Reports of Cases

JUDGMENT OF THE COURT (Seventh Chamber)

4 October 2024*

(Reference for a preliminary ruling – Package travel and linked travel arrangements – Directive (EU) 2015/2302 – Article 12(3) – Termination of a package travel contract by the organiser – Unavoidable and extraordinary circumstances – Performance of the trip prevented as a result of such circumstances – Official recommendation advising against travel to the destination country due to the spread of COVID-19)

In Case C-546/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Oberster Gerichtshof (Supreme Court, Austria), made by decision of 29 June 2022, received at the Court on 16 August 2022, in the proceedings

GF

v

Schauinsland-Reisen GmbH,

THE COURT (Seventh Chamber),

composed of F. Biltgen, President of the Chamber, A. Prechal (Rapporteur), President of the Second Chamber, acting as a Judge of the Seventh Chamber, and N. Wahl, Judge,

Advocate General: L. Medina,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– GF, by A. Konrad, Rechtsanwalt,

– Schauinsland-Reisen GmbH, by M. Wukoschitz, Rechtsanwalt,

– the Greek Government, by, A. Dimitrakopoulou, C. Kokkosi and E. Tsaousi, acting as Agents,

– the European Commission, by B.-R. Killmann and I. Rubene, acting as Agents,

* Language of the case: German.

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 12(3) of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ 2015 L 326, p. 1).

2 The request has been made in proceedings between GF and Schauinsland-Reisen GmbH concerning a claim for compensation brought by GF against Schauinsland-Reisen for the termination, by the latter, of the package travel contract concluded between those parties, following the publication of an official recommendation advising travellers against travelling to the destination country.

Legal context

European Union law

3 Recitals 29 to 32 of Directive 2015/2302 are worded as follows:

‘(29) Taking into account the specificities of package travel contracts, the rights and obligations of the contracting parties should be laid down for the period before and after the start of the package, in particular if the package is not properly performed or if particular circumstances change.

(30) Since packages are often purchased a long time before their performance, unforeseen events may occur. …

(31) Travellers should also be able to terminate the package travel contract at any time before the start of the package in return for payment of an appropriate and justifiable termination fee, taking into account expected cost savings and income from alternative deployment of the travel services. They should also have the right to terminate the package travel contract without paying any termination fee where unavoidable and extraordinary circumstances will significantly affect the performance of the package. This may cover for example warfare, other serious security problems such as terrorism, significant risks to human health such as the outbreak of a serious disease at the travel destination, or natural disasters such as floods, earthquakes or weather conditions which make it impossible to travel safely to the destination as agreed in the package travel contract.

(32) In specific situations, the organiser should also be entitled to terminate the package travel contract before the start of the package without paying compensation …’

4 Article 1 of that directive, headed ‘Subject matter’, provides:

‘The purpose of this Directive is to contribute to the proper functioning of the internal market and to the achievement of a high and as uniform as possible level of consumer protection by approximating certain aspects of the laws, regulations and administrative provisions of the Member States in respect of contracts between travellers and traders relating to package travel and linked travel arrangements.’

5 Article 3 of that directive, headed ‘Definitions’, provides:

‘For the purpose of this Directive, the following definitions shall apply:

…

(12) “unavoidable and extraordinary circumstances” means a situation beyond the control of the party who invokes such a situation and the consequences of which could not have been avoided even if all reasonable measures had been taken;

…’

6 Article 12 of Directive 2015/2302, headed ‘Termination of the package travel contract and the right of withdrawal before the start of the package’, provides, in paragraphs 2 and 3 thereof:

‘2. … the traveller shall have the right to terminate the package travel contract before the start of the package without paying any termination fee in the event of unavoidable and extraordinary circumstances occurring at the place of destination or its immediate vicinity and significantly affecting the performance of the package, or which significantly affect the carriage of passengers to the destination. In the event of termination of the package travel contract under this paragraph, the traveller shall be entitled to a full refund of any payments made for the package, but shall not be entitled to additional compensation.

