish Transport Authority notified Irish Ferries that it was examining the circumstances in which the sailings from 12 to 29 July 2018 were cancelled in order 'to establish how [Regulation No 1177/2010] should be applied in this instance' and asked Irish Ferries to provide an explanation of the reasons why that carrier considered that the cancellation was due to extraordinary circumstances beyond its control.

28 On 1 June 2018, the Irish Transport Authority asked Irish Ferries for additional information concerning its compliance with Article 18 of Regulation No 1177/2010.

29 On 11 June 2018, the shipyard informed Irish Ferries that the delivery of the vessel at issue would be delayed until some unspecified date in September 2018 on account of a delay by a subcontractor in carrying out electrical cabling work and work related to the installation of the electrical system in the hull and deckhouse, as well as delays in the delivery of interior components for public areas. In the end, the vessel was not delivered until 12 December 2018, some 200 days late.

30 Given that it was unable to operate the vessel in question and that it had not been able to charter a replacement vessel, Irish Ferries decided to cancel all the sailings scheduled after 30 July 2018.

31 Irish Ferries took various steps in relation to that cancellation. First, it announced that cancellation to all the passengers concerned as soon as it had confirmed that it was not possible to charter an alternative vessel, giving 7 to 12 weeks' notice. Secondly, it offered those passengers the opportunity to cancel and to receive a full immediate reimbursement of the ticket price. Thirdly, it offered those passengers the possibility of travelling on alternative sailings to France without reimbursement of any additional costs. It also offered the passengers the option of being re-routed via the landbridge of their choice from any Irish ferry port to French ports such as Cherbourg, Roscoff, Calais and Caen. The passenger was then reimbursed for the fuel costs incurred in travelling through Great Britain.

32 The result of the steps taken was that, of the 20 000 passengers affected by those cancellations, 82 % opted for alternative sailings with Irish Ferries or other carriers, 3% chose the landbridge option, and the other 15% decided to accept a full reimbursement of the ticket price.

33 In the case of those passengers who opted for alternative sailings, any additional costs were not charged to the passengers but rather were covered by Irish Ferries. Furthermore, any differences concerning on-board expenses were reimbursed by Irish Ferries.

34 As for the passengers who chose the landbridge option, Irish Ferries reimbursed them for the fuel costs required to cross Great Britain.

35 Irish Ferries did not, however, pay compensation for the delay in arrival at the final destination to the passengers who had made the application under Article 19 of Regulation No 1177/2010, since, from its point of view, Irish Ferries had offered re-routing and reimbursement of the ticket price in accordance with Article 18 of that regulation. Irish Ferries took the view that Articles 18 and 19 of that regulation did not apply simultaneously.

36 On 1 August 2018, the Irish Transport Authority sent Irish Ferries a 'preliminary view' concerning the application of Regulation No 1177/2010 to cancelled sailings, to which Irish Ferries responded by submitting its observations on 15 August 2018.

37 On 19 October 2018, the Irish Transport Authority adopted a decision in which it found, first, that Regulation No 1177/2010 applied to the cancellations of sailings between Dublin and Cherbourg in the summer of 2018; secondly, that Irish Ferries had infringed the requirements laid down in Article 18 of that regulation; and, thirdly, that that carrier had failed to comply with Article 19 of the regulation. In accordance with Regulation 4(1) of the 2012 Statutory Instrument, that decision culminated in the service of two notices under Article 18 and Article 19 of Regulation No 1177/2010 respectively.

38 Irish Ferries submitted its observations on that decision in November 2018 pursuant to Article 4(2) of the 2012 Statutory Instrument.

39 By decision of 25 January 2019, following an adversarial procedure, the Irish Transport Authority confirmed the notices issued under Articles 18 and 19 of Regulation No 1177/2010. It thus took the view, first, that Irish Ferries had infringed the re-routing obligation laid down in Article 18 of that regulation and requested that it reimburse any costs incurred by the passengers impacted by the cancelled sailings, who had opted for re-routing to or from Rosslare, rather than Dublin, and/or to or from Roscoff, rather than Cherbourg.

40 Secondly, it considered that Irish Ferries had infringed Article 19 of that regulation and requested that it pay compensation to the passengers affected by a delay in arrival at the final destination, as set out in the transport contract.

41 Irish Ferries challenges both the decision of 25 January 2019 and the notices issued under Articles 18 and 19 of Regulation No 1177/2010 before the High Court (Ireland), claiming, in the first place, that that regulation does not apply where the cancellation of the passenger service occurs several weeks before the date of the scheduled sailings. In the second place, Irish Ferries challenges the interpretation and application by the Irish Transport Authority of Articles 18 to 20 of Regulation No 1177/2010. More specifically, it maintains that the delay in delivery of the ship at issue constitutes extraordinary circumstances exempting it from payment of the compensation provided for in Article 19 of that regulation. In the third place, Irish Ferries complains that the Irish Transport Authority infringed Article 25 of that regulation by exceeding its powers. In its view, the Irish Transport Authority exercised its jurisdiction over services departing from France and heading to Ireland, given that those services fall within the exclusive jurisdiction of the French authority. In the fourth place, Irish Ferries complains that the Irish Transport Authority infringed Article 24 of Regulation No 1177/2010 by failing to limit the effect of its decision to passengers who had made a complaint in the form and within the deadlines specified in Article 24 of that regulation. In the fifth place, Irish Ferries contests the validity of the regulation in the light of the principles of proportionality, legal certainty and equal treatment, and of Articles 16, 17 and 20 of the Charter of Fundamental Rights of the European Union ('the Charter').

42 In those circumstances, the High Court decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'…

(1) Does [Regulation No 1177/2010] (in particular Articles 18 and/or 19) apply in circumstances where passengers have made advance bookings and entered into transport contracts and where the passenger services are cancelled with a minimum of seven weeks' notice prior to the scheduled departure due to the delay in the delivery of a new vessel to the ferry operator? In that regard, are any (or all) of the following matters relevant to the applicability of [that] regulation:
   (a) delivery was ultimately delayed by 200 days;
   (b) the ferry operator had to cancel a full season of sailings;
   (c) no suitable alternative vessel could be obtained;
   (d) over 20 000 passengers were rebooked by the ferry operator on different sailings or refunded their fares;
   (e) the sailings were on a new route opened by the ferry operator with no similar alternative service on the route?

   …

(2) Where a passenger is re-routed in accordance with Article 18 [of Regulation No 1177/2010], does a new transport contract come into existence such that the right to compensation under Article 19 [of that regulation] is to be determined in accordance with that new contract rather than the original transport contract?

(3) (a) If Article 18 [of the regulation] is applicable then if a sailing is cancelled and there was no alternative service operating on that route (i.e. no direct service between those two ports), does providing an alternative sailing on any other route or routes available and chosen by the passenger including by "landbridge" (e.g. travelling from Ireland to the UK by ferry and then driving, with the fuel costs reimbursed to the passenger by the ferry operator, to a UK port with a connection to France and travelling from there to France with the passenger choosing each of the sailings) amount to "re-routing to the final destination" for the purposes of Article 18? If not, what criteria are to be employed in determining if a re-routing is "under comparable conditions"?
   (b) If there is no alternative sailing on the cancelled route, such that the affected passenger cannot be accommodated on a direct sailing from the original port of embarkation to the final destination as set out in the transport contract, is the carrier required to pay any additional costs incurred by a re-routed passenger in travelling to and from the new port of embarkation and/or to and from the new port of destination?

   …

(4) (a) Can Article 19 [of Regulation No 1177/2010] apply when the voyage has in fact already been cancelled at least seven weeks prior to the scheduled departure? If Article 19 [of that regulation] does apply, does it apply where Article 18 [of that regulation] has been applied and the passenger has been re-routed at no additional cost and/or reimbursed and/or has chosen a later sailing?
   (b) If Article 19 [of Regulation No 1177/2010] does apply, what is the "final destination" for the purposes of [that article]?

