



Press and Information

Court of Justice of the European Union

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Judgment in Case C-215/18

Libuše Králová v Primera Air Scandinavia A/S

A passenger who reserved his or her flight through a travel agency may bring an action for compensation for a long flight delay against the air carrier before the courts of the place of departure of the flight

Notwithstanding the absence of a contract between that passenger and the carrier, such an action comes within 'matters relating to a contract' within the meaning of the regulation on jurisdiction, with the result that it may be brought before the courts of the place of supply of the air carriage service

Ms Libuše Králová entered into a package travel contract with a Czech travel agency consisting of, first, carriage by air between Prague (Czech Republic) and Keflavík (Iceland), operated by the Danish air carrier Primera Air Scandinavia, and, second, accommodation in Iceland.

Ms Libuše Králová's Prague-Keflavík flight, of 25 April 2013 was delayed by four hours. She subsequently brought an action for compensation for an amount of €400 against Primera Air Scandinavia before the Obvodní soud pro Prahu 8 (District Court, Prague 8) pursuant to the regulation on the rights of air passengers.¹

That court has doubts as to its jurisdiction to rule on that dispute since, first, pursuant to the regulation on jurisdiction,² actions against undertakings established in a given Member State must, in principle, be brought in that Member State. In addition, second, the special provisions on 'matters relating to a contract' of that regulation allowing an action also to be brought before the courts of the place of performance of an obligation (pursuant to the case-law,³ those courts are, in respect of air carriage services, notably the courts of the place of departure of the flight) are applicable, in principle, only where there is a contractual relationship between the parties concerned.

However, Ms Libuše Králová entered into a contract not with the air carrier but with a travel agency. The Czech court asks the Court of Justice whether, in the present case, there is a contractual relationship between the passenger and the carrier, allowing the former to bring an action against the latter before it because that court is the court of the place of departure of the delayed flight.

By today's judgment, the Court notes, first of all, that the concept of an operating air carrier subject to the obligations arising from the regulation on the rights of air passengers includes not only the air carrier which operates or has the intention of operating a flight under a contract with a passenger but also the carrier which operates or intends to operate a flight on behalf of a third party which has concluded a contract with that passenger.

Therefore, in a situation such as the one at issue, where the air carrier performed the flight on behalf of a travel agency which entered into a contract with a passenger, **the latter**, when his or

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 Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

³Case: [C-204/08](#) Rehder, see also Press Release No. [62/09](#).

her flight is subject to a long delay, **may rely on the regulation on the rights of air passengers against the carrier, even in the absence of a contract between the passenger and the carrier.**

The Court observes, next, that even though the conclusion of a contract is not a requirement for the application of the special provisions on 'matters relating to a contract' of the regulation on jurisdiction, reliance on those provisions presupposes the existence of a voluntary commitment by one party to another.

In that regard, the Court points out that an operating air carrier which, as in the case of Primera Air Scandinavia, did not enter into a contract with the passenger but is liable to that passenger on behalf of a travel agency in respect of the obligations arising from the regulation on the rights of air passengers must be regarded as fulfilling the freely assumed obligations vis-à-vis that agency. On that point, the Court states that those obligations arise under the package travel contract which the passenger concluded with the agency in question.

In those circumstances, the Court states that **an action for compensation for a long flight delay, brought by a passenger against the operating air carrier which is not the contractual partner of the passenger must be regarded as covering matters relating to a contract.**

Consequently, in such a situation, **the passenger may bring an action for compensation against the carrier before the courts of the place of departure of the flight**, in accordance with the case-law.

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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