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Press and Information

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Judgment of the Court of Justice in Case C-204/08

Rehder v. Air Baltic

PASSENGERS ON AN INTRA-COMMUNITY FLIGHT MAY BRING THEIR CLAIMS FOR FLAT-RATE COMPENSATION IN THE EVENT OF CANCELLATION BEFORE THE COURT OF THE PLACE OF DEPARTURE OR ARRIVAL OF THE AIRCRAFT

Neither the location of the head office of the company operating the flight nor the place where the air transport contract was entered into is conclusive with regard to the choice of the court having jurisdiction

A claim for compensation following the cancellation of a flight provides the Court of Justice with an opportunity to define the rules governing jurisdiction in the field of air transport.

The regulation on compensation and assistance to air passengers¹ provides, in the event of cancellation of a flight, that passengers may receive flat-rate compensation of between EUR 250 and EUR 600. Where an airline refuses to pay the flat-rate compensation, the question then arises whether, in the case of a flight within the Community, the passenger concerned, under the Community regulation on jurisdiction², may bring the matter before a court in another Member State in addition to the court within the territorial jurisdiction of which that airline has its head office.

Peter Rehder, who resides in Munich, booked a flight from Munich to Vilnius with Air Baltic, the head office of which is in Riga (Latvia). About 30 minutes before the scheduled time of departure from Munich, passengers were informed that their flight had been cancelled. After his booking had been changed by Air Baltic, Mr Rehder took a flight to Vilnius via Copenhagen.

By an application lodged with the Amtsgericht Erding, the court having territorial jurisdiction over Munich airport, Mr Rehder requested that Air Baltic be ordered to pay him compensation in the amount of EUR 250 in accordance with the regulation on compensation and assistance to air passengers.

¹ Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights (OJ 2004 L 46, p. 1).

² Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Taking the view that air transport services are provided at the aircraft's place of departure, which implies that the place of performance of the contractual obligation, within the terms of the regulation on jurisdiction, is that of the airport of departure, the Amtsgericht Erding held that it had jurisdiction to deal with Mr Rehder's claim for compensation.

Following a successful appeal by Air Baltic to have that decision set aside, on the ground that jurisdiction lies with the court within the territorial jurisdiction of which the head office of the airline company is situated, Mr Rehder subsequently brought the matter before the Bundesgerichtshof. The latter court has expressed uncertainty as to whether, in legal disputes arising from international air transport contracts, the special jurisdiction in respect of contractual obligations should not generally be concentrated in a single place of performance.

In its judgment delivered today, the Court of Justice finds that, where there are several places at which services are provided in different Member States, it is necessary to identify the place which provides the closest connecting factor between the contract in question and the court having jurisdiction, in particular the place where, pursuant to that contract, the main provision of services is to be carried out.

The place of the head office or the principal place of establishment of the airline concerned does not have the necessary close link to the contract. The operations and activities undertaken from that place, such as, in particular, the provision of an adequate aircraft and crew, are logistical and preparatory measures for the purpose of performing the contract relating to air transport and are not services the provision of which is linked to the actual content of the contract. The same is true with regard to the place where the contract for air transport is concluded and the place where the ticket is issued.

The services the provision of which corresponds to the performance of the obligations arising from a contract to transport passengers by air are the checking-in and boarding of passengers, the on-board reception of those passengers at the place of take-off agreed in the transport contract in question, the departure of the aircraft at the scheduled time, the transport of the passengers and their luggage from the place of departure to the place of arrival, the in-flight care of the passengers and, finally, the disembarkation of the passengers in safe conditions at the place of landing and at the time scheduled in that contract.

The only places which have a direct link to those services, provided in performance of obligations linked to the subject-matter of the contract, are those of the departure and arrival of the aircraft, the 'places of departure and arrival' having to be understood as those agreed in the contract of carriage in question, made with one sole airline which is the operating carrier.

Each of those two places has a sufficiently close link of proximity to the material elements of the dispute and, accordingly, ensures the close connection between the contract and the court having jurisdiction. Consequently, a claim for compensation following the cancellation of a flight may be brought, as a matter of choice on the part of the passenger concerned, before the court having territorial jurisdiction over the place of departure or of arrival.

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Languages available: FR BG CS DE EL EN ES HU IT NL PL PT RO SL SK

The full text of the judgment may be found on the Court's internet site
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-204/08>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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