(5) If Article 19 [of Regulation No 1177/2010] is capable of applying:
   (a) how is the period of delay to be measured in such circumstances?
   (b) how is the price within the meaning of Article 19 [of that regulation] to be calculated when determining the level of compensation payable and in particular does it include costs referable to extras (e.g. cabins, kennels and premium lounges)?

…

(6) If [Regulation No 1177/2010] does apply then do the circumstances and considerations outlined in [question] 1 amount to "extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken" for the purposes of Article 20(4) of the regulation?

…

(7) Does Article 24 [of Regulation No 1177/2010] have the effect of imposing a mandatory obligation on any passenger seeking to benefit from compensation under Article 19 of [that regulation] to make a complaint within two months from the date on which the service was performed or should have been performed?

…

(8) Is the jurisdiction of the national competent body responsible for the enforcement of [Regulation No 1177/2010] limited to sailings involving the ports specified in Article 25 of [that regulation] or may it also extend to a return sailing from the port of another Member State to the state of the national competent body?

…

(9) (a) What principles and rules of EU law should the referring court apply in assessing the validity of the Decision and/or the Notices of the national … body [designated for the enforcement of Regulation No 1177/2010] by reference to Article 16, 17, 20 and/or 47 of the Charter and/or principles of proportionality, legal certainty and equal treatment?
(b) Is the test of unreasonableness that should be applied by the domestic court that of manifest error?

…

(10) Is [Regulation No 1177/2010] valid as a matter of EU law having regard in particular to:
(a) Articles 16, 17, and 20 of the Charter?
(b) the fact that airline operators have no obligation to pay compensation if it informs the airline passenger of the cancellation at least two weeks before the scheduled time of departure [Article 5(1)(c)(i) of Regulation No 261/2004]?
(c) the principles of proportionality, legal certainty and equal treatment?'

Consideration of the questions referred

The first question

43 By its first question, the referring court asks, in essence, whether Regulation No 1177/2010 must be interpreted as meaning that it applies where a carrier cancels a passenger service giving several weeks' notice prior to the originally scheduled departure because the delivery of the vessel required to provide that service was delayed, and could not be replaced.

44 As a preliminary point, it should be noted that it is apparent both from the wording of that question and from the grounds of the order for reference that the referring court refers to a set of circumstances which, according to that court, may be relevant for the purposes of answering that question, such as the fact that it is impossible for the carrier to find an alternative vessel, the lack of a similar alternative service on the route concerned as a result of the new opening of that route or the considerable number of passengers impacted by the cancellation of the sailings caused by the late delivery of the vessel in question and who have either been reimbursed or re-routed by other vessels on other crossings or by other means of transport. However, it is apparent from the order for reference that, in the light of the arguments advanced before it by Irish Ferries, the national court is in fact uncertain as to whether Regulation No 1177/2010 is applicable where the carrier has informed the passengers of the cancellation of the service giving several weeks' notice. According to Irish Ferries, that regulation applies only to two categories of passengers, namely, first, passengers whose imminent sailing is cancelled or delayed and who are physically present in the port and, secondly, passengers who are en route on board the ship.

45 Having clarified that point, it should be noted that the scope of Regulation No 1177/2010 is defined in Article 2. Paragraph 1 of that article lays down the principle that that regulation applies to three categories of passengers, namely, first, those travelling on passenger services where the port of embarkation is situated in the territory of a Member State, secondly, those travelling on passenger services where the port of embarkation is situated outside the territory of a Member State and the port of disembarkation is situated in the territory of a Member State, provided that the service is operated by an EU carrier, and, thirdly, those travelling on a cruise where the port of embarkation is situated in the territory of a Member State. As regards paragraphs 2 to 4 of that article, they list the cases in which that regulation does not apply.

46 It is apparent from an overall reading of Article 2 of Regulation No 1177/2010 that the EU legislature intended to define the scope of that regulation having regard to two criteria which must be taken into account cumulatively, that is to say, first, the place of embarkation or disembarkation of the service concerned and, secondly, the notion of a passenger 'travelling on' the service or 'travelling on' on a cruise.

47 In the present case, the answer to the first question requires an interpretation of the concept of travelling on a maritime service. It should be noted that that concept is not defined either in Article 2 of Regulation No 1177/2010 or in any other provision of that regulation. However, it must be stated that, in accordance with its usual meaning in everyday language, that concept may be interpreted both narrowly, to the effect that only passengers who are being carried on board a ship travel on such a service, and more broadly, also including passengers who intend to travel on a maritime service and who have already taken the necessary steps in that regard, such as making a reservation or purchasing a ticket.

48 Therefore, in accordance with the Court's settled case-law, it is appropriate to interpret the concept of travelling on by considering not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it is part (see, to that effect, judgment of 12 October 2017, *Kamin und Grill Shop*, C-289/16, EU:C:2017:758, paragraph 22 and the case-law cited).

49 In that regard, the general scheme of Regulation No 1177/2010 supports a broad interpretation of the concept of travelling on a maritime service. As the Advocate General observed in point 61 of his Opinion, that regulation contains provisions applicable to situations arising at a stage before the provision of a passenger service. Thus, Article 4(2) of that regulation prohibits, in essence, a

passenger carrier from offering to the public contractual conditions and rates that discriminate on grounds of the passenger's nationality. Similarly, Article 7(2) of that regulation provides that reservations and tickets are to be offered to disabled persons and to persons with reduced mobility at no additional cost under the same conditions that apply to all other passengers.

50 Furthermore, Articles 18 and 19 of Regulation No 1177/2010 would be rendered largely meaningless if the concept of a passenger 'travelling on passenger services', within the meaning of Article 2(1) of that regulation, covered only passengers who are already on board a vessel.

51 The interpretation of that concept as also including passengers who have made a reservation or purchased a ticket for a maritime service is also confirmed by the objectives pursued by Regulation No 1177/2010. As stated in recitals 1, 2 and 13 of that regulation, its purpose is to ensure a high level of protection for passengers, taking into account the requirements of consumer protection in general, giving them a minimum level of protection on account of their status as the weaker party to the transport contract. The EU legislature thus sought to strengthen the rights of those passengers in a number of situations involving serious inconvenience by remedying that inconvenience in a standardised and immediate manner.

52 Such objectives have, for persons who have booked or purchased a ticket for a maritime passenger service, at least the same importance as for passengers who are already on board a vessel undertaking such transport.

53 In that context, it cannot be considered that the EU legislature intended to make the scope of that regulation, without laying down a specific provision in that regard in Article 2 of Regulation No 1177/2010, subject to additional conditions such as those envisaged in the first question relating to giving a minimum notice period for informing the passenger of the cancellation of a service, the physical presence of the passenger in the port or on board the transport vessel, or the availability of that vessel.

54 Furthermore, there is nothing in the preparatory work leading to the adoption of Regulation No 1177/2010 to support Irish Ferries' argument that the EU legislature wished to limit the scope of that regulation by the additional conditions referred to in the preceding paragraph.

55 More specifically, as regards Articles 18 and 19 of Regulation No 1177/2010, it is not apparent from their respective wording that their applicability is circumscribed by one of the additional conditions referred to in paragraph 53 above.

56 The fact that Articles 18 and 19 of that regulation are set out in Chapter III, entitled 'Obligations of carriers and terminal operators in the event of interrupted travel' cannot support a restrictive reading to the effect that those articles apply only where part of the journey has already taken place before it was interrupted and that therefore the passengers are physically present in the port or on board the vessel. Apart from the fact that such a limitation is not reflected in recitals 13 and 14 of that regulation, it is sufficient to state, as the Advocate General did in point 63 of his Opinion, that the concept of travel is not defined by Regulation No 1177/2010 and cannot therefore serve as a basis for limiting the scope of that regulation.

