

2. Does the notification nine days prior to the start of the trip of the postponement of a flight from 13:20 (LT) to 16:10 (LT) on the same day constitute an offer of re-routing within the meaning of Article 5(1)(c)(ii) of Regulation No 261/2004, and, if so, must that offer meet the requirements of Articles 5(1)(a) and 8(1) of Regulation No 261/2004?

(<sup>1</sup>) Regulation of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

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**Request for a preliminary ruling from the Sofiyski rayonen sad (Bulgaria) lodged on 9 September 2020 — criminal proceedings against HN**

(Case C-420/20)

(2020/C 399/34)

*Language of the case: Bulgarian*

**Referring court**

Sofiyski rayonen sad

**Parties to the main proceedings**

HN

**Questions referred**

1. Is it permissible for the right of the accused person to be present in person at the trial concerning him, as provided for in Article 8(1) of Directive (EU) 2016/343 (<sup>1</sup>) of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, pp 1–11), to be restricted by national legislation under which a ban under administrative law on entering and residing in the country in which the criminal proceedings are being conducted may be imposed on foreign nationals who have been formally charged?
2. If the first question were to be answered in the affirmative, would the conditions laid down in Article 8(2)(a) and/or (b) of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, pp 1–11), with respect to the holding of a trial in the absence of a foreign accused person, be fulfilled in the case where the foreign national was duly informed of the criminal case and of the consequences of non-appearance and is represented by a mandated lawyer appointed either by the accused person or by the State, but the appearance in person of the accused person is precluded by a ban, adopted in the administrative proceedings, on entering and residing in the country in which the criminal proceedings are being conducted?
3. Is it permissible for the right of the accused person to be present at the trial concerning him, as provided for in Article 8(1) of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, pp 1–11), to be converted by national legislation into an obligation incumbent on that person under procedural law? In particular, do the Member States thereby ensure a higher level of protection within the meaning of recital 48 [of the Directive] or is such a course of action, on the contrary, incompatible with recital 35 of the Directive, which states that the aforementioned right of the accused person is not absolute and can be waived?
4. Is an advance waiver by the accused person of the right to be present in person at the trial concerning him, as provided for in Article 8(1) of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, pp 1–11), which was clearly expressed during the pre-trial investigation, permissible, provided that the accused person was informed of the consequences of non-appearance?

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(<sup>1</sup>) OJ 2016 L 65, p. 1.