

Re:

Reference for a preliminary ruling — Augstākās Tiesas Senāts — Interpretation of Articles 5(3) and 6(1) 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) — Cancellation of a flight caused initially by air space closure because of problems with radar and aviation systems and then by expiry of the crew's maximum permitted working time — Taking, by the air carrier, of all reasonable measures to avoid extraordinary circumstances

Operative part of the judgment

Article 5(3) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 must be interpreted as meaning that an air carrier, since it is obliged to implement all reasonable measures to avoid extraordinary circumstances, must reasonably, at the stage of organising the flight, take account of the risk of delay connected to the possible occurrence of such circumstances. It must, consequently, provide for a certain reserve time to allow it, if possible, to operate the flight in its entirety once the extraordinary circumstances have come to an end. However, that provision cannot be interpreted as requiring, as a 'reasonable measure', provision to be made, generally and without distinction, for a minimum reserve time applicable in the same way to all air carriers in all situations when extraordinary circumstances arise. The assessment of the ability of the air carrier to operate the programmed flight in its entirety in the new conditions resulting from the occurrence of those circumstances must be carried out in such a way as to ensure that the length of the required reserve time does not result in the air carrier being led to make intolerable sacrifices in the light of the capacities of its undertaking at the relevant time. Article 6(1) of that regulation is not applicable in the context of such an assessment.

⁽¹⁾ OJ C 221, 14.8.2010.

Judgment of the Court (Fifth Chamber) of 10 May 2011 — European Commission v Kingdom of Sweden

(Case C-479/10) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Environment — Directive 1999/30/EC — Pollution control — Limit values for concentrations of PM₁₀ in ambient air)

(2011/C 194/10)

Language of the case: Swedish

Parties

Applicant: European Commission (represented by: A. Alcover San Pedro and K. Simonsson, Agents)

Defendant: Kingdom of Sweden (represented by: A. Falk and C. Meyer-Seitz, Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 5(1) of Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air (OJ 1999 L 163, p. 41) — PM₁₀ particles exceeding limit values in ambient air in zones SW 2 and SW 4 in 2005, 2006 and 2007 and in zone SW 5 in 2005 and 2006.

Operative part of the judgment

The Court:

1. Declares that, by exceeding the limit values for concentrations of PM₁₀ in ambient air from 2005 to 2007 in zones SW 2 and SW 4 and in 2005 and 2006 in zone SW 5, the Kingdom of Sweden has failed to fulfil its obligations under Article 5(1) of Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air;
2. Orders the Kingdom of Sweden to pay the costs.

⁽¹⁾ OJ C 328, 4.12.2010.

Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 14 March 2011 — UsedSoft GmbH v Oracle International Corp.

(Case C-128/11)

(2011/C 194/11)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: UsedSoft GmbH

Defendant: Oracle International Corp.

Questions referred

1. Is the person who can rely on exhaustion of the right to distribute a copy of a computer program a 'lawful acquirer' within the meaning of Article 5(1) of Directive 2009/24/EC? ⁽¹⁾