57 Finally, it should be noted that, while Article 2(1)(c) of Regulation No 1177/2010 provides that Articles 18 and 19 of that regulation do not apply where a passenger is travelling on a cruise, Article 2(1)(a) and (b) of that regulation does not provide for a comparable derogation for the passenger service. Thus, only Article 20 of that regulation, entitled 'Exemptions', sets out the

situations in which Articles 18 and 19 do not apply to such a service. As the Advocate General observed in point 64 of his Opinion, the interruption of the travel is not among those situations which exclude the application of those articles.

58 In the light of the foregoing, the answer to the first question is that Regulation No 1177/2010 must be interpreted as meaning that it applies where a carrier cancels a passenger service giving several weeks' notice prior to the originally scheduled departure because the delivery of the vessel required to provide that service was delayed, and could not be replaced.

The third question

59 By its third question, the referring court asks, in essence, whether Article 18 of Regulation No 1177/2010 must be interpreted as meaning that, where a passenger service is cancelled and there is no alternative service on the same route, the carrier is required to offer the passenger, on the basis of the passenger's right to re-routing under comparable conditions to the final destination provided for in that provision, an alternative passenger service that follows a different itinerary from that of the cancelled service or a maritime passenger service coupled with other modes of transport, such as rail or road transport, and if so, whether the carrier is required to bear any additional costs incurred by the passenger in connection with that re-routing to the final destination.

60 It should be noted, in the first place, that the concept of final destination is not defined either in Article 18 of Regulation No 1177/2010 or in any other provision of that regulation. However, it is apparent from Article 18(1)(a) of that regulation that the final destination is to be set out in the transport contract and, as noted by the Advocate General in points 79 and 81 of his Opinion, corresponds to the place, agreed between the carrier and the passenger when the transport contract is concluded, where the passenger must be transported by the passenger service, that is to say the port of disembarkation indicated in that contract.

61 In that regard, it should be noted that, as is stated in Article 3(f) of Regulation No 1177/2010, a passenger service is a commercial passenger transport service by sea or inland waterways operated according to a published timetable. A transport contract is defined in Article 3(m) of that regulation as a contract of carriage agreed between a carrier and a passenger for the provision of one or more passenger services or cruises. In accordance with Article 3(r) of that regulation, the conclusion of a transport contract entails a passenger reserving a particular departure on a passenger service operated by the carrier, who issues a ticket which, under Article 3(n) of that regulation, constitutes evidence of the existence of a transport contract.

62 It follows from the preceding paragraph that the conclusion of a transport contract, a synallagmatic instrument, confers on the passenger, in return for the price which he or she pays, a right to be transported by the carrier, the essential elements of which are fixed, that is to say, inter alia, the places of departure and arrival at the final destination, the days and times of that transport service and its duration.

63 In the second place, since the concept of re-routing is not defined in either Article 18 of Regulation No 1177/2010 or in any other provision of that regulation, it should be observed that, in accordance with its usual meaning in everyday language, that concept refers to the fact that the passenger is transported to the final destination in circumstances other than those originally provided for, without, however, requiring that the itinerary followed and the means of transport are identical to those originally provided for.

64 It follows that the concept of 're-routing to the final destination', within the meaning of Article 18 of Regulation No 1177/2010, implies that the passenger must be transported to the place that has been contractually provided for, without the itinerary followed and the means of transport necessarily being identical to those originally agreed. Accordingly, the air carrier has, in principle, some discretion in offering re-routing to the final destination to a passenger whose service is cancelled. Therefore, it is open to the carrier to offer re-routing, first, by providing an alternative passenger service departing from a port of embarkation and/or to a port of disembarkation using an itinerary other than that originally provided for in the transport contract or, secondly, by providing such a connecting passenger service, or, thirdly, by providing a maritime passenger service coupled with other modes of transport, such as rail or road transport.

65 In the third place, that option afforded to the carrier is, however, circumscribed by the conditions laid down in Article 18 of Regulation No 1177/2010, that is to say that the re-routing must be carried out under comparable conditions at the earliest opportunity and at no additional cost.

66 First of all, as regards the requirement that re-routing must be carried out 'at no additional cost', within the meaning of Article 18, it should be noted that the EU legislature intended that re-routing should not expose the passenger to additional costs as compared with those which he or she would necessarily have incurred in connection with the cancelled passenger service in order to travel, in particular, to the port of embarkation originally agreed. The carrier must therefore bear any additional costs, such as fuel or road tolls which the passenger incurred in order to travel to the alternative port of embarkation, or to leave the alternative port of disembarkation and travel to the port of disembarkation originally scheduled, or costs incurred by the passenger when travelling by road or rail in connection with a landbridge. However, although re-routing must not be at the expense of the passenger, it must not place the passenger in a more advantageous position than that provided for in the transport contract, so that it is for the passenger to demonstrate the existence of the additional costs which he or she incurred as a result of re-routing.

67 It follows from the foregoing that the requirement of re-routing 'at no additional cost' must be interpreted as meaning that the carrier must bear any additional costs incurred by the passenger in re-routing to the final destination.

68 Next, Article 18(1)(a) of Regulation No 1177/2010 provides that the carrier must offer re-routing under comparable conditions. In that regard, recital 13 of that regulation states that the carrier must offer the passenger re-routing under satisfactory conditions.

69 It is apparent from an overall reading of those provisions that the EU legislature required the carrier to offer a passenger re-routing not under identical conditions, but under comparable and satisfactory conditions, which, as the Advocate General observed in point 88 of his Opinion, entails comparing the conditions of the re-routing offer with those originally agreed in the transport contract. In that regard, the examination of the comparability of the transport conditions must relate to the essential elements of the transport contract, such as the places of departure and arrival at the final destination, the days and times of the passenger service and its duration, the number of any connecting services, the class of the ticket and the type of cabin reserved by the passenger, which is a matter for the referring court to determine. Furthermore, that examination must be carried out from the passenger's point of view because, in accordance with Article 18 of Regulation No 1177/2010, read in the light of recitals 12 and 13 of that regulation, it is on the basis of the information which the carrier gives to the passenger that the latter may be able to decide to be re-routed or to be reimbursed for the ticket price.

70 Finally, by referring to re-routing 'at the earliest opportunity', Article 18(1)(a) of Regulation No 1177/2010 requires the carrier to offer the passenger re-routing enabling the passenger to reach his or her final destination at the earliest opportunity and, therefore, seeks to prevent that carrier from merely offering re-routing by means of a delayed maritime passenger service following the same itinerary where there are other means of re-routing allowing the passenger to reach the final destination at the earliest opportunity.

71 The interpretation suggested in paragraph 64 above of the concept of 're-routing to the final destination', within the meaning of Article 18 of Regulation No 1177/2010, is supported by the objectives pursued by that regulation.

72 As has been observed in paragraph 51 above, that regulation seeks, as is apparent from recitals 1, 2 and 13, to ensure a high level of protection for passengers by strengthening their rights in a number of situations involving serious inconvenience, and by remedying that inconvenience in a standardised and immediate manner.

73 To adopt a restrictive interpretation of the concept of re-routing to the final destination, consisting of limiting that concept to the mere offer of re-routing on the same itinerary as that of the cancelled passenger service, would compromise that objective because it would deprive the passenger's right to re-routing provided for in Article 18 of Regulation No 1177/2010 of any practical effect where no alternative service exists on the route concerned.

