



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 125/12

Luxembourg, 4 October 2012

Judgment in Case C-321/11

Germán Rodríguez Cachafero, María de los Reyes Martínez-Reboredo
Varela-Villamor v Iberia, Líneas Aéreas de España SA

Passengers on connected flights must be compensated when denied boarding as a result of a delay to the first flight caused by the airline

Compensation for denied boarding applies not only to cases of overbooking, but also to those relating to other grounds, such as operational reasons

The regulation on compensation and assistance to passengers ('the regulation')¹ grants certain rights to air passengers departing from or flying to an airport located in a Member State. It defines 'denied boarding' as the refusal by an air carrier to carry passengers, although they wish to travel and have presented themselves in time for boarding and have a confirmed reservation. However, the regulation provides for cases where there are grounds for a carrier to deny boarding. With the exception of those cases, passengers are entitled to be compensated immediately, be reimbursed their tickets or be re-routed to their final destination and cared for while awaiting a later flight.

Mr Rodríguez Cachafero and Ms Martínez-Reboredo Varela-Villamor ('the applicants') both bought airline tickets from the airline Iberia for the journey from Corunna (Spain) to Santo Domingo. That ticket comprised two flights: the flight Corunna-Madrid and the flight Madrid-Santo Domingo. At the Iberia check-in counter at Corunna airport, they checked their luggage in direct to their final destination, and were given two boarding cards for the two successive flights.

The first flight was delayed by 1 hour and 25 minutes. In anticipation that that delay would result in the two passengers missing their connection in Madrid, Iberia cancelled their boarding cards for the second flight. Despite that delay, on arrival in Madrid, the applicants presented themselves at the departure gate in the final boarding call to passengers. The Iberia staff did not, however, allow them to board on the grounds that their boarding cards had been cancelled and their seats allocated to other passengers. They waited until the following day in order to be taken to Santo Domingo on another flight and reached their final destination 27 hours late.

Taking the view that Iberia had for no valid reason denied them boarding, the applicants brought an action before the Spanish courts seeking a decision ordering Iberia to pay them the sum of EUR 600 each, by way of compensation, provided for by the regulation in respect of extra-Community flights of more than 3 500 kilometres. In the course of the proceedings, Iberia contended that the situation in question was not denied boarding but a missed connection – which does not give rise to compensation – since the decision to deny the applicants boarding was not attributable to overbooking, but to the delay to the earlier flight.

In those circumstances, the national court asks the Court of Justice whether the concept of 'denied boarding' refers exclusively to situations in which flights have been overbooked initially or whether that concept may be extended to cover other situations.

In its judgment today, the Court holds that **the concept of 'denied boarding' relates not only to cases of overbooking but also to those concerning other grounds, such as operational reasons.**

¹ 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 (OJ 2004 L 46, p. 1).

That interpretation follows not only from the wording of the regulation, but also from its objective, namely that of ensuring a high level of protection for air passengers. With the aim of reducing the number of passengers denied boarding against their will, which was too high, the EU legislature introduced new legislation in 2004 construing the concept of 'denied boarding' more broadly, covering all circumstances in which an air carrier refuses to carry a passenger. Consequently, limiting the scope of 'denied boarding' exclusively to cases of overbooking would have the practical effect of substantially reducing the protection afforded to passengers, by denying them all protection, even if they find themselves in a situation for which, as in the case of overbooking, they are not responsible. That would be contrary the aim of the legislature.

In addition, the regulation lays down cases where there are grounds for denying boarding, in particular for reasons of health, safety or security, or because of inadequate travel documentation. The Court considers that a denial of boarding such as that in the present case may not be placed on the same footing as those reasons, since the ground for denying boarding in question is not attributable to the passenger. On the contrary, such a denial of boarding is attributable to the carrier. Either that carrier caused the delay to the first flight operated by it, mistakenly considered that the passengers concerned would not be able to present themselves in time to board the following flight or sold tickets for successive flights for which the transfer time was insufficient. Thus, the Court holds that an air carrier may not increase considerably the situations in which it would have reasonable grounds for denying a passenger boarding – that would be contrary to the regulation's objective. Consequently, denial of boarding on operational grounds is unjustified denied boarding which brings into play the rights granted by the regulation.

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.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106