



Press and Information

Court of Justice of the European Union
PRESS RELEASE No 157/14
Luxembourg, 21 November 2014

Order in Case C-394/14
Sandy Siewert and Others v Condor Flugdienst

Mobile boarding stairs colliding with an aircraft does not constitute “extraordinary circumstances” relieving the air carrier of its obligation to pay compensation for a flight delay of more than three hours

A collision of that kind must be regarded as an event inherent in the normal exercise of the activity of an air carrier

Under EU law, air carriers are required to pay passengers compensation in the event of the cancellation of a flight or a delay of more than three hours.¹ However, the air carrier is relieved of that obligation if it can prove that the cancellation or the delay was caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.

Sandy, Emma and Nele Siewert booked a flight from Antalya (Turkey) to Frankfurt (Germany) with the airline, Condor. The arrival of that flight was delayed by more than six hours. Condor argues that the delay was attributable to damage caused to the aircraft the evening before at Stuttgart Airport. A set of mobile boarding stairs had collided with the aircraft, causing structural damage to a wing and, as a consequence, the aircraft had to be replaced. According to Condor, these are ‘extraordinary circumstances’, relieving it of its obligation to pay compensation. The court hearing the case – the Amtsgericht Rüsselsheim (Local Court, Rüsselsheim, Germany) – has asked the Court of Justice whether a situation where a set of mobile boarding stairs collides with an aircraft can be categorised as ‘extraordinary circumstances’ of such a kind as to relieve the air carrier of its liability to pay compensation.

In its Order² of 14 November 2014,³ the Court noted that technical problems may be regarded as ‘extraordinary circumstances’, provided that they stem from an event which, owing to its nature or origin, is not inherent in the normal exercise of the activity of the air carrier and is beyond its actual control.⁴

As regards a situation where a set of mobile boarding stairs collides with an aircraft, it should be pointed out that such mobile stairs or gangways are indispensable to air passenger transport (to enable passengers to enter or leave the aircraft) and, accordingly, air carriers are regularly faced with situations arising from the use of such equipment. That being so, **a collision between an aircraft and a set of mobile boarding stairs must be regarded as an event inherent in the normal exercise of the activity of the air carrier**. Furthermore, there is nothing to suggest that the damage suffered by the aircraft in this case was caused by an act outside the category of

¹ Article 5(1) of 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) and judgments in Joined Cases [C-402/07 and C-432/07](#) *Sturgeon and Others* (see also Press Release No [102/09](#)) and in Joined Cases [C-581/10 and C-629/10](#) *Nelson* (see also Press Release No [135/12](#)).

² Where the reply to a question referred for a preliminary ruling may be clearly deduced from existing case-law or where the answer admits of no reasonable doubt, the Court may at any time, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, decide to rule by reasoned order (Article 99 of the Rules of Procedure).

³ Orders are notified to the parties and published seven days later on www.curia.europa.eu

⁴ Case [C-549/07](#) *Wallentin-Hermann* (see also Press Release No [100/08](#)).

normal airport services, such as an act of sabotage or terrorism (acts definitely covered by the term 'extraordinary circumstances').

The Court concludes from this that **such an event cannot be categorised as 'extraordinary circumstances', with the result that, given the considerable delay in the arrival of the flight, the air carrier is not relieved of its obligation to pay the passengers compensation.**

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 order is published on the CURIA website.

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