74 In the light of the foregoing considerations, the answer to the third question is that Article 18 of Regulation No 1177/2010 must be interpreted as meaning that, where a passenger service is cancelled and there is no alternative service on the same route, the carrier is required to offer to the passenger, by virtue of the passenger's right to re-routing under comparable conditions and at the earliest opportunity to the final destination provided for in that provision, an alternative service that follows a different itinerary from that of the cancelled service or a maritime service coupled with other modes of transport, such as rail or road transport, and is required to bear any additional costs incurred by the passenger in re-routing to the final destination.

The second and fourth questions and part (a) of the fifth question

75 By its second and fourth questions and part (a) of its fifth question, which it is appropriate to consider together, the referring court asks, in essence, whether Articles 18 and 19 of Regulation No 1177/2010 must be interpreted as meaning that, where a carrier cancels a passenger service giving several weeks' notice before the originally scheduled departure, a passenger who decides, in accordance with Article 18 of that regulation, to be reimbursed for the ticket price or to be re-routed to the final destination as set out in the transport contract at the earliest opportunity or at a later date may also request compensation under Article 19 of that regulation.

76 In the first place, as regards the applicability of Article 19 of Regulation No 1177/2010 in the case of a passenger whose service has been cancelled, it should be observed that there is nothing in the wording of that provision to indicate that it is not applicable in such a situation. Moreover, it is apparent from recital 14 of Regulation No 1177/2010 that the EU legislature intended to require carriers to pay passengers compensation not only in the event of a delay in the provision of a passenger service, but also in the event of cancellation of such a service.

77 It follows that a passenger whose service is cancelled may, in principle, claim compensation under that article.

78 That interpretation is supported by the context of Article 19 of Regulation No 1177/2010. Article 20 of that regulation, which lists the cases in which Article 19 does not apply, provides, first in paragraph 2, that Article 19 does not apply if the passenger was informed of the cancellation before the purchase of the ticket or if the cancellation was caused by the fault of the passenger and, second in paragraph 4, that the carrier may be exempted from payment of the compensation provided for in Article 19 where it shows that the cancellation of the service was caused by weather conditions endangering the safe operation of the ship or by extraordinary circumstances.

79 Similarly, that interpretation is consistent with the objective pursued by Regulation No 1177/2010, that is to say, as has been observed in paragraph 51 above, to ensure a high level of protection for passengers.

80 In the second place, it is necessary to determine the circumstances in which a passenger may claim the compensation provided for in Article 19 of Regulation No 1177/2010 following the cancellation of a service.

81 In that regard, it is apparent first from Article 18(1) and (2) of Regulation No 1177/2010 that, where a service is cancelled, or the carrier reasonably expects such a cancellation, passengers have the right to such re-routing or reimbursement of the ticket price from the carrier.

82 As stated in recital 13 of that regulation, in order to limit the inconvenience caused to passengers due to the cancellation of their journey, they must be able either to cancel their journey and have their tickets reimbursed, or to obtain re-routing under satisfactory conditions.

83 It follows from a combined reading of Article 18 and recital 13 that the EU legislature considered that the cancellation of a passenger service by the carrier leads not to the unilateral termination of the transport contract, but to the choice of the passenger between the continuation of the contractual relationship in the form of re-routing and the termination of that contractual relationship through a claim for reimbursement of the ticket price.

84 Thus, contrary to what Irish Ferries argues in its written observations, the choice made by the passenger to opt for re-routing when he or she is informed that the service is cancelled cannot be equated with the conclusion of a new transport contract, because that choice is merely the exercise of a prerogative conferred on the passenger by Article 18 of Regulation No 1177/2010.

85 Secondly, Article 19(1) of that regulation states, in essence, that a passenger may, without losing his or her right to transport, request compensation from the carrier when that passenger is facing a delay in arrival at the final destination.

86 By stating in Article 19(1) that such a passenger may request compensation from the carrier without losing his or her right to transport, the EU legislature intended to make payment of the compensation provided for in that provision conditional on the passenger having a right to transport. Thus, where a passenger does not have, or no longer has, a right to travel, that person cannot claim compensation under Article 19 of Regulation No 1177/2010.

87 It follows that a distinction must be drawn between the situation of a passenger who has requested reimbursement of his or her ticket and the situation of a passenger who has requested to be re-routed to the final destination as set out in the transport contract at the earliest opportunity or at a later date.

88 As regards a passenger who, under Article 18 of Regulation No 1177/2010, claims reimbursement of the ticket price, it should be stated, as the Advocate General did in point 108 of his Opinion, that, in such a situation, by that claim, the passenger shows his or her intention to be released from the obligation to pay the price and, therefore, loses the right to transport to the final destination. Therefore, that passenger cannot claim payment of compensation under Article 19 of that regulation.

89 However, where a passenger opts not for reimbursement but for re-routing to the final destination at the earliest opportunity or at a later date, it must be stated that that passenger reiterates his or her wish to be transported and, therefore, does not waive the right to transport to the final destination for which he or she has paid. That passenger may therefore claim payment of compensation under Article 19 of Regulation No 1177/2010 where the thresholds laid down in that article are exceeded. In that regard, where the passenger has reached the final destination as set out in the transport contract, that is to say, as was made clear paragraph 60 above, the port of disembarkation indicated in that contract, with a delay that exceeds the one laid down in that article, that passenger may claim compensation under that article as a result of the serious inconvenience encountered.

90 In the light of the foregoing, the answer to the second and fourth questions and to part (a) of the fifth question is that Articles 18 and 19 of Regulation No 1177/2010 must be interpreted as meaning that, where a carrier cancels a passenger service giving several weeks' notice before the originally scheduled departure, a passenger has a right to compensation under Article 19 of that regulation where he or she decides, in accordance with Article 18 of that regulation, to be re-routed at the earliest opportunity or to postpone the journey to a later date and that passenger arrives at the originally scheduled final destination with a delay that exceeds the thresholds laid down in Article 19 of that regulation. By contrast, where a passenger decides to be reimbursed for the ticket price, he or she does not have such a right to compensation under that article.

Part (b) of the fifth question

91 By part (b) of the fifth question, the referring court asks, in essence, whether Article 19 of Regulation No 1177/2010 must be interpreted as meaning that the concept of 'ticket price' referred to in that article includes the costs relating to the additional optional services chosen by the passenger, such as the booking of a cabin or a kennel, or access to premium lounges.

92 It should be noted as a preliminary point that, although Article 19 of Regulation No 1177/2010 lays down the method for calculating the minimum compensation to which a passenger, who satisfies the conditions laid down in that article, is entitled, the amount of which is equal to a specified percentage of the ticket price, neither that provision nor any other provision of that regulation specifies what is meant by 'ticket price'.

93 That said, it is apparent first from Article 3(n) of that regulation, as pointed out in paragraph 61 above, that the ticket is a document attesting to the existence of a transport contract concluded between a carrier and a passenger for the provision of one or more passenger services.

94 Secondly, Article 19(3) of Regulation No 1177/2010 provides that compensation is to be calculated in relation to the price which the passenger actually paid for the passenger service.

95 It is apparent from the usual meaning in everyday language of the words 'actually paid' that the EU legislature intended to refer, as the Advocate General observed, in essence, in point 124 of his Opinion, to the total amount paid by the passenger in return for the passenger service which the carrier undertook to perform in accordance with the conditions laid down in the contract. Therefore, the concept of the ticket price covers all the services which the carrier undertook to provide to the passenger in return for the price paid, that is to say, not only the provision of the transport service as such, but also all the services which are additional to transport, such as the reservation of a cabin or a kennel, or access to premium lounges. By contrast, that concept does not include amounts connected with services that are unrelated to the passenger service, which are clearly identifiable, such as the travel agent's fees when the reservation is made.

96 That interpretation is borne out by the objective referred to in paragraph 51 above of ensuring a high level of protection for passengers. It enables the passenger concerned to identify easily the amount of compensation to which that passenger is entitled in the event of cancellation of the service.