3. The organiser may terminate the package travel contract and provide the traveller with a full refund of any payments made for the package, but shall not be liable for additional compensation, if:

…

(b) the organiser is prevented from performing the contract because of unavoidable and extraordinary circumstances and notifies the traveller of the termination of the contract without undue delay before the start of the package.’

7 Article 13 of that directive, entitled ‘Responsibility for the performance of the package’, states, in paragraph 3 thereof:

‘If any of the travel services are not performed in accordance with the package travel contract, the organiser shall remedy the lack of conformity, unless that:

(a) is impossible; or

(b) entails disproportionate costs, taking into account the extent of the lack of conformity and the value of the travel services affected.

If the organiser, in accordance with point (a) or point (b) of the first subparagraph of this paragraph, does not remedy the lack of conformity, Article 14 shall apply.'

8 Article 16 of that directive, headed 'Obligation to provide assistance', provides:

'Member States shall ensure that the organiser gives appropriate assistance without undue delay to the traveller in difficulty, including in the circumstances referred to in Article 13(7), in particular by:

(a) providing appropriate information on health services, local authorities and consular assistance; and

(b) assisting the traveller to make distance communications and helping the traveller to find alternative travel arrangements.

The organiser shall be able to charge a reasonable fee for such assistance if the difficulty is caused intentionally by the traveller or through the traveller's negligence. That fee shall not in any event exceed the actual costs incurred by the organiser.'

Austrian law

9 According to the second scenario envisaged by Paragraph 10(3) of the Bundesgesetz über Pauschalreisen und verbundene Reiseleistungen (Pauschalreisegesetz – PRG (Federal Law on package travel and linked arrangements) of 24 April 2017 (BGB1. I, 50/2017), in the version applicable to the dispute in the main proceedings, a travel organiser may terminate the package travel contract concerned before the start of the package in return for a full refund of all payments made for that package, but without having to pay any additional compensation, if it is prevented from performing the contract because of unavoidable and extraordinary circumstances and notifies the traveller of the termination of the contract without undue delay, but no later than before the start of that package.

The dispute in the main proceedings and the questions referred for a preliminary ruling

10 On 13 May 2020, GF, a medical consultant in private practice, and his wife concluded a contract with Schauinsland-Reisen for the organisation, by the latter, of a package trip to the Maldives which was scheduled to take place during the period from 26 December 2020 to 2 January 2021. The total price of that package amounted to EUR 8 620.

11 From December 2020, the Maldives, due to the health risks caused by the COVID-19 pandemic, was subject to a travel warning issued to travellers from the Außenministerium (Ministry of Foreign Affairs, Austria) at the highest level 'warning against all tourist and non-essential travel to this country, including holidays and travel for the purpose of visiting family'.

12 During that period, the seven-day incidence rate reported in the Maldives was just 34.7 new infections per 100 000 inhabitants, and was therefore lower than that in Austria, which was, at the reference date of 14 December 2020 stated, 220 per 100 000 inhabitants.

13 On 3 December 2020, Schauinsland-Reisen terminated the package travel contract on the basis of that warning. The reason for that termination was communicated to GF no later than 9 December 2020 and the deposit paid by him was refunded.

14 GF brought an action before the Landesgericht für Zivilrechtssachen Graz (Regional Civil Court, Graz, Austria) seeking damages in the amount of EUR 21 821.82 for himself and his wife. In that context, he relied on the losses incurred following that termination due to the loss of enjoyment of the holiday and loss of earnings caused by the closure of his practice due to the planned trip, which he was no longer able to cancel at short notice after that termination. In addition, he claimed the payment of a sum of money for a 'fixed amount of costs'.

15 For that purpose, GF claimed that the Ministry of Foreign Affairs' travel warning was not an unavoidable and extraordinary circumstance that would have prevented Schauinsland-Reisen from fulfilling the package travel contract, especially since the seven-day incidence rate of the virus in the Maldives, at the time of termination of that travel contract, was lower than that in Austria, that there was sufficient medical care there and that he and his wife took out travel health insurance.

16 Schauinsland-Reisen responded that it could not reasonably be expected to perform the package travel contract in the face of the publication of such a warning, having regard to the unforeseen consequences to which it may be exposed in the light of its liability as a travel organiser. Furthermore, owing to the exit restrictions applicable in Austria from 26 December 2020, GF would not even have been allowed to travel.

