



Press and Information

Court of Justice of the European Union

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Judgment in Case C-575/12

Air Baltic Corporation AS v Valsts robežsardze

Third-country nationals may enter the territory of the European Union even if they present a valid passport without a visa and a valid visa inside an invalid passport

Cancellation of a passport does not mean that a uniform visa affixed to that passport is invalidated

On 8 October 2010, an Indian citizen travelled from Moscow to Riga with the airline company Air Baltic. At the border control at Riga airport, he presented a valid Indian passport without a visa and a cancelled Indian passport to which a valid uniform visa issued by Italy was affixed. The Indian citizen was refused entry into Latvia on the ground that he did not have a valid visa.

The Latvian authorities imposed a fine of LVL 2 000 (approximately €2 850) on Air Baltic for transporting to Latvia a person without the travel documents necessary to cross the border. Air Baltic challenged that fine before the Latvian courts. Hearing that case, the Administratīvā apgabaltiesa (Regional Administrative Court, Latvia) asks the Court of Justice whether the cancellation of a passport means that a uniform visa issued by a Member State and affixed to that passport is automatically invalidated. The Court must also determine whether, in the light of EU law (the Schengen Borders Code and the Visa Code),¹ third-country nationals must, in order to be able to enter EU territory, present a valid visa inside a valid travel document, and whether Latvia was entitled to lay down such an entry condition in its legislation.

In its judgment delivered today, the Court states in response to the first question that, under the Visa Code, only the competent authorities of a Member State may annul a visa. In the circumstances, therefore, it follows that the cancellation of the passport by the Indian authorities cannot mean that the visa issued by Italy is automatically annulled or revoked.

As regards the question whether it is absolutely mandatory for third-country nationals to present a valid visa inside a valid travel document, the Court points out that, under the Schengen Borders Code, the entry of third-country nationals into the EU is subject to two separate conditions, relating respectively to the presentation of a valid travel document and the presentation of a valid visa.

The Court finds that the EU legislature did not intend to make it absolutely impossible, in circumstances such as those of the case before the referring court (where a third-country national presents separately a valid visa and a valid travel document), to enter the EU. The Court notes that, accordingly, where the Member State issuing the visa does not recognise the travel document presented to it, the visa may, under the Visa Code, be affixed to a separate sheet (and not to the travel document). Moreover, the form that the authorities responsible for border control must complete, in order to ensure that the entry conditions are met, has no box which enables refusal of entry to be justified by the fact that a valid visa is not affixed to a valid travel document. Lastly, the Court observes that the presentation of two separate travel documents does not put the border control authorities in a position where they would be unable to carry out, under reasonable conditions, the necessary checks, taking into account the information given in the two travel

¹ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2006 L 105, p. 1), as amended by Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 (OJ 2010 L 85, p. 1), and Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ 2009 L 243, p. 1).

documents presented to them. The Court concludes that valid visas need not necessarily appear in a valid travel document.

In response to the last question, the Court finds that Latvia was not justified in making the entry of third-country nationals subject to the condition that a valid visa must necessarily be affixed to a valid travel document. Member States do not have discretion allowing them to refuse foreign nationals entry on the basis of a condition that is not laid down in the Schengen Borders Code: accordingly, nothing in that code allows Member States to require additional entry conditions to be fulfilled, as the list of those conditions is exhaustive.

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.

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