Court of Justice of the European Union
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Press and Information

Judgment in Joined Cases C-168/16 and C-169/16
Sandra Nogueira and Others v Crewlink Ltd and Miguel José Moreno Osacar v Ryanair

In disputes relating to their employment contracts, air crew members have the option of bringing proceedings before the courts of the place where they perform the essential part of their duties vis-à-vis their employer

The national court must determine that place in the light of all the relevant circumstances, an employee's 'home base' being a significant indicator to that effect

Ryanair and Crewlink are companies established in Ireland. Ryanair is active in the international passenger air transport sector. Crewlink is specialised in the recruitment and training of cabin crew for airlines. Between 2009 and 2011, employees of Portuguese, Spanish and Belgian nationality were hired by Ryanair or by Crewlink, then assigned to Ryanair, as cabin crew (air hostesses and stewards).

All the employment contracts were drafted in English, subject to Irish law and included a jurisdiction clause providing that the Irish courts had jurisdiction. In those contracts, it was stipulated that the work of the employees concerned, as cabin crew, was regarded as being carried out in Ireland given that their duties were performed on board aircraft registered in that Member State. Those contracts nevertheless designated Charleroi airport (Belgium) as the employees' 'home base'. Those employees started and ended their working day at that airport, and they were contractually obliged to reside within an hour of their 'home base'.

Taking the view that Crewlink and Ryanair had to comply with and apply the provisions of Belgian law and that the Belgian courts had jurisdiction to adjudicate on their claims, six employees brought proceedings before the Belgian courts in 2011. The cour du travail de Mons (Mons Higher Labour Court, Belgium), which must ascertain whether it has jurisdiction, decided to ask the Court of Justice how to interpret, in the EU Regulation on jurisdiction in civil and commercial matters, the concept of 'place where the employee habitually carries out his work'[1] in the specific context of the air navigation sector and, more specifically, whether that concept can be treated in the same way as that of 'home base', [2] within the meaning of an EU regulation in the field of civil aviation. [3]

In today's judgment, the Court points out first of all that, as regards disputes related to employment contracts, the European rules concerning jurisdiction are aimed at protecting the weaker party. Those rules enable inter alia an employee to sue his employer before the courts which he regards as closest to his interests, by giving him the option of bringing proceedings before the courts of the Member State in which the employer is domiciled or the courts of the place in which the employee habitually carries out his work.

The Court then upholds the reasoning of the referring court which had rightly considered that a jurisdiction clause, concluded before the disputes arose, and seeking to prevent employees from

[1] Article 19(2) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).
[2] That concept is defined as the place from which the air crew systematically starts its working day and ends it, organising its daily work there and close to which employees have, during the period of performance of their contract of employment, established their residence and are at the disposal of the air carrier. (70)
[3] Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (OJ 1991 L 373, p. 4), as amended by Regulation (EC) No 1899/2006 of the European Parliament and of the Council of 12 December 2006 (OJ 2006 L 377, p. 1)

bringing proceedings before courts which do however have jurisdiction under EU legislation in this field, was not enforceable against those employees.

As regards the determination of the concept of 'place where the employee habitually carries out his work', the Court refers to its settled case-law according to which that concept covers the place where, or from which, the employee in fact performs the essential part of his duties vis-à-vis his employer. To determine specifically that place, the national court must refer to a set of indicia.

In the air transport sector, it is necessary in particular to establish in which Member State is situated (i) the place from which the employee carries out his transport-related tasks, (ii) the place where he returns after his tasks, receives instructions concerning his tasks and organises his work, and (iii) the place where his work tools are to be found. In the present case, the place where the aircraft aboard which the work is habitually performed is stationed must also be taken into account.

As regards, more specifically, whether the concept of 'place where, or from which, the employee habitually performs his work' can be equated with that of 'home base', the Court points out that, owing to the circumstantial method and in order to thwart strategies to circumvent the rules, that concept cannot be treated in the same way as any concept referred to in another act of EU law, including that of 'home base', within the meaning of an EU regulation in the field of civil aviation.

Nevertheless, the concept of 'home base' amounts to a significant indicator to determine, in circumstances such as those at issue, the place from which the employee habitually carries out his work.

It would only be if, taking account of the facts of each individual case, applications were to display closer connections with a place other than the 'home base' that the relevance of that base in identifying the 'place from which employees habitually carry out their work' would be undermined.

Finally, the Court states that the argument that the concept of 'place where, or from which, the employee habitually performs his work' cannot be equated with any other concept is also true as regards the 'nationality' of aircraft. Thus, nor can the Member State from which a member of staff habitually carries out his work be equated with the territory of the Member State of nationality of the aircraft of that company.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The full text of the judgments (C-168/16 et C-169/16) is published on the CURIA website on the day of delivery.

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