

Respondent: TW

### Questions referred

1. Must 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 <sup>(1)</sup> (Air Passenger Rights Regulation) be interpreted as meaning that a repatriation flight operated in the exercise of the State's sovereign activity 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 the Air Passenger Rights Regulation 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 air carrier, arising directly from the Air Passenger Rights Regulation, even if the costs do not consist exclusively of purely flight-related costs?

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<sup>(1)</sup> OJ 2004 L 46, p. 1.

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### Request for a preliminary ruling from the Cour d'appel de Paris (France) lodged on 25 January 2022 — SOGEFINANCEMENT v RW, UV

(Case C-50/22)

(2022/C 191/16)

*Language of the case: French*

### Referring court

Cour d'appel de Paris

### Parties to the main proceedings

*Applicant:* SOGEFINANCEMENT

*Defendants:* RW, UV

### Questions referred

1. Does the principle that penalties must be effective, deriving from Article 23 of Directive 2008/48/EC, <sup>(1)</sup> in the light of the principles of legal certainty and of States' procedural autonomy, preclude a situation whereby a court may not raise of its own motion a national legal provision, resulting from Article 14 of that directive and penalised under national law by the nullity of the agreement, beyond the five-year limitation period within which the consumer may seek the annulment of the credit agreement by bringing legal proceedings or by raising an objection?
2. Does the principle that penalties must be effective, deriving from Article 23 of Directive 2008/48/EC, in the light of the principles of legal certainty and of States' procedural autonomy and the principle that the subject matter of an action is delimited by the parties, preclude a situation whereby a court may not declare a credit agreement null and void after raising of its own motion a provision of national law, resulting from Article 14 of that directive, where the consumer has not applied for or at least acquiesced in such annulment?

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<sup>(1)</sup> Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ 2008 L 133, p. 66).