



## **The Court of Justice clarifies a number of provisions of the regulation concerning passengers' rights when travelling by sea and inland waterway**

*The re-routing and compensation obligations in the event of cancellation of a service are proportionate to the objective pursued by the regulation*

A request for a preliminary ruling was made in the course of proceedings between the company Irish Ferries Ltd ('Irish Ferries'), an Irish shipping company, and the National Transport Authority (Ireland) ('NTA'), concerning the application of Regulation No 1177/2010<sup>1</sup> to the cancellation of a season of sailings scheduled by Irish Ferries between Dublin (Ireland) and Cherbourg (France).

Irish Ferries provides passenger services from ports in Ireland to the United Kingdom and France. In order to operate a new itinerary between Dublin and Cherbourg, it ordered a new vessel which was to be delivered between May and June 2018. Irish Ferries began marketing pre-sale tickets for the 2018 summer season from October 2017 onwards. As a result of the delay of the shipyard's accommodation outfitters, Irish Ferries had to cancel, as a first step, the sailings for July and then, as a second step, the entire season of sailings. In the end, the vessel in question was not delivered until December 2018 and Irish Ferries was unable to find any other replacement vessel capable of providing the same service. All the passengers were informed of the cancellation of their tickets at least seven weeks before the originally scheduled departure date.

Irish Ferries offered either to re-route the passengers to and/or from other ports, including by landbridge, that is to say by a sea-crossing from a port in Ireland (or France) to a port in the United Kingdom, followed by a transfer overland to another port in the United Kingdom from where the passengers continued their journey by a second sea-crossing to a port in France (or Ireland), or the full reimbursement of their tickets.

Following a decision taken and confirmed by the NTA which found that Irish Ferries had not complied with its re-routing and compensation obligations in accordance with Regulation No 1177/2010, Irish Ferries brought proceedings before the High Court (Ireland). The High Court decided to stay the proceedings and to refer a number of questions to the Court of Justice for a preliminary ruling relating to both the interpretation and the validity of Regulation No 1177/2010.

### **Findings of the Court**

The Court states, first of all, that Regulation No 1177/2010 applies where a carrier cancels a passenger service giving several weeks' notice before the originally scheduled departure because the delivery of the vessel required to provide that service was delayed and could not be replaced. The Court also finds that the general scheme of Regulation No 1177/2010 supports a broad interpretation of the concept of 'travelling on' a maritime service.

The Court then rejects Irish Ferries' claims that the obligations of maritime passenger carriers, in the event of cancellation of a service, impose on them considerable financial burdens which are entirely disproportionate to the objective pursued by that regulation. The Court observes that the

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<sup>1</sup> Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ 2010 L 334, p. 1).

measures are intended to give passengers the choice between reaching the final destination or waiving their transport by requesting reimbursement of the ticket price. With regard to the compensation provided for, it varies depending on the length of the delay in arrival at the final destination as established in the transport contract and is a proportionate approach aimed at compensating for the harmful consequences caused by the delay or cancellation which that regulation seeks to remedy.

By its answers to the other questions, the Court clarified several aspects of Regulation No 1177/2010:

- Where a passenger service is cancelled and there is no alternative service on the same route, the carrier is required to offer to the passenger, by virtue of the passenger's right to re-routing under comparable conditions at the earliest opportunity to the final destination provided for in that provision, an alternative service that follows a different itinerary from that of the cancelled service or a maritime service coupled with other modes of transport, such as rail or road transport, and is required to bear any additional costs incurred by the passenger in re-routing to the final destination.
- Where a carrier cancels a passenger service giving several weeks' notice before the originally scheduled departure, a passenger has a right to compensation where he or she decides to be re-routed at the earliest opportunity or to postpone the journey to a later date and that passenger arrives at the originally scheduled final destination with a delay that exceeds the thresholds laid down in Article 19 of that regulation. By contrast, where a passenger decides to be reimbursed for the ticket price, he or she does not have such a right to compensation under that article.
- The concept of 'ticket price' includes the costs relating to the additional optional services chosen by the passenger, such as the booking of a cabin or a kennel, or access to premium lounges.
- The late delivery of a passenger transport vessel which led to the cancellation of all sailings to be operated by that vessel in the context of a new maritime route does not fall within the concept of 'extraordinary circumstances'.
- Article 24 of Regulation No 1177/2010 does not require a passenger who requests compensation under Article 19 of that regulation to submit his or her request in the form of a complaint to the carrier within two months from the date on which the service was performed or when a service should have been performed.
- The competence of a national body responsible for the enforcement of that regulation designated by a Member State covers not only the passenger service provided from a port situated in the territory of that Member State, but also a passenger service provided from a port situated in the territory of another Member State to a port situated in the territory of the first Member State where the latter service is part of a return journey which has been entirely cancelled.

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**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 EU 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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