



# Reports of Cases

## JUDGMENT OF THE COURT (Third Chamber)

8 June 2023\*

(Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 5(1)(a) – Cancellation of a flight – Article 8(1) – Obligation to provide assistance – Concept of ‘re-routing’ – Compensation for air passengers in the event of cancellation of a flight – COVID-19 pandemic – Repatriation flight organised by a Member State in the context of consular assistance – Flight operated by the same operating air carrier and at the same time as the cancelled flight – Costs to be borne by the passenger in excess of the net costs of that flight)

In Case C-49/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Landesgericht Korneuburg (Regional Court, Korneuburg, Austria), made by decision of 4 January 2022, received at the Court on 24 January 2022, in the proceedings

**Austrian Airlines AG**

v

**TW,**

THE COURT (Third Chamber),

composed of K. Jürimäe (Rapporteur), President of the Chamber, M. Safjan, N. Piçarra, N. Jääskinen and M. Gavalec, Judges,

Advocate General: N. Emiliou,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Austrian Airlines AG, by M. Brenner and M. Klemm, Rechtsanwälte,
- TW, by F. Puschkarski, A. Skribe and P. Zwifelhofer, Rechtsanwälte,
- the Austrian Government, by G. Kunnert, A. Posch and J. Schmoll, acting as Agents,

\* Language of the case: German.

– the German Government, by J. Möller, P. Busche and M. Hellmann, acting as Agents,  
– the European Commission, by G. Braun, G. Wilms and N. Yerrell, acting as Agents,  
after hearing the Opinion of the Advocate General at the sitting on 2 March 2023,  
gives the following

### **Judgment**

- 1 This request for a preliminary ruling concerns the interpretation of Article 5(1)(a) and Article 8(1)(b) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).
- 2 The request has been made in proceedings between Austrian Airlines AG and TW concerning Austrian Airlines’s refusal to reimburse to TW and his wife the sum that they had to pay for a repatriation flight organised by the Republic of Austria in the context of its consular tasks, following the cancellation of their flight by Austrian Airlines due to the COVID-19 pandemic.

### **Legal context**

#### ***European Union law***

##### *Regulation No 261/2004*

- 3 Recitals 1 and 4 of Regulation No 261/2004 state:  

‘(1) Action by the Community in the field of air transport should aim, among other things, at ensuring a high level of protection for passengers. Moreover, full account should be taken of the requirements of consumer protection in general.

...

(4) The Community should therefore raise the standards of protection set by [Council] Regulation [(EEC) No 295/91 of 4 February 1991 establishing common rules for a denied-boarding compensation system in scheduled air transport (OJ 1991 L 36, p. 5)] both to strengthen the rights of passengers and to ensure that air carriers operate under harmonised conditions in a liberalised market.’
- 4 Article 2 of that regulation is entitled ‘Definitions’. Point (b) of that article defines ‘operating air carrier’ as ‘an air carrier that performs or intends to perform a flight under a contract with a passenger or on behalf of another person, legal or natural, having a contract with that passenger’.

5 Article 3 of that regulation, entitled ‘Scope’, provides, in paragraph 3:

‘This Regulation shall not apply to passengers travelling free of charge or at a reduced fare not available directly or indirectly to the public. However, it shall apply to passengers having tickets issued under a frequent flyer programme or other commercial programme by an air carrier or tour operator.’

6 Article 5 of that regulation, entitled ‘Cancellation’, is worded as follows:

‘1. In case of cancellation of a flight, the passengers concerned shall:

(a) be offered assistance by the operating air carrier in accordance with Article 8; and

...

(c) have the right to compensation by the operating air carrier in accordance with Article 7, unless:

(i) they are informed of the cancellation [of the flight]; ...

...

2. When passengers are informed of the cancellation, an explanation shall be given concerning possible alternative transport.

3. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the cancellation is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.

...’

7 Article 7 of Regulation No 261/2004, entitled ‘Right to compensation’, provides for standardised compensation for passengers, the amount of which varies, inter alia, according to the distance of the flight.