97 That interpretation is also borne out by the preparatory work for Regulation No 1177/2010, from which it is apparent that, although the Parliament had proposed limiting the concept of ticket price to the costs incurred for transport and accommodation on board, excluding costs connected with meals, other activities and purchases made on board, the EU legislature intentionally refused to carve the concept of ticket price into different components. In so doing, the EU legislature took the view that the compensation had to be calculated having regard to the price paid by the passenger in return for a service which was not performed in accordance with the transport contract.

98 Finally, that interpretation cannot be called into question by Irish Ferries' argument that, for the purposes of calculating the compensation to which a passenger is entitled, the fact that additional optional services chosen by that passenger are taken into account is not compatible with the principle of proportionality, in so far as it has considerable implications for the financial burdens of carriers which are disproportionate to the objective of protecting passengers. It is clear from the Court's well-established case-law that the objective of protecting consumers, which includes the protection of maritime transport passengers, may justify even substantial negative economic consequences for certain economic operators (see, by analogy, judgment of 23 October 2012, *Nelson and Others*, C-581/10 and C-629/10, EU:C:2012:657, paragraph 81).

99 In the light of the foregoing considerations, the answer to part (b) of the fifth question is that Article 19 of Regulation No 1177/2010 must be interpreted as meaning that the concept of 'ticket price', referred to in that article, includes the costs relating to the additional optional services chosen by the passenger, such as the booking of a cabin or a kennel, or access to premium lounges.

The sixth question

100 It should be noted that, although in the wording of the sixth question the referring court refers to a set of circumstances such as the fact that it was impossible for the carrier to find an alternative vessel, the absence of a similar alternative service on the route concerned as a result of the new opening of that route or the considerable number of passengers affected by the cancellation of the sailings caused by the late delivery of the vessel in question and who were either reimbursed or re-routed by other vessels on other sailings or by other means of transport, it is, nevertheless, clear from the order for reference that all those circumstances originate in a common event relating to

the late delivery of the vessel in question, so that the sixth question must be understood as relating solely to the question whether the late delivery of a vessel may be covered by the concept of 'extraordinary circumstances', within the meaning of Article 20(4) of Regulation No 1177/2010.

101 It follows that, by its sixth question, the referring court asks, in essence, whether Article 20(4) of Regulation No 1177/2010 must be interpreted as meaning that the late delivery of a passenger transport vessel which led to the cancellation of all sailings to be operated by that vessel in the context of a new maritime route is not covered by the concept of 'extraordinary circumstances' within the meaning of that provision.

102 In that regard, it must be recalled that, as is apparent from paragraph 90 above, Article 19 of Regulation No 1177/2010 applies where, following the cancellation of a service, the passenger decides, in accordance with Article 18 of that regulation, to be re-routed at the earliest opportunity or to postpone his or her journey to a later date.

103 However, Article 20(4) of that regulation provides that Article 19 is not to apply where the carrier proves that the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or by extraordinary circumstances hindering the performance of the passenger service which could not have been avoided even if all reasonable measures had been taken.

104 It should be noted that, although the concept of extraordinary circumstances is not defined either in Article 20(4) of Regulation No 1177/2010 or in Article 3 of that regulation, which defines a number of concepts for the purposes of that regulation, the preamble to that regulation is capable of clarifying the meaning of that concept.

105 The EU legislature indicated, as is apparent from recital 17 of Regulation No 1177/2010, that such circumstances should include, but are not limited to, a series of events, without, however, referring to the late delivery of a ship. It is apparent from that statement in the preamble to that regulation that the EU legislature did not intend that those events, the list of which is merely indicative, should themselves constitute extraordinary circumstances, but only that those events are capable of producing such circumstances.

106 In recital 19 of Regulation No 1177/2010, the EU legislature referred to the case-law of the Court in which the Court held that events which are not inherent in the normal exercise of the activity of the carrier concerned and which are beyond its actual control may be covered by the concept of extraordinary circumstances. By that reference to the case-law relating to that concept, developed in the context of passenger air transport, the EU legislature intended to adopt a uniform approach to the concept of extraordinary circumstances.

107 As the Court has consistently held in relation to the rights of air transport passengers, the concept of 'extraordinary circumstances', within the meaning of Article 20(4) of Regulation No 1177/2010, must be taken to mean events which, by their nature or origin, are not inherent in the normal exercise of the activity of the carrier concerned and are beyond its actual control; both conditions are cumulative, and their fulfilment must be assessed on a case-by-case basis (see, by analogy, judgment of 23 March 2021, *Airhelp*, C-28/20, EU:C:2021:226, paragraph 23 and the case-law cited).

108 In addition, in view of the objective pursued by Regulation No 1177/2010, which is to ensure, as is recalled in paragraph 51 above, a high level of protection for passengers, and of the fact that Article 20(4) of that regulation derogates from the principle that passengers are entitled to compensation in the event of cancellation or delay, the concept of 'extraordinary circumstances' within the meaning of the latter provision must be interpreted strictly.

109 It is in that context that the Court must assess whether the late delivery of a ship, such as that at issue in the main proceedings, may be classified as 'extraordinary circumstances' within the meaning of Article 20(4) of that regulation, read in the light of recital 19 of that regulation.

110 In the present case, although the construction of a vessel does not, in principle, fall within the scope of the activity of a maritime passenger carrier but within that of a shipyard, the fact remains that the ordering and the receipt of a passenger transport vessel, albeit rare, are undoubtedly inherent in the normal exercise of the activity of a maritime passenger carrier. In the course of its transport activities, among the ordinary management measures relating to the organisation and maintenance of its fleet, a passenger carrier is required to order vessels.

111 That interpretation is borne out by the fact that the contract for the ordering and delivery of a ship may include a compensation mechanism covering the risk of a delay in delivery, as was the situation in the present case, which Irish Ferries confirmed at the hearing. The establishment of such a mechanism confirms that such a delay constitutes a normal risk to which a carrier is exposed in the course of its passenger transport activities.

112 Therefore, the delay in delivery of a ship must be regarded as an event inherent in the normal exercise of the activity of a maritime passenger carrier. Accordingly, in so far as one of the two cumulative conditions referred to in paragraph 107 above is not satisfied, it must be held that such a delay cannot be classified as 'extraordinary circumstances' within the meaning of Article 20(4) of Regulation No 1177/2010, without it being necessary to examine whether such an event is beyond the actual control of the carrier.

113 In the light of the foregoing, the answer to the sixth question is that Article 20(4) of Regulation No 1177/2010 must be interpreted as meaning that the late delivery of a passenger transport vessel which led to the cancellation of all sailings to be operated by that vessel in the context of a new maritime route does not fall within the concept of 'extraordinary circumstances' within the meaning of that provision.

The seventh question

114 By its seventh question, the referring court asks, in essence, whether Article 24 of Regulation No 1177/2010 must be interpreted as requiring a passenger who requests compensation under Article 19 of that regulation to submit his or her request in the form of a complaint to the carrier within two months from the date on which the service was performed or when a service should have been performed.

115 In that regard, Article 24(1) of Regulation No 1177/2010 requires the carrier to have in place an accessible complaint-handling mechanism for the rights and obligations covered by that regulation, while Article 24(2) establishes a summary procedure for handling complaints which is to contain certain time limits. Thus, a passenger who wishes to make a complaint to the carrier is to submit it to that carrier within two months from the date on which the service was performed or when a service should have been performed, while the carrier has one month to inform that

passenger that his or her complaint has been substantiated, rejected or is still being considered and must, in any event, communicate to that passenger its final reply within two months from receipt of the complaint.

