



Press and Information

Court of Justice of the European Union

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Judgment in Case C-502/18
CS and Others v České aerolinie a.s

Connecting flights that are the subject of a single reservation departing from a Member State to a non-Member State via another non-Member State: the air carrier that performed the first flight is obliged to pay compensation to passengers who suffered a long delay in the arrival of the second flight performed by a non-Community air carrier

Eleven passengers made with the Czech air carrier České aerolinie a single reservation for flights connecting Prague (Czech Republic) to Bangkok (Thailand) via Abu Dhabi (United Arab Emirates). The first of those connecting flights, operated by České aerolinie and connecting Prague and Abu Dhabi, was performed according to the flight plan and the plane arrived on time at Abu Dhabi. However, the second flight, performed, under a code-share agreement, by the non-Community air carrier Etihad Airways and connecting Abu Dhabi and Bangkok, arrived 488 minutes (8 hours and 8 minutes) late. That delay of more than three hours means that those passengers may be entitled to compensation under the regulation on the rights of air passengers.¹

The passengers brought, before the Czech courts, proceedings against České aerolinie seeking the compensation provided for by the regulation on the rights of air passengers. However, České aerolinie contends before those courts that those proceedings are unfounded, claiming that it cannot be held responsible for the lateness of the flight connecting Abu Dhabi and Bangkok given that that flight was performed by another air carrier. Hearing the case on appeal, the Městský soud v Praze (Prague City Court, Czech Republic) asks the Court of Justice whether České aerolinie is obliged to pay compensation under the regulation on the rights of air passengers.

By today's judgment, the Court states, first, that a flight with one or more connections which is the subject of a single reservation constitutes a whole for the purposes of the right of passengers to compensation provided for in the regulation on the rights of air passengers.² Accordingly, connecting flights of which the first flight was performed from an airport located in the territory of a Member State, in this case Prague, fall within the scope of that regulation even if the second of those connecting flights was performed by a non-Community carrier from and to a country which is not an EU Member State.

As regards whether České aerolinie, the air carrier that performed the first of the connecting flights, can be liable to pay the compensation due because of the long delay in the arrival of the second of those connecting flights, performed by Etihad Airways, the Court holds that, under the regulation on the rights of air passengers, the obligation to pay compensation to passengers falls solely on the operating air carrier of the flight concerned. In that regard, the Court states that, if an air carrier is to be categorised as the operating air carrier, it must, *inter alia*, be demonstrated that that carrier actually performed the flight in question. Since České aerolinie actually performed a flight under the contract of carriage entered into with the passengers concerned, it can be categorised as the operating air carrier.

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 Case: [C-537/17](#) Wegener, see also Press Release No. [77/18](#).

Consequently, the Court concludes that, in the circumstances of the present case, **České aerolinie is, in principle, liable to to pay the compensation provided for in the regulation because of the long delay in the arrival of the connecting flight for Bangkok even though that long delay occurred in the flight connecting Abu Dhabi and Bangkok and is attributable to Etihad Airways.** To that effect, the Court states in particular that, in the case of flights with one or more connections that are the subject of a single reservation, an operating air carrier that has performed the first flight cannot take refuge behind a claim that the performance of a subsequent flight operated by another air carrier was imperfect.

Last, the Court states that the regulation on the rights of air passengers reserves to the operating air carrier that has had to make payment of compensation to passengers, because of a long delay of connecting flights giving rise to a single reservation and, in part, performed by another carrier under a code-share agreement, the right to bring an action against the latter in order to obtain redress for that financial cost.

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 judgment is published on the CURIA website on the day of delivery.

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