



**Passengers whose flights have been cancelled or subject to a long delay may demand payment of the compensation provided for under EU law in the national currency of their place of residence**

*The refusal to allow such a payment would be incompatible with the requirement to interpret broadly the rights of air passengers and with the principle of equal treatment of aggrieved passengers*

Ms X had a confirmed reservation with the air transport company Smartwings Poland, formerly Travel Service, established in Warsaw (Poland), for a flight allowing her to travel from city A in a third country to city B in Poland. On 23 July 2017, she arrived on time at the check-in for that flight. The flight was delayed by more than three hours. It has not been established whether Ms X received any benefits or compensation or was given assistance in the third country of departure.

Ms X, who was entitled to compensation amounting to EUR 400 under the Air Passenger Rights Regulation,<sup>1</sup> assigned her claim to Delfly, a company established in Warsaw. Delfly brought an action before the Sąd Rejonowy dla m. st. Warszawy XV Wydział Gospodarczy (District Court for the Capital City of Warsaw (15th Commercial Division), Poland) requesting that Smartwings Poland, formerly Travel Service be ordered to pay it the sum of 1 698.64 polish zlotys (PLN), which, applying the exchange rate set by the National Bank of Poland on the date on which the claim for compensation was brought, was the equivalent of EUR 400.

Smartwings Poland, formerly Travel Service contended that the claim for compensation should be rejected on the ground, inter alia, that that claim had been expressed, contrary to the provisions of national law, in an incorrect currency, namely in PLN and not in euros.

The Polish court decided to make a reference to the Court of Justice for a preliminary ruling. It seeks to ascertain whether, in accordance with the Air Passenger Rights Regulation, passengers whose flights have been cancelled or subject to a long delay, or their legal successors, may demand payment of the amount of the compensation referred to in that regulation in the national currency of their place of residence, so that the regulation precludes legislation or case-law of a Member State which results in the dismissal of an action brought for that purpose by such passengers or their legal successors on the sole ground that the claim was expressed in that national currency.

By today's judgment, the Court notes first of all that the main objective pursued by the Air Passenger Rights Regulation is to ensure a high level of protection for passengers. It follows that the provisions conferring rights on air passengers must be interpreted broadly. According to the Court, making the right to compensation for the damage constituted by the serious inconvenience occasioned during the carriage of passengers by air subject to the condition that the compensation must be paid to the aggrieved passenger in euros, and not in any other national currency, would restrict the exercise of that right and would therefore disregard the requirement for a broad interpretation.

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<sup>1</sup> 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).

The Court then points out that the Air Passenger Rights Regulation applies to passengers, without making a distinction between them based on nationality or place of residence, the relevant criterion being the place where the airport of departure of those passengers is located. The passengers entitled to compensation are therefore to be regarded as all being in comparable situations, as they all receive standardised and immediate compensation for the damage for which compensation is available under the regulation.

Accordingly, the imposition of a condition that the amount of the compensation provided for in the Air Passenger Rights Regulation, sought by the aggrieved passengers or their legal successors, may be paid only in euros, and not in the legal tender of a non-euro area Member State, is likely to lead to a difference in treatment of aggrieved passengers or their legal successors, without it being possible to put forward any objective justification for that difference in treatment.

The Court takes the view that it would be incompatible with the requirement to interpret broadly the rights of air passengers referred to in the Air Passenger Rights Regulation and with the principle of equal treatment of aggrieved passengers and their legal successors to refuse to allow passengers entitled to compensation on the basis of the regulation to demand payment of the amount of that compensation in the national currency of their place of residence.

Lastly, the Court points out that the payment of the amount of the compensation due in the national currency of the place of residence of the passengers concerned necessarily presupposes a conversion from the euro to that currency. In that regard, as the Air Passenger Rights Regulation does not contain any instructions, the manner in which the conversion is made, including the setting of the exchange rate applicable to that conversion, remains a matter of the national law of the Member States, in compliance with the principles of equivalence and effectiveness.

The Court concludes from this that passengers whose flights have been cancelled or subject to a long delay, or their legal successors, may demand payment of the amount of the compensation referred to in the Air Passenger Rights Regulation in the national currency of their place of residence, so that that regulation precludes a Member State's legislation or case-law which results in the dismissal of an action brought for that purpose by such passengers or their legal successors on the sole ground that the claim was expressed in that national currency.

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**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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