



## PRESS RELEASE No 162/23

Luxembourg, 26 October 2023

Judgment of the Court in Case C-238/22 | LATAM Airlines Group

### **Pre-emptively denied boarding: passengers have the right to compensation even if they did not present themselves for boarding and even if they have been informed at least two weeks before the scheduled time of departure of the flight that they will be denied boarding**

Finding it impossible to check in for the flight from Frankfurt am Main to Madrid that she had reserved for the next day, a passenger contacted the company LATAM Airlines. That company then informed her that it had, without warning her, transferred her to a flight operated the day before. It also informed her that she had been barred from the return flight, which was to be operated more than two weeks later, on the ground that she had not taken the outward flight. That passenger claimed a lump sum of EUR 250 from LATAM Airlines by way of compensation on account of the denied boarding of the return flight.

The German court seized by the passenger asks the Court of Justice whether such compensation presupposes, under the Regulation on air passengers' rights<sup>1</sup>, that the passenger must have presented him or herself for check-in despite the fact that the airline informed that passenger in advance that he or she would not be allowed to board. That court also wishes to ascertain whether the airline may, as is provided for in respect of flight cancellations, be exempted from the obligation to pay compensation where it gives the passenger sufficient advance warning that he or she will be denied boarding, that is to say, at least two weeks before the scheduled time of departure of the flight.

In today's judgment, the Court finds that, **in the event of pre-emptively denied boarding, the compensation for denied boarding is payable even if the passenger concerned did not present him or herself for check-in.**

Where the air carrier has informed the passenger in advance that it will refuse, against that passenger's will, to allow him or her to board a flight for which he or she has a confirmed reservation, the requirement for that passenger to present him or herself for check-in is an **unnecessary formality**.

**The Court also holds that the right to compensation applies even if the passenger was informed at least two weeks before the scheduled time of departure of the flight that he or she would be denied boarding.**

There is no reason to apply to denied boarding the rule, provided for exclusively in respect of flight cancellations, that air carriers are released from their obligation to compensate passengers if they inform them of the flight cancellation at least two weeks before the scheduled time of departure.

**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 and, as the case may be, the abstract of the judgment](#) is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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<sup>1</sup> [Regulation \(EC\) No 261/2004](#) of the European Parliament and 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. That regulation applies, in principle to all flights departing from the European Union and to all flights to the European Union, provided the latter are operated by an EU airline. It provides for lump sum compensation in cases of, inter alia, cancellation or denied boarding of EUR 250, EUR 400 or EUR 600, depending on the distance of the flight.