17 By a judgment of 13 July 2021, the Landesgericht für Zivilrechtssachen Graz (Regional Civil Court, Graz) dismissed GF's claim for compensation, taking the view that Schauinsland-Reisen had relied on justified unavoidable and extraordinary circumstances for the termination of the package travel contract in a way that precluded any right to compensation for GF.

18 By a judgment of 27 January 2022, the Oberlandesgericht Graz (Higher Regional Court, Graz, Austria), hearing the case on appeal, upheld the judgment delivered at first instance. That court found that even if the travel warning were only regarded as an indication of extraordinary obstacles, Schauinsland-Reisen would not, in any event, have been at fault in view of the uncertainty as to the evolution of the COVID-19 pandemic prevailing at the time of the termination of the package travel contract.

19 GF brought an appeal on a point of law before the Oberster Gerichtshof (Supreme Court, Austria), the referring court.

20 That court states that the travel warning, which was combined with a recommendation to the population to refrain from tourist travel to the planned destination, had been published approximately three weeks before the start of the package concerned. In addition, according to that court, neither the evolution of the COVID-19 pandemic nor that publication were under the control of Schauinsland-Reisen, and the latter could not have avoided the consequences by taking reasonable measures.

21 However, first, the question arises as to whether the publication of such a warning is sufficient in itself to establish a high risk such as to authorise a travel organiser to terminate the package travel contract concerned without being liable for any additional compensation, particularly considering

the potential health measures likely to hinder the fulfilment of that travel contract, or whether it is necessary for that organiser itself to assess the risks, independently of that warning, taking account of all the circumstances of the individual case.

22 The referring court indicates that the argument that the public travel warning was published by a qualified and impartial entity and is unambiguous, so that the need of the relevant public for clarity and legal certainty is met, could be used in favour of the decisiveness of that warning. In addition, a State authority, such as the one at issue in the main proceedings, usually has more reliable means of assessing the risk situation at the destination than an undertaking.

23 However, militating against such decisiveness is the fact that, taking into account the constant evolution of the health situation in the various affected regions, the travel warning issued by the authorities does not necessarily accurately reflect the real risk at the destination at the time of the trip concerned.

24 Secondly, the referring court asks whether, where a highest-level travel warning is in place, an organiser can be considered to be 'prevented from performing the contract because of unavoidable and extraordinary circumstances', within the meaning of Article 12(3) of Directive 2015/2302, even though the performance of the trip concerned would not, in principle, be impossible and that organiser's customer states that he or she accepts the risk identified.

25 In those circumstances, the Oberster Gerichtshof (Supreme Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is Article 12(3) of Directive [2015/2302] to be interpreted as meaning that, for an organiser to rely on unavoidable and extraordinary circumstances preventing performance of a travel contract, it is sufficient that the authority authorised in the customer's Member State to issue travel warnings has issued the highest-level warning for the destination country before the start of the proposed journey?

(2) If the answer to Question 1 is in the affirmative:

Is Article 12(3) of Directive [2015/2302] to be interpreted as meaning that there are no unavoidable and extraordinary circumstances in a case where the traveller, who is aware of the travel warning and the uncertainty as to the subsequent development of the pandemic, has nevertheless stated that he wishes to proceed with the journey and that it would not have been impossible for the organiser to carry it out?'

Procedure before the Court

26 By a decision of 3 March 2023 the President of the Court stayed the proceedings pending the final judgment in Case C-299/22.

27 By a decision of 4 March 2022, the President of the Court notified the referring court of the judgments of 29 February 2024, *Tez Tour* (C-299/22, EU:C:2024:181), and of 29 February 2024, *Kiwi Tours* (C-584/22, EU:C:2024:188), asking it to indicate whether, in the light of those judgments, it wished to maintain the request for a preliminary ruling.

