



Press and Information

Court of Justice of the European Union

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Judgment in Joined Cases C-145/15 and C-146/15
K. Ruijssenaars, A. Jansen and J.H. Dees-Erf v Staatssecretaris van
Infrastructuur en Milieu

National authorities carry out general monitoring activities in order to guarantee air passengers' rights but are not required to act on individual complaints

However, that power may be given to them by national legislation

When a flight is cancelled, the air carrier is required under EU law¹ to provide care for the passengers concerned as well as compensation (between €250 and €600, depending on the distance).

Moreover, each Member State is required to designate a body responsible for the enforcement of that legislation. Any passenger may make a complaint to that body about an infringement of the regulation. The sanctions to be imposed for infringements must be effective, proportionate and dissuasive.

In the Netherlands, the Secretary of State was designated as the competent national body. In that context, he has general authority to take enforcement action, in particular where there is a systematic refusal on the part of the air carrier to pay compensation to passengers. On the other hand, the Secretary of State cannot take enforcement action at the request of a passenger who refers his case to him.

Against that background, the Raad van State (Netherlands Council of State) is required to adjudicate on two actions concerning air passengers who were refused compensation. Those passengers requested the Secretary of State to take enforcement action against the airline companies concerned but he declined. The Raad van State is uncertain whether the Secretary of State has the power to take enforcement action, in individual situations, at the request of passengers and has referred the matter to the Court of Justice.

By today's judgment, the Court first of all interprets the term 'complaint' which any passenger may make to the body in question. According to the Court, that term should be regarded as a form of alert signal intended to contribute to the proper application of the regulation in general, without that body being required to act on such complaints in order to guarantee each individual passenger's right to obtain compensation.

As regards the term 'sanction', it refers to the measures adopted in response to the infringements which the body identifies in the course of its general monitoring activities, not to administrative enforcement action to be taken in each individual case.

As a consequence, the Court considers that the competent national body is not required, in principle, to take enforcement action against air carriers with a view to compelling them to pay the compensation provided for in Regulation No 261/2004.

However, the Court observes that, in view of the objectives of the regulation and the discretion enjoyed by Member States in the allocation of the powers with which they intend to endow the

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).

bodies in question, it is open to Member States, in order to remedy inadequate protection for air passengers, to empower that body to adopt measures in response to individual complaints.

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.

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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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