

Request for preliminary ruling on Art. 5 No. 1 Brussels I Regulation

On 18 August 2015, the German Federal Supreme Court referred the following questions relating to the interpretation of Article 5 No. 1 of the Brussels I Regulation to the CJEU (my translation):

1. Must Art. 5 No. 1 lit. a) of the Brussels I Regulation be interpreted as covering a claim for compensation under Art. 7 of the EU Air Passenger Regulation against an airline that is not the contracting partner of the passenger but operates the flight by way of a codeshare agreement with the passenger's contracting partner?

2. If Art. 5 No. 1 Brussels I Regulation applies: In case of a flight connection consisting of several flights without any meaningful stay at the connecting airports, is the place of departure of the first flight the place of performance within the meaning of Art. 5 No. 1 lit. b) Brussels I Regulation, if the flights are operated by different airlines by way of a codeshare agreement and if the claim for compensation is directed against the airline that operates the - severely delayed - second flight?

The facts of the underlying case are straightforward: The claimant booked a flight with Air France from Stuttgart to Helsinki via Paris. The flight from Paris to Helsinki was operated by Finnair by way of a codeshare agreement with Air France. The flight from Paris to Helsinki was delayed by three hours and twenty minutes. Therefore, the claimant sought compensation from Finnair under the EU Air Passenger Rights Regulation - and brought an action against Finnair in Stuttgart. The Court of First Instance (Amtsgericht) and the Regional Court (Landgericht) both rejected the claim for lack of jurisdiction. The Federal Supreme Court (Bundesgerichtshof), in contrast, wasn't so sure, and, therefore, referred the above questions to the CJEU.

The press release of the Federal Supreme Court is available here (in German).