28 By a letter of 7 March 2024, lodged at the Registry of the Court of Justice the following day, that court indicated that it was maintaining the request for a preliminary ruling. In that regard, it noted that, while the judgments mentioned in the preceding paragraph provide useful guidance for answering the questions referred, since they clarify the interpretation of the concept of 'unavoidable and extraordinary circumstances', within the meaning of Directive 2015/2302, it nevertheless considered that it was also essential to clarify in what circumstances an organiser can be considered to be 'prevented from performing the contract' due to such circumstances, within the meaning of Article 12(3) of that directive.

Consideration of the questions referred

29 By its two questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 12(3)(b) of Directive 2015/2302 must be interpreted as meaning that, in order to establish that it is prevented from performing a package travel contract due to 'unavoidable and extraordinary circumstances', within the meaning of that provision, it is sufficient for the organiser concerned to rely on the publication, by the competent authorities, of an official recommendation advising travellers against travelling to the area concerned, even though the traveller declared that he or she still wished to proceed with the trip and that it would not have been objectively impossible for that organiser to perform that travel contract.

30 In that regard, it should be borne in mind, as a preliminary point, that Article 12(3)(b) of Directive 2015/2302 provides that the organiser can terminate a package travel contract and provide the traveller with a full refund of any payments made for the package concerned, but will not be liable for additional compensation if it is prevented from performing that travel contract due to unavoidable and extraordinary circumstances and if it notifies the termination of that travel contract to the traveller without undue delay before the start of the package.

31 The concept of 'unavoidable and extraordinary circumstances', within the meaning of that provision, is defined in point 12 of Article 3 of that directive as being 'a situation beyond the control of the party who invokes such a situation, the consequences of which could not have been avoided even if all reasonable measures had been taken'.

32 Recital 31 of the directive illustrates the scope of that concept, stating that '[it] may cover for example warfare, other serious security problems such as terrorism, significant risks to human health such as the outbreak of a serious disease at the travel destination, or natural disasters such as floods, earthquakes or weather conditions which make it impossible to travel safely to the destination as agreed in the package travel contract'.

33 It is apparent from the wording of the combined provisions of Article 12(3) and point 12 of Article 3 of Directive 2015/2302, as clarified by recital 31 thereof, that the exercise by an organiser of its right to terminate a package travel contract without being liable for additional compensation depends solely on the occurrence of objective circumstances of such a kind as to affect the performance of the package concerned and on the notification of the termination of that travel contract to the traveller without undue delay before the start of the package (see, to that effect, judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 31).

34 In addition, in so far as the exercise of that right is, in particular, subject to the condition that the organiser is 'prevented from performing the contract because of unavoidable and extraordinary circumstances', that condition must necessarily be satisfied on the date of such termination (see, to that effect, judgments of 29 February 2024, *Kiwi Tours*, C-584/22, EU:C:2024:188, paragraph 27, and of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 65).

35 In the first place, as regards that condition as it relates to 'unavoidable and extraordinary circumstances', that condition must be regarded as being satisfied where such circumstances actually occurred on the date of termination of the package travel contract concerned, which implies that, on that date, a situation meeting the definition of the concept of 'unavoidable and extraordinary circumstances', as defined in point 12 of Article 3 of Directive 2015/2302 and illustrated in recital 31 of that directive, exists (see, to that effect, judgment of 29 February 2024, *Kiwi Tours*, C-584/22, EU:C:2024:188, paragraph 29).

36 On the other hand, it cannot be automatically sufficient, in order to be able to establish that such 'unavoidable and extraordinary circumstances' have occurred, that the competent authorities have issued an official recommendation advising travellers against travelling to the area concerned (see, to that effect, judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 32).

37 Indeed, such automaticity would contradict the very nature and basis of the adoption of such recommendations which, for the purposes of informing the general public, report on objective circumstances giving rise to health or other risks, likely to fall within the concept of 'unavoidable and extraordinary circumstances', within the meaning of Article 12(3)(b) of Directive 2015/2302, and therefore necessarily on an evolving and variable situation depending on the areas affected (see, to that effect, judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 33).

38 Such recommendations, therefore, do not necessarily accurately reflect the situation as it objectively presents itself at a given moment in the place where the trip concerned must be performed, as the referring court also highlighted.