8 Article 8 of that regulation, entitled ‘Right to reimbursement or re-routing’, provides:

‘1. Where reference is made to this Article, passengers shall be offered the choice between:

(a) – reimbursement within seven days, by the means provided for in Article 7(3), of the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger’s original travel plan, together with, when relevant,

– a return flight to the first point of departure, at the earliest opportunity;

(b) re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or

(c) re-routing, under comparable transport conditions, to their final destination at a later date at the passenger’s convenience, subject to availability of seats.

2. Paragraph 1(a) shall also apply to passengers whose flights form part of a package, except for the right to reimbursement where such right arises under [Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ 2015 L 326, p. 1)].

...'

- 9 Article 12 of Regulation No 261/2004 is entitled 'Further compensation'. It provides, in paragraph 1:

'This Regulation shall apply without prejudice to a passenger's rights to further compensation. The compensation granted under this Regulation may be deducted from such compensation.'

#### *Directive (EU) 2015/637*

- 10 Under Article 9 of Council Directive (EU) 2015/637 of 20 April 2015 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries and repealing Decision 95/553/EC (OJ 2015 L 106, p. 1):

'The consular protection referred to in Article 2 may include assistance, inter alia, in the following situations:

...

(e) relief and repatriation in case of an emergency;

...'

#### *Austrian law*

- 11 Paragraph 3(2)(5) of the Bundesgesetz über die Wahrnehmung konsularischer Aufgaben (Konsulargesetz) (Federal Law on the exercise of consular tasks (Consular Law)) (BGBl. I, 40/2019) ('the Consular Law') provides:

'Consular protection is that part of consular tasks which comprises the provision of assistance in legal protection and emergency situations. This includes, among other things, the provision of assistance in cases of ... relief and repatriation in case of an emergency.'

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

- 12 As part of a package holiday, TW and his wife each had a confirmed reservation for flight OS 17, on 7 March 2020, from the airport in Vienna (Austria) to Mauritius, as well as for flight OS 18, on 20 March 2020, from the airport on Mauritius to Vienna. Both flights were to be operated by Austrian Airlines.

- 13 Flight OS 17 went ahead as scheduled. By contrast, on 18 March 2020, Austrian Airlines cancelled flight OS 18 as a result of the measures taken by the Austrian Government due to the COVID-19 pandemic.
- 14 According to the information provided by the Landesgericht Korneuburg (Regional Court, Korneuburg, Austria), which is the referring court, although Austrian Airlines had the contact details of TW and of his wife, it did not inform them of that cancellation or of their rights under Article 8(1) of Regulation No 261/2004. It was not until 19 March 2020 that they were notified, by their travel organiser, of the cancellation of their return flight and the organisation of a repatriation flight by the Austrian Ministry of Foreign Affairs, scheduled for 20 March 2020, a date by which no more regular flights were being operated.
- 15 TW and his wife registered for that repatriation flight on the website of the Ministry of Foreign Affairs. In that connection, each of them had to pay an obligatory contribution to costs of EUR 500. That repatriation flight was operated by Austrian Airlines under flight number OS 1024, at the flight time originally reserved for flight OS 18.
- 16 By an action brought before the Bezirksgericht Schwechat (District Court, Schwechat, Austria) on 14 September 2020, TW, acting on behalf of himself and his wife, requested that Austrian Airlines be ordered to pay him the sum of EUR 1 000, plus interest, that sum corresponding to the obligatory contribution that he and his wife had had to pay for the repatriation flight.
- 17 In support of that action, TW alleged that Austrian Airlines had not only failed to offer and organise re-routing, but had also charged fees for the transport that TW himself organised, contrary to what is provided for by Article 8(1)(b) of Regulation No 261/2004. In so far as Austrian Airlines thus failed to fulfil its obligations under EU law, TW maintains that that air carrier is liable for the damage suffered by him and his wife by being forced to find, at their own expense, an alternative to the cancelled return flight.
- 18 Since the Bezirksgericht Schwechat (District Court, Schwechat) upheld TW's application in the main proceedings, Austrian Airlines brought an appeal against that decision before the referring court.
- 19 In its request for a preliminary ruling, the referring court assumes that assistance with relief and repatriation in case of an emergency is one of the consular tasks of the Republic of Austria. The performance of those tasks is a sovereign activity of that Member State under Paragraph 3(2)(5) of the Consular Law. Austrian Airlines participated in that task as a contractual partner of the Republic of Austria, without having any influence whatsoever on that Member State's decision. However, that court takes the view that, although Austrian Airlines itself had no possibility to rebook passengers onto the repatriation flight, it could have registered them on the website of the Ministry of Foreign Affairs itself and reimbursed their obligatory contribution to costs.
- 20 According to that court, the outcome of the dispute in the main proceedings therefore depends on the interpretation to be given to the terms 'offered' and 're-routing', which appear in Article 5(1)(a) and Article 8(1)(b) of Regulation No 261/2004 respectively.