116 It is apparent from the reference to the 'rights and obligations covered by this Regulation' that a complaint may concern the rights and obligations established both in Chapter II of that regulation, entitled 'Rights of disabled persons and persons with reduced mobility', and in Chapter III, entitled 'Obligations of carriers and terminal operators in the event of interrupted travel', which includes Article 19 of that regulation relating to compensation for passengers in the event of a delay in arrival.

117 However, a request by a passenger for compensation under Article 19 of Regulation No 1177/2010 cannot be treated as a complaint within the meaning of Article 24 of that regulation or, accordingly, be subject to compliance with the time limits laid down in the latter provision.

118 While a complaint, within the meaning of Article 24 of Regulation No 1177/2010, consists of a report of an alleged infringement by the carrier of one of its obligations under that regulation and that carrier has a certain discretion as to the action to be taken in response to that report, as the Advocate General stated in point 164 of his Opinion, Article 19(1) of that regulation confers a pecuniary claim on the passenger and that passenger may request payment of that claim from the carrier on the sole ground that the conditions laid down in that article are satisfied, without the carrier having the same discretion in that regard.

119 Furthermore, Article 19(5) of Regulation No 1177/2010 requires the carrier to pay the compensation requested within one month after the submission of such a request. That provision, in so far as it provides for a period shorter than the two-month period available to the carrier, in accordance with Article 24(2) of that regulation, to inform the passenger of its final decision on the action to be taken on the complaint, confirms that a request for compensation under Article 19 of that regulation cannot be treated in the same way as a complaint within the meaning of Article 24 of that regulation.

120 The objective pursued by Regulation No 1177/2010, recalled in paragraph 51 above, of ensuring a high level of protection for passengers confirms that interpretation. Such a level of protection cannot be reconciled with the imposition of such a short period of two months in order to bring a request for compensation.

121 It follows that the EU legislature did not intend to make the right to compensation provided for in Article 19 of Regulation No 1177/2010 subject to compliance with the two-month period laid down in Article 24 of that regulation for the submission of a complaint.

122 In the light of the foregoing, the answer to the seventh question is that Article 24 of Regulation No 1177/2010 must be interpreted as meaning that it does not require a passenger who requests compensation under Article 19 of that regulation to submit his or her request in the form of a complaint to the carrier within two months from the date on which the service was performed or when a service should have been performed.

The eighth question

123 By its eighth question, the referring court asks, in essence, whether Article 25 of Regulation No 1177/2010 must be interpreted as meaning that the competence of a national body responsible for the enforcement of that regulation designated by a Member State covers not only the passenger service provided from a port situated in the territory of that Member State, but also a passenger service provided from a port situated in the territory of another Member State to a port situated in the territory of the first Member State where the latter service is part of a return journey which has been entirely cancelled.

124 In that regard, Article 25(1) of Regulation No 1177/2010 provides that each Member State is to designate a body or bodies responsible for the enforcement of that regulation as regards passenger services and cruises from ports situated on its territory and passenger services from a third country to such ports.

125 It follows that, although that provision suggests, as the Advocate General observed in point 169 of his Opinion, that the competent national body for a passenger service between Member States is, in principle, that of the Member State in whose territory the port of embarkation is situated, the EU legislature nevertheless considered that the link between the Member State in which the port of disembarkation is situated and the passenger services from a third country was sufficient to confer on the national body of that Member State the competence to fulfil its role of ensuring the application of Regulation No 1177/2010.

126 Therefore, as the Advocate General observed in point 199 of his Opinion, the EU legislature thus intended to confer general supervisory competence on the national body on the basis of a criterion relating to the proximity between the territory of the Member State in whose territory the port of embarkation or disembarkation is situated and the passenger service concerned.

127 It follows that, in the case of a cancelled passenger service, the competent national body is, in principle, that of the Member State in whose territory the port of embarkation is situated.

128 By contrast, in the case of a return journey involving an outward passenger service and a return passenger service, which has been entirely cancelled, the link between the passenger service in the direction of the return journey and the territory of the Member State on whose territory the port of embarkation of that service is situated is no closer than the one between the territory of the Member State on whose territory the port of disembarkation is situated and that service. As the Advocate General observed in point 200 of his Opinion, that port also constitutes, in principle, the port of embarkation in the outward direction and is best placed to ensure the proper application of Regulation No 1177/2010 for the cancelled passenger services.

129 Such an interpretation is supported by the objective of ensuring a high level of protection for passengers, as has been stated in paragraph 51 above, in that it means passengers can avoid the duplication of procedures before different national bodies where the event giving rise to the cancellation of passenger services, in the outward direction and the return direction, is the same.

130 In the light of the foregoing, the answer to the eighth question is that Article 25 of Regulation No 1177/2010 must be interpreted as meaning that the competence of a national body responsible for the enforcement of that regulation designated by a Member State covers not only the passenger service provided from a port situated in the territory of that Member State, but also a passenger

service provided from a port situated in the territory of another Member State to a port situated in the territory of the first Member State where the latter service is part of a return journey which has been entirely cancelled.

The ninth question

131 By its ninth question, the referring court asks, in essence, whether, in its assessment of the validity of the decision taken by a national body responsible for enforcing Regulation No 1177/2010, the national court must apply Articles 16, 17, 20 and 47 of the Charter and the principles of proportionality, legal certainty and equal treatment, and whether its review must be confined to identifying any manifest error.

132 In that regard, according to the Court's settled case-law, in the context of the cooperation between the Court of Justice and the national courts, the need to provide an interpretation of EU law which will be of use to the national court means that the national court is bound to observe scrupulously the requirements concerning the content of a request for a preliminary ruling, expressly set out in Article 94 of the Rules of Procedure of the Court of Justice (judgment of 19 April 2018, *Consorzio Italian Management and Catania Multiservizi*, C-152/17, EU:C:2018:264, paragraph 21 and the case-law cited).

133 Thus, it is, in particular, essential, as is stated in Article 94(c) of the Rules of Procedure, that the reference for a preliminary ruling itself contains a statement of the reasons which prompted the national court to inquire about the interpretation or validity of certain provisions of EU law, and the relationship between those provisions and the national legislation applicable to the main proceedings (see, to that effect, judgment of 19 April 2018, *Consorzio Italian Management and Catania Multiservizi*, C-152/17, EU:C:2018:264, paragraph 22 and the case-law cited).

134 It must also be emphasised that the information provided in orders for reference serves not only to enable the Court to give useful answers but also to ensure that it is possible for the governments of the Member States and other interested parties to submit observations in accordance with Article 23 of the Statute of the Court of Justice of the European Union. It is the Court's duty to ensure that that opportunity is safeguarded, given that, under that provision, only the orders for reference are notified to the interested parties (judgment of 13 July 2017, *Szoja*, C-89/16, EU:C:2017:538, paragraph 49).

135 In the present case, it is clear that neither of the two parts of the ninth question, concerning, first, the provisions and principles of EU law which the national court must apply and, secondly, the extent of the judicial review which that court must carry out, clearly satisfies those requirements.

136 As regards the first part, the referring court does not set out the specific reasons which led it to refer that question in view of the other questions referred, so that the Court is not in a position to give a useful answer to that part.

137 Similarly, as regards the second part, without explaining the nature of the criterion based on the reasonableness which it intends to apply in its assessment of the validity of the decision of the national body responsible for enforcing Regulation No 1177/2010, the referring court makes it impossible for the Court of Justice to provide it with a useful answer.

138 In the light of the foregoing, the Court is not in a position to give a useful answer to the ninth question. It must therefore be held that that question is inadmissible.

The tenth question

139 By its tenth question, the referring court asks, in essence, whether Articles 18 and 19 of Regulation No 1177/2010 are invalid in that they do not comply either with the principles of equal treatment, proportionality and legal certainty or with Articles 16, 17 and 20 of the Charter.

140 In the first place, the referring court asks, in essence, whether Articles 18 and 19 of Regulation No 1177/2010 are invalid in the light of the principle of equal treatment and Article 20 of the Charter.