39 Thus while they may, by their nature, have considerable evidential value as to the reality of the occurrence, in the countries to which they relate, of such circumstances and of the consequences thereof for the performance of the package concerned, such recommendations cannot, however, be given evidential value to the extent that they constitute compelling evidence in that regard (see, to that effect, judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 37).

40 That analysis is supported by the legislative history of Directive 2015/2302. As highlighted by the European Commission, contrary to the proposal for a Directive of the European Parliament and of the Council on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC, adopted by the Commission on 9 July 2013 (COM(2013) 512 final), which proposed that directive, and of which the last sentence of recital 26 thereof made it clear that 'unavoidable and extraordinary circumstances should in particular be deemed to exist where reliable and publicly available reports, such as recommendations issued by Member State authorities, advise against travelling to the place of destination', that directive ultimately does not include any clarification concerning the probative value, or the decisive evidential value, of such recommendations.

41 In those circumstances, in the absence, in Directive 2015/2302, of provisions on the rules of evidence in relation to the reality of 'unavoidable and extraordinary circumstances', within the meaning of Article 12(3)(b) of that Directive, it is, under the principle of procedural autonomy and subject to the principles of equivalence and effectiveness, for the national legal order of each Member State to establish the ways in which evidence is to be elicited, what evidence is to be admissible before the appropriate national court, or the principles governing that court's assessment of the probative value of the evidence adduced before it and also the level of proof required (see, to that effect, judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 38).

42 However, regarding more specifically the principle of effectiveness, it requires, in terms of the detailed procedural rules governing actions for safeguarding rights which individuals derive directly from EU law, that those rules do not render practically impossible or excessively difficult the exercise of rights conferred by EU law (judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 39).

43 To accept that the publication of official recommendations intended to advise travellers against travelling to the area concerned is automatically sufficient for the organiser to be able to terminate the package travel contract concerned on grounds of 'unavoidable and extraordinary circumstances', within the meaning of Article 12(3)(b) of Directive 2015/2302, and is thus not required to pay additional compensation, would be likely to make it impossible for the traveller to exercise his or her right to such compensation, in so far as such circumstances, at the time of such a termination, may not exist or may no longer exist in that area despite the adoption of those recommendations (see, to that effect, judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 40).

44 Therefore, without prejudice to the considerable probative value that Member States are free to grant, under the principle of procedural autonomy, to those recommendations concerning a serious health risk, the traveller must, however, have the possibility of relying on evidence capable of rebutting the probative value of those recommendations in order to contest, in that regard, the merits of the termination of the package travel contract by the organiser under Article 12(3)(b) of Directive 2015/2302.

45 In the present case, it is for the referring court to assess, taking into consideration the arguments invoked by GF, whether Schauinsland-Reisen was entitled to take the view that, at the time of terminating the package travel contract, 'unavoidable and extraordinary circumstances', within the meaning of Article 12(3)(b) of Directive 2015/2302, were present, taking into account, particularly in the light of the publication, by the Ministry of Foreign Affairs, the highest-level travel warning at issue in the main proceedings, issued due to the health risks caused by the COVID-19 pandemic.

46 In the second place, if the referring court does indeed find the existence of 'unavoidable and extraordinary circumstances', within the meaning of Article 12(3)(b) of Directive 2015/2302, at the time of termination of the package travel contract, it must then be determined whether the organiser was 'prevented from performing the contract', within the meaning of that provision, due to such circumstances.

47 In that regard, it should be noted, first, that the term 'prevented from performing the contract', used in Article 12(3)(b) of Directive 2015/2302, differs from the term 'significantly affecting the performance of the package, or which significantly affect the carriage of passengers to the

destination' used in Article 12(2) of that directive concerning the traveller's right of termination, terms which the court has interpreted as covering not only the consequences that exclude the very possibility of performing the package concerned, but also those that significantly affect the conditions under which the package is performed (judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 48).

48 Nevertheless, those two provisions pursue the objective consisting in granting both the traveller and the organiser, in the event of the occurrence of unavoidable and extraordinary circumstances, rights of termination of their own (see, to that effect, judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 70).