21 In those circumstances, the Landesgericht Korneuburg (Regional Court, Korneuburg) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Must Article 5(1)(a) and Article 8(1)(b) of [Regulation No 261/2004] be interpreted as meaning that a repatriation flight operated in the exercise of the State’s sovereign functions is also to be regarded as re-routing, under comparable transport conditions, to the final destination – as must be offered by the operating air carrier in the event of cancellation – where the operating air carrier cannot establish legal entitlement to transport the passenger but could register the passenger for that purpose and bear the costs and, by virtue of a contractual agreement with the State, ultimately operates the flight with the same aircraft and at the same flight times as scheduled for the flight originally cancelled?’

(2) Must Article 8(1) of [Regulation No 261/2004] be interpreted as meaning that a passenger who registers himself or herself for a repatriation flight as described in Question 1 and who makes an obligatory contribution to costs to the State for that flight has a claim for reimbursement of those expenses against the [operating] air carrier, arising directly from [Regulation No 261/2004], even if the costs do not consist exclusively of purely flight-related costs?’

## Consideration of the questions referred

### *The first question*

22 By its first question, the referring court asks, in essence, whether Article 5(1)(a) of Regulation No 261/2004 must be interpreted as meaning that a repatriation flight, organised by a Member State in the context of consular assistance, following the cancellation of a flight, constitutes ‘re-routing, under comparable transport conditions, to [the] final destination’, within the meaning of Article 8(1)(b) of that regulation, which must be offered by the operating air carrier to the passenger whose flight has been cancelled.

23 Under Article 5(1)(a) of Regulation No 261/2004, the operating air carrier must, in case of cancellation of a flight, offer the passengers concerned assistance in accordance with Article 8 of that regulation.

24 According to Article 8(1) of that regulation, the passengers concerned have the choice between three options: reimbursement under certain conditions and, when relevant, organisation of a return flight to the first point of departure, at the earliest opportunity; re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or, last, re-routing, under comparable transport conditions, to their final destination at a later date at the passengers’ convenience, subject to availability of seats.

25 The concept of ‘re-routing’ is not defined in Article 8(1) of Regulation No 261/2004 or in any other provision of that regulation. In those circumstances, the meaning and scope of that concept must be determined by considering its usual meaning in everyday language, while also taking into account the context in which it occurs and the purposes of the rules of which it is part (see, to that effect, judgment of 31 January 2013, *McDonagh*, C-12/11, EU:C:2013:43, paragraph 28).

