



Press and Information

Court of Justice of the European Union

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Judgments in Joined Cases C-146/20, C-188/20, C-196/20 and C-270/20, Azurair and Others, in Case C-263/20, Airhelp, and in Case C-395/20, Corendon Airlines

A flight must be regarded as having been ‘cancelled’ in the case where the operating air carrier brings it forward by more than one hour

In the case of a reservation for a particular flight, a claim for compensation may possibly be brought against the operating air carrier even if the reservation has not been forwarded to that carrier

The Landgericht Korneuburg (Regional Court, Korneuburg, Austria) and the Landgericht Düsseldorf (Regional Court, Düsseldorf, Germany) have before them a number of disputes between, on the one hand, air passengers and the undertakings Airhelp and flightright, and, on the other hand, a number of airlines, namely Azurair, Corendon Airlines, Eurowings, Austrian Airlines and Laudamotion, concerning compensation to passengers whose flights have, inter alia, been brought forward.

Those two courts have asked the Court of Justice to specify in several respects the conditions under which air passengers may rely on the rights laid down in the Air Passenger Rights Regulation,¹ including the right to compensation (in the amount, depending on the distance, of € 250, 400 or 600) in the event of cancellation or long delay.

By its judgments delivered today, the Court of Justice specifies those conditions as follows:

- **A flight must be regarded as having been ‘cancelled’ in the case where the operating air carrier brings that flight forward by more than one hour².**

In such a case, the flight must be regarded as having been brought forward by a significant amount of time since it may result in serious inconvenience for passengers, in the same way as a delay. Where a flight has been brought forward in this way, passengers are unable to use their time as they wish and to organise their trip or holiday in line with their expectations. Accordingly, passengers may, inter alia, be forced to adapt significantly to the new departure time in order to be able to take their flight, or may even be unable, despite having taken the necessary precautions, to board the aircraft.

In addition, **where a flight has been brought forward by a significant amount of time, giving rise to a right to compensation** (which implies, inter alia, late communication that the flight has been brought forward), **the operating air carrier is still required to pay the total amount** (which is, depending on the distance, € 250, 400 or 600). It does not have the possibility to reduce any compensation to be paid by 50% on the ground that it has offered the passenger re-routing, allowing him or her to arrive without delay at his or her final destination.

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).

² The Court notes in this respect that it is apparent from the Regulation that, in the event of cancellation of a flight accompanied by an offer of re-routing, any instance in which a flight has been brought forward by one hour or less from the time originally scheduled may exempt the operating air carrier from its obligation to compensate the passenger. The reference point for determining whether a flight has been brought forward by a significant amount of time or by a negligible amount of time is therefore whether the flight has been brought forward by more than one hour, by one hour, or by less than one hour.

Furthermore, the provision of information to a passenger, before the beginning of the journey, that his or her flight has been brought forward may constitute an 'offer of re-routing'.

- **A passenger who has booked a flight has a 'confirmed reservation'** (which is a necessary condition for entitlement to benefit from the rights laid down in the Regulation) not only where he or she is in possession of a ticket, but also **where the tour operator submits to that passenger, with whom it has a contract, other proof by which he or she is assured transport on a particular flight, individualised by points of departure and destination, times of departure and arrival, and the flight number.**

It is irrelevant in this respect whether the tour operator has received confirmation from the air carrier concerned as to the times of departure and arrival of that flight. Passengers cannot be required to obtain information about the relationship between the tour operator and the air carrier.

- **In addition, an air carrier may be classified as an 'operating air carrier'** (against which the rights laid down in the Regulation are mainly directed) **in respect of a passenger if that passenger has concluded a contract with a tour operator for a particular flight operated by that air carrier without that air carrier having confirmed the times of the flight or without that tour operator having made a reservation for that passenger with that air carrier.**

Where an operating air carrier is required to pay compensation to passengers pursuant to the Regulation due to the conduct of the tour operator, that carrier has the possibility to seek compensation from the tour operator for any damage incurred.

- **The 'scheduled arrival time' of a flight**, which is to be taken into account when examining whether a flight has been brought forward or delayed by a significant amount of time and might give rise to compensation, **may be derived from proof other than a ticket which has been issued to the passenger by the tour operator.**
- **In the event of denied boarding or of cancellation, the operating air carrier is required to inform the air passenger of the precise name and address of the undertaking from which that passenger may claim compensation and, where appropriate, to specify the documents which must be attached to his or her claim for compensation, without, however, that carrier being required to inform the air passenger of the exact amount of compensation which the latter may potentially obtain.**
- Compliance with the obligation to inform the passenger in good time of the cancellation of his or her flight must be assessed exclusively in accordance with the Air Passenger Rights Regulation and not in accordance with the Directive on electronic commerce.³
- **An air passenger who has reserved a flight through an intermediary is regarded as not having been informed of the cancellation of that flight in the case where, although the operating air carrier transmitted the information relating to that cancellation to that intermediary (such as an electronic platform), through which the contract of carriage by air was concluded with that passenger, at least two weeks before the scheduled time of departure, that intermediary did not inform the passenger of that cancellation within the required period and the passenger did not expressly authorise that intermediary to receive the information transmitted by that operating air carrier.**
- **Lastly, a flight is not regarded as having been 'cancelled' in the case where the operating air carrier postpones the time of departure of that flight by less than three hours, without making any other change to that flight.**

³ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ 2000 L 178, p. 1).

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 judgments ([C-146/20](#), [C-188/20](#), [C-196/20](#) et [C-270/20](#), [C-263/20](#) and [C-395/20](#)) is published on the CURIA website on the day of delivery.

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