49 In those circumstances, it must be held, like the Court's interpretation of Article 12(2) of Directive 2015/2302 in that regard, that, in order for it to be found that the organiser is 'prevented from performing the contract' due to unavoidable and extraordinary circumstances within the meaning of Article 12(3)(b) of that directive, it is not necessary that, due to such circumstances, it is objectively impossible to perform the package concerned. On the contrary, it is sufficient that the circumstances invoked significantly affect the conditions under which that package is performed.

50 Consequently, a health crisis, such as the spread of COVID-19, may, in view of the serious risk it poses to human health, be regarded as being an event due to which the organiser is 'prevented from performing the contract' within the meaning of Article 12(3)(b) of Directive 2015/2302, irrespective of the fact that it is not necessarily such as to make such performance objectively impossible (see, to that effect, judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 53).

51 In that context, account must be taken of the reasonable measures which the organiser, or the traveller himself, took or, where appropriate, may take, so that the trip concerned may be performed despite the health risks or other risks arising from the unavoidable and extraordinary circumstances invoked by the organiser, it being specified that the organiser cannot be required to bear, in order to arrange that trip in the presence of such risks, disproportionate costs, taking into account the value of the travel services concerned.

52 In contrast, the simple fact that the traveller declared that he still wished to proceed with that trip despite the risks identified is irrelevant, in so far as the question whether the organiser was prevented from performing the contract must be examined objectively and not through purely subjective assessments (see, to that effect, judgment of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraphs 54 and 69).

53 Secondly, since the prevention of the performance of a package travel contract only definitively manifests itself at the time the trip concerned should have taken place and thus after the date of the termination of that travel contract, the assessment of such prevention is necessarily forward-looking (see, to that effect, judgments of 29 February 2024, *Kiwi Tours*, C-584/22, EU:C:2024:188, paragraph 30, and of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 66).

54 It follows that that assessment must be based on a prediction as to the likelihood that the organiser will be 'prevented from performing the contract', within the meaning of Article 12(3)(b) of Directive 2015/2302, due to the unavoidable and extraordinary circumstances

that it invokes (see, to that effect, judgments of 29 February 2024, *Kiwi Tours*, C-584/22, EU:C:2024:188, paragraph 31, and of 29 February 2024, *Tez Tour*, C-299/22, EU:C:2024:181, paragraph 67).

55 In that context, it is ultimately irrelevant whether or not the situation prevailing on the date of the planned trip would have allowed the performance of the travel contract concerned (see, to that effect, judgment of 29 February 2024, *Kiwi Tours*, C-584/22, EU:C:2024:188, paragraph 49).

56 In the present case, it is for the referring court to assess whether Schauinsland-Reisen, at the time of the termination of the package travel contract, could reasonably take the view, particularly on the basis of the travel warning at issue in the main proceedings, that it would likely be prevented from performing that travel contract due to the health risks caused by the COVID-19 pandemic, in that that pandemic, without necessarily making the performance of that travel contract objectively impossible, would nevertheless have affected the conditions of that performance significantly without the adoption of proportionate cost measures capable of remedying it.

57 In the light of the foregoing considerations, the answer to the questions referred is that Article 12(3)(b) of Directive 2015/2302 must be interpreted as meaning that, in order to establish that it is prevented from performing a package travel contract due to unavoidable and extraordinary circumstances, within the meaning of that provision, the organiser can rely on the publication, by the competent authorities, of an official recommendation advising travellers against travelling to the area concerned, even though the traveller declared that he or she still wished to proceed with the trip and that it would not have been objectively impossible for the organiser to perform that travel contract. However, such a recommendation cannot constitute compelling evidence in that regard.

Costs

58 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Seventh Chamber) hereby rules:

Article 12(3)(b) of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC,

must be interpreted as meaning that, in order to establish that it is prevented from performing a package travel contract due to unavoidable and extraordinary circumstances, within the meaning of that provision, the organiser can rely on the publication, by the competent authorities, of an official recommendation advising travellers against travelling to the area concerned, even though the traveller declared that he or she still wished to proceed with the trip and that it would not have been objectively impossible for the organiser to perform that travel contract. However, such a recommendation cannot constitute compelling evidence in that regard.

[Signatures]