141 Irish Ferries claims generally that that regulation infringes the principle of equal treatment and Article 20 of the Charter by imposing a series of obligations on maritime carriers to which passenger air and rail carriers are not subject, even though all those carriers are in a comparable situation. In that regard, Irish Ferries submits more particularly that, while an air carrier may, under Article 5(1)(c) of Regulation No 261/2004, avoid paying compensation if it informs the passenger of the cancellation of the flight at least two weeks before the scheduled time of departure, Regulation No 1177/2010 does not provide for such an option for a maritime carrier.

142 According to settled case-law, the principle of equal treatment requires that comparable situations should not be treated differently and that different situations should not be treated in the same way, unless such treatment is objectively justified (see, to that effect, judgments of 10 January 2006, *IATA and ELFAA*, C-344/04, EU:C:2006:10, paragraph 95, and of 19 November 2009, *Sturgeon and Others*, C-402/07 and C-432/07, EU:C:2009:716, paragraph 48).

143 First of all, it is settled case-law that the situations of undertakings operating in the different transport sectors are not comparable since the different modes of transport, having regard to the manner in which they operate, the conditions governing their accessibility and the distribution of their networks, are not interchangeable as regards the conditions of their use. In those circumstances, the EU legislature was able to establish rules providing for a level of consumer protection which varied according to the sector concerned (see, to that effect, judgments of 10 January 2006, *IATA and ELFAA*, C-344/04, EU:C:2006:10, paragraph 96, and of 26 September 2013, *ÖBB-Personenverkehr*, C-509/11, EU:C:2013:613, paragraph 47 and the case-law cited).

144 Next, it should be noted that, with regard to maritime transport, passengers whose sailings are cancelled or significantly delayed are in a situation which is different from the situation of passengers using other means of transport. As a result of the location of the ports and the limited number of routes operated, the frequency of which may also vary according to the seasons, the inconvenience suffered by passengers when such incidents occur are not comparable.

145 Finally, although recital 1 of Regulation No 1177/2010 does indeed seek to ensure a level of protection for maritime passengers that is comparable to that of passengers using other modes of transport, the EU legislature did not intend, contrary to what Irish Ferries claim, to consider that the different modes of transport were themselves comparable or even to ensure an identical level of protection for each of the modes of transport.

146 Accordingly, the grounds for exemption from liability provided for by EU legislation applicable to modes of passenger transport other than maritime transport, such as that provided for in Article 5(1)(c) of Regulation No 261/2004 for passenger air transport, cannot be taken into account in the examination of the comparability of the situations.

147 It follows that Articles 18 and 19 of Regulation No 1177/2010 do not infringe the principle of equal treatment or Article 20 of the Charter.

148 In the second place, as is apparent from the order for reference, the referring court asks, in essence, whether Articles 18 and 19 of Regulation No 1177/2010 are consistent with the principle of proportionality.

149 In that regard, Irish Ferries claims, in essence, that the obligations imposed on maritime passenger carriers under Articles 18 and 19 of Regulation No 1177/2010, in the event of cancellation of a service, impose considerable financial burdens on those carriers which are totally disproportionate to the objective pursued by that regulation. More specifically, it is disproportionate, first, to require the carrier to pay compensation under Article 19 of Regulation No 1177/2010, where that carrier informed the passenger of the cancellation of a service by giving several weeks' notice. Secondly, it is also disproportionate to allow a passenger whose service has been cancelled to be able to combine re-routing to the final destination under Article 18 of that regulation and compensation under Article 19 of that regulation.

150 The principle of proportionality, which is one of the general principles of EU law, requires that measures implemented through a provision of EU law should be appropriate for attaining the objective pursued and must not go beyond what is necessary to achieve it (judgment of 10 January 2006, *IATA and ELFAA*, C-344/04, EU:C:2006:10, paragraph 79).

151 With regard to judicial review of the conditions mentioned in the preceding paragraph, the Court has allowed the EU legislature broad discretion in areas entailing political, economic and social choices, and in which it is called upon to undertake complex assessments. Consequently, the legality of a measure adopted in those fields can be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue. That is so, in particular, in the field of the common transport policy (see, to that effect, judgment of 10 January 2006, *IATA and ELFAA*, C-344/04, EU:C:2006:10, paragraph 80).

152 As noted in paragraph 51 above, the objective pursued by the EU legislature is, in accordance with recitals 1, 2, 13 and 14 of Regulation No 1177/2010, to ensure a high level of protection for passengers who have been impacted by serious inconvenience caused by the cancellation or long delay affecting their service. To that end, the EU legislature made provision in Articles 18 and 19 of that regulation for remedying, in a standardised and immediate manner, certain inconvenience caused to passengers in such situations.

153 It is for the Court to assess whether the measures adopted by the EU legislature are manifestly inappropriate in the light of the objective of Regulation No 1177/2010, which is to strengthen the protection of passengers, the legitimacy of which is not in itself disputed.

154 In that regard, it should be noted at the outset that the measures provided for in Articles 18 and 19 of Regulation No 1177/2010 are in themselves capable of remedying immediately some of the inconvenience suffered by passengers in the event of cancellation of a service and thus make it possible to ensure a high level of protection for passengers, sought by that regulation.

155 The measures provided for in Article 18 of that regulation are intended to give the passenger a choice between reaching the final destination as established in the transport contract in the context of re-routing at no additional cost under comparable conditions and at the earliest

opportunity, or waiving his or her transport by requesting reimbursement of the ticket price and, where appropriate, a return service free of charge to the first point of departure as established in the transport contract, at the earliest opportunity.

156 As regards the compensation provided for in Article 19 of Regulation No 1177/2010, it should be noted that that compensation varies in principle and in amount depending on the length of the delay in arrival at the final destination as established in the transport contract, having regard to the duration of the service. Where a passenger, following the cancellation of his or her service, opts for re-routing to the final destination, which may, in view of the specific characteristics of the maritime transport sector, result in that passenger experiencing a significant delay in arrival at the final destination because of the waiting time for the substitution service or the need to embark or disembark in ports other than those originally scheduled, those criteria adopted for determining the passengers' entitlement to that compensation do not appear therefore to be unrelated to the requirement of proportionality.

157 Furthermore, the fact that the calculation of the compensation provided for in Article 19 of that regulation is based on the ticket price actually paid by the passenger implies in itself that the EU legislature adopted a proportionate approach aimed at compensating for the harmful consequences caused by the delay or cancellation which that regulation seeks to remedy.

158 Although Irish Ferries argues that the compensation measures provided for in Article 19 of Regulation No 1177/2010 are liable to have significant consequences for the financial burdens of carriers and are not appropriate, it must be stated that the Court has already held, in connection with passenger air transport, that such consequences cannot be regarded as disproportionate to the objective of ensuring a high level of protection for passengers. The importance of the objective of consumer protection, which includes the protection of maritime passengers, may justify even substantial negative economic consequences for certain economic operators (see, by analogy, judgment of 31 January 2013, *McDonagh*, C-12/11, EU:C:2013:43, paragraphs 47 and 48).

159 It should also be noted that the discharge of obligations under Regulation No 1177/2010 is without prejudice to the maritime carriers' right to seek compensation from any person, including third parties, in accordance with national law, which is a matter for the referring court to verify. Such compensation may accordingly reduce or even remove the financial burden borne by carriers as a result of those obligations. Nor does it appear unreasonable that those obligations should initially be borne, subject to the above mentioned right to compensation, by the maritime carriers with which the passengers concerned have a transport contract that entitles them to a service that should be neither cancelled nor delayed.