- 26 As regards, first of all, the usual meaning of the concept of ‘re-routing’, this generally refers to the idea of an alternative route to that originally planned, in particular in terms of journey or timetable, which nevertheless leads to the same final destination. To that extent, that concept does not include any particular characteristic that restricts ‘re-routing’ in the context of a commercial offer.
- 27 Next, as is apparent from recitals 1 to 4 of Regulation No 261/2004, the main objective pursued by that regulation is to ensure a high level of protection for passengers (see, to that effect, judgments of 10 January 2006, *IATA and ELFAA*, C-344/04, EU:C:2006:10, paragraph 69, and of 19 November 2009, *Sturgeon and Others*, C-402/07 and C-432/07, EU:C:2009:716, paragraph 44).
- 28 Therefore, offering ‘re-routing’, within the meaning of Article 8(1) of Regulation No 261/2004, cannot be limited, for the operating air carrier concerned, to offering to take the air passenger to his or her final destination on the flight following the one which that air carrier cancelled. Such an offer may include other flights, including connecting flights, which may be operated by other air carriers, whether or not belonging to the same airline alliance, arriving at a scheduled time that is not as late as the flight following the cancelled flight (see, to that effect, judgment of 11 June 2020, *Transportes Aéreos Portugueses*, C-74/19, EU:C:2020:460, paragraph 59).
- 29 Last, as regards the context of Article 8(1) of Regulation No 261/2004, it should nevertheless be noted, as the Advocate General stated, in essence, in points 23 and 24 of his Opinion, that Regulation No 261/2004 is based on Article 80(2) EC, now Article 100(2) TFEU, which allows the EU legislature to lay down appropriate provisions for, inter alia, air transport, within the context of the common transport policy. It follows that the scope of that regulation cannot be extended to flights of a non-commercial nature. That interpretation is confirmed by, inter alia, recital 4 of Regulation No 261/2004, which expressly refers to the activities of air carriers in a liberalised market; by Article 2(b) of that regulation, which defines the concept of ‘operating air carrier’ by reference to a contract concluded with a passenger; and by Article 3(3) of that regulation, which limits its scope to passengers travelling at a fare available to the public.
- 30 It follows from the foregoing that only flights of a commercial nature may be involved in the implementation of such re-routing.
- 31 A repatriation flight, however, is not commercial in nature, in so far as it is organised, in principle, within the context of a State’s consular assistance, as evidenced, in the present case, by Paragraph 3(2)(5) of the Consular Law, but also, in EU law, by Article 9(e) of Directive 2015/637.
- 32 It follows from that fact, as the Advocate General stated in points 34, 35 and 38 of his Opinion, that the conditions of a repatriation flight may be significantly different from those of a commercial flight as regards both the conditions for boarding and the services on board. Above all, operating air carriers cannot offer their passengers a repatriation flight as ‘re-routing’, within the meaning of Article 8(1) of Regulation No 261/2004, since they are not entitled to confer on those passengers a right to be carried on that flight.
- 33 It follows from the foregoing that Article 5(1)(a) and Article 8(1)(b) of Regulation No 261/2004 must be interpreted as meaning that a repatriation flight, organised by a Member State in the context of consular assistance, following the cancellation of a flight, does not constitute ‘re-routing, under comparable transport conditions, to [the] final destination’, within the meaning of Article 8(1)(b) of that regulation, which must be offered by the operating air carrier to the passenger whose flight has been cancelled.

