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Judgment of the Court in Case C-20/24 | [Cymdek] <sup>1</sup>

### **Air passenger rights: a boarding pass may be sufficient to prove a confirmed reservation on a flight**

*Payment by a third party of the price of the package tour, including a flight, does not exclude the right to compensation in the event of long delay of a flight*

An air carrier offering charter flights concluded a contract with a tour operator. Under that contract, the carrier operated, on specific dates, flights for which that tour operator, after paying for the flights, sold tickets to air passengers.

Two air passengers participated in a package tour, including a flight from Tenerife to Warsaw, the arrival of which was delayed by more than 22 hours. The contract relating to the package tour was concluded between a third company, on behalf of those passengers, and that tour operator.

The passengers concerned claimed compensation from the air carrier under EU law. <sup>2</sup> The latter refused to pay that compensation. It argued that those passengers are not in possession of a confirmed and paid reservation for that flight and copies of boarding passes are not sufficient in that regard. According to that carrier, the package tour in which those passengers participated was paid for by a third company on preferential terms. Consequently, they travelled free of charge or at a reduced fare, which excludes their right to payment of compensation. <sup>3</sup>

The Polish court, before which those passengers brought an action, referred the matter to the Court of Justice. It wishes to ascertain whether, contrary to the position of the air carrier, those passengers should be compensated under EU law.

#### **The Court has replied in the affirmative.**

It considers **that a boarding pass may constitute other proof that the reservation has been accepted and registered** by the air carrier or tour operator for the flight concerned. Thus, apart from in abnormal circumstances, passengers who presented themselves for check-in and who took the flight concerned, with a boarding pass for that flight, **must be regarded as having a confirmed reservation on that flight.**

Moreover, **the Court does not consider the passengers in question to have travelled free of charge or at a reduced fare not available directly or indirectly to the public.** Such a situation would arise only if it were the air carrier itself which granted them such a possibility. Accordingly, the fact that a third party paid the price of the package tour to the tour operator and that the latter, in turn, paid the price of the flight to the air carrier in accordance with market conditions does not prevent the passengers from enjoying the right to compensation.

The Court also states that **it is for the air carrier to demonstrate**, in accordance with the rules laid down by national law, **that a passenger has travelled free of charge or at such a reduced fare.**

**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 an EU 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 and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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<sup>1</sup> The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.

<sup>2</sup> [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.

<sup>3</sup> In accordance with Article 3(3) of Regulation No 261/2004.