160 Finally, as regards the compensation provided for in Article 19(1) of Regulation No 1177/2010, it should be noted that, in accordance with Article 20(4) of that regulation, maritime carriers may be exempted from payment of that compensation if they prove that the cancellation or delay is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. In view of the existence of such an exculpatory cause and the restrictive conditions for the fulfilment of that obligation to pay compensation imposed on maritime carriers, that obligation does not appear to be manifestly inappropriate in the light of the objective pursued.

161 It follows from the foregoing considerations that Articles 18 and 19 of Regulation No 1177/2010 are not invalid by reason of infringement of the principle of proportionality.

162 In the third place, the referring court asks, in essence, whether Articles 18 and 19 of Regulation No 1177/2010 are consistent with the principle of legal certainty.

163 In that regard, the national court expresses uncertainty in the light of Irish Ferries' arguments raised before it, first, that Articles 18 and 19 of that regulation infringe the principle of legal certainty by imposing onerous obligations on carriers in the absence of a clear legal basis and, secondly, that Article 19(1) of that regulation infringes that principle in particular by requiring carriers to pay compensation equal to a percentage of the ticket price without defining that concept.

164 It should be noted at the outset that the principle of legal certainty is a fundamental principle of EU law which requires, in particular, that rules should be clear and precise, so that individuals may ascertain unequivocally what their rights and obligations are and may take steps accordingly (judgment of 10 January 2006, *IATA and ELFAA*, C-344/04, EU:C:2006:10, paragraph 68 and the case-law cited).

165 In the present case, as regards, first, Irish Ferries' general claim that Regulation No 1177/2010 infringes the principle of legal certainty by imposing excessively onerous obligations on carriers in the absence of a clear legal basis in that regulation, it must, as the Advocate General observed in point 223 of his Opinion, be rejected in accordance with the case-law cited in paragraphs 132 to 134 above in so far as, by its vague and general nature, it does not enable the Court to provide a useful answer.

166 Secondly, as regards the claim relating to the imprecise nature of the concept of 'ticket price' in Article 19(1) of Regulation No 1177/2010, it is indeed true that the concept of ticket price on which the calculation of the compensation provided for in Article 19 of that regulation is based is not defined either in paragraph 1 of that article or in Article 3 of that regulation.

167 It is important, however, to note that that concept of a general nature is intended to apply to an indefinite number of situations which it is impossible to envisage in advance and not to specific tickets the components of which are capable of being set out in advance in a legislative measure of EU law. It should also be noted that the EU legislature intended to specify, in Article 19(3) of Regulation No 1177/2010, that the compensation payable by the carrier is calculated 'by reference to the price actually paid by the passenger for the passenger service', with the result that that concept cannot be regarded as being insufficiently precise. In that regard, the fact that it has been the subject of an interpretation by the Court, as set out in paragraphs 95 to 98 above, is not sufficient to establish the existence of an infringement of the principle of legal certainty, because, as the Advocate General observed in point 224 of his Opinion, that would lead to any method of interpretation other than a literal interpretation of a provision of general application being ruled out.

168 Therefore, it must be held that Article 19(1) of Regulation No 1177/2010 does not infringe the general principle of legal certainty by referring to the concept of ticket price without defining that concept.

169 In the fourth place, the referring court asks, in essence, whether Articles 18 and 19 of Regulation No 1177/2010 are compatible with Articles 16 and 17 of the Charter guaranteeing, respectively, the freedom to conduct a business and the right to property of maritime carriers.

170 In that regard, it should be noted, first of all, that the freedom to conduct a business and the right to property are not absolute, but must be viewed in relation to their social function (judgment of 31 January 2013, *McDonagh*, C-12/11, EU:C:2013:43, paragraph 60).

171 Next, Article 52(1) of the Charter accepts that limitations may be imposed on the exercise of rights enshrined by it as long as the limitations are provided for by law, respect the essence of those rights and freedoms, and, subject to the principle of proportionality, are necessary and genuinely meet objectives of general interest recognised by the European Union or the need to protect the rights and freedoms of others.

172 Lastly, when several rights protected by the EU legal order clash, such an assessment must be carried out in accordance with the need to reconcile the requirements of the protection of those various rights and striking a fair balance between them (judgment of 31 January 2013, *McDonagh*, C-12/11, EU:C:2013:43, paragraph 62).

173 In the present case, although the referring court refers to Articles 16 and 17 of the Charter, account must also be taken of Article 38 of the Charter, which, like Article 169 TFEU, seeks to ensure a high level of consumer protection in EU policies, including maritime passengers. As has been noted in paragraph 51 above, protection of the passengers is among the principal aims of Regulation No 1177/2010.

174 It follows from paragraphs 150 to 161 above relating to the principle of proportionality that Articles 18 and 19 of Regulation No 1177/2010 must be considered to comply with the requirement intended to reconcile the various fundamental rights involved and strike a fair balance between them.

175 It follows that those provisions do not infringe Articles 16 and 17 of the Charter.

176 In the light of the foregoing, it must be held that examination of the tenth question has not revealed any factor capable of affecting the validity of Articles 18 and 19 of Regulation No 1177/2010.

Costs

177 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

1. **Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 must be interpreted as meaning that it applies where a carrier cancels a passenger service giving several weeks' notice prior to the originally scheduled departure because the delivery of the vessel required to provide that service was delayed, and could not be replaced.**

2. **Article 18 of Regulation No 1177/2010 must be interpreted as meaning that, where a passenger service is cancelled and there is no alternative service on the same route, the carrier is required to offer to the passenger, by virtue of the passenger's right to re-routing under comparable conditions and at the earliest opportunity to the final destination provided for in that provision, an alternative service that follows a different itinerary from that of the cancelled service or a maritime service coupled with other modes of transport, such as rail or road transport, and is required to bear any additional costs incurred by the passenger in re-routing to the final destination.**

3. **Articles 18 and 19 of Regulation No 1177/2010 must be interpreted as meaning that, where a carrier cancels a passenger service giving several weeks' notice before the originally scheduled departure, a passenger has a right to compensation under Article 19 of that regulation where he or she decides, in accordance with Article 18 of that regulation, to be re-routed at the earliest opportunity or to postpone the journey to a later date and that passenger arrives at the originally scheduled final destination with a delay that exceeds the thresholds laid down in Article 19 of that regulation. By contrast, where a passenger decides to be reimbursed for the ticket price, he or she does not have such a right to compensation under that article.**

4. **Article 19 of Regulation No 1177/2010 must be interpreted as meaning that the concept of 'ticket price', referred to in that article, includes the costs relating to the additional optional services chosen by the passenger, such as the booking of a cabin or a kennel, or access to premium lounges.**

5. **Article 20(4) of Regulation No 1177/2010 must be interpreted as meaning that the late delivery of a passenger transport vessel which led to the cancellation of all sailings to be operated by that vessel in the context of a new maritime route does not fall within the concept of 'extraordinary circumstances' within the meaning of that provision.**

6. **Article 24 of Regulation No 1177/2010 must be interpreted as meaning that it does not require a passenger who requests compensation under Article 19 of that regulation to submit his or her request in the form of a complaint to the carrier within two months from the date on which the service was performed or when a service should have been performed.**

7. Article 25 of Regulation No 1177/2010 must be interpreted as meaning that the competence of a national body responsible for the enforcement of that regulation designated by a Member State covers not only the passenger service provided from a port situated in the territory of that Member State, but also a passenger service provided from a port situated in the territory of another Member State to a port situated in the territory of the first Member State where the latter service is part of a return journey which has been entirely cancelled.

8. Examination of the tenth question has not revealed any factor capable of affecting the validity of Articles 18 and 19 of Regulation No 1177/2010.

Vilaras Piçarra Šváby

Rodin Jürimäe

Delivered in open court in Luxembourg on 2 September 2021.

A. Calot Escobar
Registrar

M. Vilaras
President of the Fourth Chamber