***The second question***

- 34 By its second question, the referring court asks, in essence, whether Article 8(1) of Regulation No 261/2004 must be interpreted as conferring on a passenger who, following the cancellation of his or her return flight, has had to register himself or herself on a repatriation flight organised by a Member State in the context of consular assistance and, on that basis, pay a compulsory contribution to costs, a right to reimbursement of those costs at the expense of the operating air carrier.
- 35 As a preliminary point, it should be noted that it is apparent from the request for a preliminary ruling that TW's action seeks to have Austrian Airlines ordered to compensate him for the damage that he claims to have suffered by having to pay EUR 1 000 as a compulsory contribution to costs for him and his wife, in order to be able to secure two seats on the repatriation flight referred to in paragraph 15 above. That action, in so far as it relates to damage specific to TW, which is meant to be assessed subsequently on an individual basis, and which derives from the cancellation of a flight for which he and his wife had a confirmed reservation, seeks further compensation, within the meaning of Article 12(1) of Regulation No 261/2004 (see, to that effect, judgment of 29 July 2019, *Rusu*, C-354/18, EU:C:2019:637, paragraphs 35 and 36).
- 36 Although it follows from the very wording of that provision that that regulation applies without prejudice to a passenger's rights to further compensation, such compensation must be based on national or international law (see, to that effect, judgment of 29 July 2019, *Rusu*, C-354/18, EU:C:2019:637, paragraphs 35 and 36).
- 37 Article 8(1) of Regulation No 261/2004 cannot therefore be interpreted as meaning that a passenger who, following the cancellation of his or her return flight, registers himself or herself for a repatriation flight organised by a Member State has, on the basis of that regulation, a right to reimbursement by the operating air carrier of his or her contribution to the additional costs that he or she had to pay in order to be booked on that flight.
- 38 Such a passenger is nevertheless justified in claiming a right to compensation on the basis of the factors set out in Articles 8 and 9 of Regulation No 261/2004 when an operating air carrier has failed to fulfil its obligations under those articles (see, to that effect, judgment of 13 October 2011, *Sousa Rodríguez and Others*, C-83/10, EU:C:2011:652, paragraphs 43 and 44).
- 39 In that regard, it should be recalled that Article 8 of that regulation, entitled 'Right to reimbursement or re-routing', states, in paragraph 1, that passengers are to be offered the choice between three options, namely, in essence (i) reimbursement of the full cost of the ticket and, when relevant, a return flight to the first point of departure, at the earliest opportunity; (ii) re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; and (iii) re-routing, under comparable transport conditions, to that destination at a later date at the passengers' convenience, subject to availability of seats.
- 40 That article thus expressly provides, as an alternative to re-routing, for the reimbursement of the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made or no longer serving any purpose in relation to the passenger's original travel plan, provided that that ticket cannot already be reimbursed on the basis of Directive 2015/2302.



- 41 Therefore, as the Advocate General observed, in essence, in points 62 and 63 of his Opinion, where re-routing at the earliest opportunity or at a later date at the passenger's convenience proves impossible, the operating air carrier cannot be released from its obligation, under Article 8(1)(a) of Regulation No 261/2004, to reimburse the full cost of the ticket for the part or parts of the journey not made or no longer serving any purpose in relation to the passenger's original travel plan, provided that that ticket cannot already be reimbursed on the basis of Directive 2015/2302. The obligation to offer assistance provided for in Article 8(1) of that regulation would be rendered ineffective if it were not possible to enforce it, if necessary by means of reimbursement proceedings brought after the event.
- 42 Such an obligation to reimburse is, moreover, consistent with the main objective pursued by Regulation No 261/2004, which consists, as stated in paragraph 27 above, in ensuring a high level of protection for passengers.
- 43 Furthermore, the obligation on the operating air carrier to offer passengers whose flight has been cancelled the various options referred to in Article 8(1) of that regulation presupposes that it provides those passengers with all the information concerning the rights deriving from that provision so that they can effectively exercise their rights in the event of cancellation (see, to that effect, judgments of 29 July 2019, *Rusu*, C-354/18, EU:C:2019:637, paragraphs 53 and 54, and of 21 December 2021, *Azurair and Others*, C-146/20, C-188/20, C-196/20 and C-270/20, EU:C:2021:1038, paragraphs 99 and 100).
- 44 That right of passengers to be offered the information needed to enable them to make an effective and informed choice excludes any obligation on their part to contribute actively to seeking the information which the offer from that operating air carrier must contain (judgment of 29 July 2019, *Rusu*, C-354/18, EU:C:2019:637, paragraph 55). Similarly, it is for the latter to provide useful information to air passengers where re-routing is not possible.
- 45 In that regard, it should also be pointed out that the obligation to provide assistance under Article 8 of Regulation No 261/2004 applies to the operating air carrier irrespective of the event giving rise to the cancellation of the flight. Even when exceptional circumstances arise, Article 5(3) of that regulation exempts the operating air carrier only from its obligation to pay compensation under Article 7 of that regulation (see, by analogy, judgment of 31 January 2013, *McDonagh*, C-12/11, EU:C:2013:43, paragraph 31).
- 46 Regulation No 261/2004 contains nothing that would permit the inference that it recognises a separate category of 'particularly extraordinary' events, such as the COVID-19 pandemic, beyond the 'extraordinary circumstances' referred to in Article 5(3) of that regulation, which would lead to the operating air carrier being exempted from all of its obligations, including those under Article 8 of that regulation (see, by analogy, judgment of 31 January 2013, *McDonagh*, C-12/11, EU:C:2013:43, paragraph 30).
- 47 An interpretation to the contrary would mean that an operating air carrier would be required to provide assistance pursuant to Article 8(1) of Regulation No 261/2004 to passengers who find themselves, due to cancellation of a flight, in a situation causing limited inconvenience, whereas passengers, such as the applicant in the main proceedings, who find themselves in a particularly vulnerable state due to the absence of any commercial flight would be denied that care (see, by analogy, judgment of 31 January 2013, *McDonagh*, C-12/11, EU:C:2013:43, paragraph 33).

