



The time-limits for bringing actions for compensation for flight cancellation are determined in accordance with the national rules of each Member State

EU law¹ affords air passengers a right to compensation according to the distance and destination of their cancelled flight, unless the cancellation is caused by extraordinary circumstances, that is circumstances which could not have been avoided even if all reasonable measures had been taken by the carrier. Passengers may rely on that right before the national courts. However, the European legislation does not specify any time-limit for bringing actions for compensation.

Mr Cuadrench Moré purchased a ticket from the airline KLM for a flight from Shanghai to Barcelona scheduled for 20 December 2005. Since that flight was cancelled, he was forced to travel the following day with another airline, via Munich.

On 27 February 2009 – more than three years later – Mr Cuadrench Moré brought an action before the Spanish Courts against KLM claiming €2,990 together with interest and costs, by way of compensation for the damage sustained as a result of the cancellation of his flight.

In that regard, KLM contended that the action was time-barred, on the ground that the two-year period specified in the Warsaw² and Montreal Conventions³ within which actions for damages against air carriers must be brought had expired.

In those circumstances, the Audiencia Provincial de Barcelona (Provincial Court, Barcelona, Spain), hearing the case, asks the Court of Justice whether the time-limits for bringing actions for compensation under EU law are determined by the Montreal Convention or in accordance with some other provision, in particular the rules of each Member State on the limitation of actions.

In its judgment delivered today, the Court holds that **the time-limits for bringing actions for compensation for flight cancellation under European Union law are determined in accordance with the rules of each Member State on the limitation of actions.**

In that regard, the Court notes that, in the absence of provisions of EU law on the matter, it is for the domestic legal system of each Member State to lay down the detailed procedural rules governing actions for safeguarding rights which individuals derive from EU law. However, those procedural rules must observe the principles of effectiveness and equivalence in relation to the procedural rules laid down by national law in respect of similar situations.

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 Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, as amended and supplemented by the Hague Protocol of 28 September 1955, the Guadalajara Convention of 18 September 1961, the Guatemala Protocol of 8 March 1971, and the four additional Montreal Protocols of 25 September 1975.

³ 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 Decision 2001/539/EC of 5 April 2001 (OJ 2001 L 194, p. 38).

The Court also holds that that finding cannot be called into question by the provisions of the Warsaw and Montreal Conventions, because the compensation measure laid down by Regulation No 261/2004 falls outside their scope, while remaining additional to the system for damages laid down by them. EU law establishes an independent system to redress, in a standardised and immediate manner, the damage caused by the inconvenience to which flight delays and cancellations give rise, which operates at an earlier stage than the Warsaw and Montreal Conventions.

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.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106