



A passenger can claim compensation from an air carrier for the loss of his belongings if they are in baggage checked in in the name of another passenger on the same flight

It is for the passengers concerned to prove that the lost baggage did in fact contain their belongings

The Montreal Convention¹ provides that an air carrier must pay compensation to each passenger, limited to 1 000 Special Drawing Rights ('SDRs')² per passenger, in the event of the loss of his baggage during a flight operated by the carrier or while the baggage was in the carrier's charge. The carrier must provide passengers with an identification tag for each piece of checked baggage.

On 1 August 2008, Mr Espada Sánchez, Ms Oviedo Gonzáles and their two children, both minors, boarded a flight from Barcelona to Paris operated by Iberia. The baggage of that family of four had been packed into two suitcases which were lost during the flight and have not been recovered. Accordingly, the four passengers seek damages from Iberia in the amount of €4,400, corresponding to 4 000 SDR (1 000 SDR per passenger).

The Spanish court hearing the case on appeal asks the Court of Justice whether an air carrier is required to compensate only passengers in receipt of baggage identification tags or whether it must also compensate a passenger who claims compensation for the loss of baggage checked in in another passenger's name.

In its judgment delivered today, the Court states that **a passenger may claim compensation from an air carrier for the loss of items belonging to him which were in baggage checked in in the name of another passenger**. Consequently, not only a passenger who has checked in his own baggage in person, but also a passenger whose items were placed in the baggage checked in by another passenger on the same flight, must be compensated.

It will be for the passengers concerned to prove, subject to review by the national court, that items belonging to them had in fact been in baggage checked in in the name of another passenger on the same flight. In that connection, the national court may take into account the fact that those passengers are members of the same family, that they bought their tickets together or that they checked in at the same time.

The Court also states that that interpretation cannot be called in question by the fact that air carriers must provide passengers with a baggage identification tag for each piece of checked baggage. The Montreal Convention merely places air carriers under an obligation to ensure that checked baggage is identifiable, which does not mean that the right to compensation in the event of loss of baggage applies only to passengers who have checked in one or more pieces of baggage.

¹ Convention for the Unification of Certain Rules for International Carriage by Air, concluded in Montreal on 28 May 1999, signed by the European Community on 9 December 1999 and approved on its behalf by Council Decision 2001/539/EC of 5 April 2001 (OJ 2001 L 194, p. 38).

² That maximum limit of 1 000 SDR was increased to 1 131 SDR with effect from 30 December 2009.

That conclusion is supported, moreover, by the objectives pursued by the Montreal Convention, which seeks to ensure protection of the interests of consumers in international carriage by air and to make available to them equitable compensation based on the principle of restitution.

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 judgment is published on the CURIA website on the day of delivery.

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

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