- 48 A passenger whose flight has been cancelled is therefore entitled to reparation in kind, at the expense of the operating air carrier, in the event of the latter's failure to comply with its obligation to provide assistance under Article 8(1) of Regulation No 261/2004, including its duty to provide information as defined in paragraphs 43 and 44 above.
- 49 That passenger may thus invoke, before a national court, the failure of an operating air carrier to comply, first, with its obligation to reimburse the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made or no longer serving any purpose in relation to the passenger's original travel plan, and, secondly, with its obligation to provide assistance, including its duty to provide information, under Article 8(1) of Regulation No 261/2004, in order to obtain compensation from that operating air carrier (see, by analogy, judgment of 31 January 2013, *McDonagh*, C-12/11, EU:C:2013:43, paragraph 24). That compensation will nevertheless be limited to what, in the light of the specific circumstances of each case, proves necessary, appropriate and reasonable to remedy the shortcomings of the operating air carrier (see, by analogy, judgment of 22 April 2021, *Austrian Airlines*, C-826/19, EU:C:2021:318, paragraph 73).
- 50 It follows from the foregoing reasons that Article 8(1) of Regulation No 261/2004 must be interpreted as meaning that a passenger who, following the cancellation of his or her return flight, registers himself or herself for a repatriation flight organised by a Member State in the context of consular assistance, and who is required to pay on that basis to that State a compulsory contribution to costs, does not have a right to reimbursement of those costs at the expense of the operating air carrier on the basis of that regulation. By contrast, such a passenger may invoke before a national court the failure of the operating air carrier to comply, first, with its obligation to reimburse the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made or no longer serving any purpose in relation to the passenger's original travel plan, and, secondly, with its obligation to provide assistance, including its duty to provide information under Article 8(1) of that regulation, in order to obtain compensation from that operating air carrier. Such compensation must nevertheless be limited to what, in the light of the specific circumstances of each case, proves necessary, appropriate and reasonable to remedy the shortcomings of that operating air carrier.

## Costs

- 51 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring 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 (Third Chamber) hereby rules:

- 1. Article 5(1)(a) and Article 8(1)(b) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91,**

**must be interpreted as meaning that a repatriation flight, organised by a Member State in the context of consular assistance, following the cancellation of a flight, does not constitute 're-routing, under comparable transport conditions, to [the] final**

**destination’, within the meaning of Article 8(1)(b) of that regulation, which must be offered by the operating air carrier to the passenger whose flight has been cancelled.**

## **2. Article 8(1) of Regulation No 261/2004**

**must be interpreted as meaning that a passenger who, following the cancellation of his or her return flight, registers himself or herself for a repatriation flight organised by a Member State in the context of consular assistance, and who is required to pay on that basis to that State a compulsory contribution to costs, does not have a right to reimbursement of those costs at the expense of the operating air carrier on the basis of that regulation.**

**By contrast, such a passenger may invoke before a national court the failure of the operating air carrier to comply, first, with its obligation to reimburse the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made or no longer serving any purpose in relation to the passenger’s original travel plan, and, secondly, with its obligation to provide assistance, including its duty to provide information under Article 8(1) of that regulation, in order to obtain compensation from that operating air carrier. Such compensation must nevertheless be limited to what, in the light of the specific circumstances of each case, proves necessary, appropriate and reasonable to remedy the shortcomings of that operating air carrier.**

[Signatures]