



PRESS RELEASE No 26/26

Luxembourg, 4 March 2026

Judgment of the General Court in Case T-656/24 | European Air Charter

An airline may not rely on an extraordinary circumstance which affected an earlier flight if the delay of the subsequent flight is caused by an autonomous decision taken by the airline, provided that that decision is the determining cause of that delay

That may be the case where the airline decides, in the context of a flight rotation, to wait for the passengers of an earlier flight, who are delayed because of widespread shortcomings in the security checks at the airport in question

Two air passengers seek compensation from the airline European Air Charter amounting to €400 each on the ground of a delay of more than three hours in their flight from Düsseldorf (Germany) to Varna (Bulgaria).

Before the Regional Court, Düsseldorf, the question is raised whether the airline can rely, in respect of a subsequent flight in a flight rotation, on an exemption from its obligation to pay compensation for delay on the ground that an extraordinary circumstance affected an earlier flight.

Following an exceptionally long waiting time at the security checks of Cologne-Bonn Airport caused by a heavy workload for the staff carrying out the security checks, all the passengers of a flight preceding the flight at issue in the main proceedings were delayed in presenting themselves for boarding. European Air Charter therefore decided to wait for those passengers, which led to a delay of more than five hours in the departure of that flight. Furthermore, European Air Charter decided to reschedule the subsequent flights, including the flight at issue in the main proceedings, on a replacement aircraft.

The Regional Court, Düsseldorf, has doubts as to whether that autonomous decision taken by European Air Charter prevents that airline from relying on the extraordinary circumstance which arose in connection with the earlier flight. ¹ That court therefore referred questions to the General Court of the European Union in that connection. ²

The General Court answers that the airline may not rely on the extraordinary circumstance in question which affected an earlier flight in a rotation if the autonomous decision taken by the airline to wait for the passengers delayed by the security checks is the determining cause of the delay of the subsequent flight, and provided that the air carrier in question was not obliged to take that decision, in particular under a legal obligation, which it is for the Regional Court, Düsseldorf, to ascertain. ^{3 4}

In any event, the airline may not rely on the interest of the passengers of the earlier flight in being transported within a reasonable time. The airline is not required to weigh up the interests of the various groups of passengers affected.

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 of the European Union concerning the interpretation of EU law or the validity of an EU act.

The General Court has jurisdiction to deal with requests for a preliminary ruling coming exclusively within the following areas 1) the common system of value added tax (VAT), 2) excise duties, 3) the Customs Code, 4) the tariff classification of goods under the Combined Nomenclature, 5) compensation and assistance to passengers in the event of denied boarding or delay or cancellation of transport services, or 6) the system for greenhouse gas emission allowance trading. The Court of Justice has jurisdiction to deal with all other requests for a preliminary ruling.

Preliminary rulings by the General Court may, exceptionally, be reviewed by the Court of Justice, on a proposal from the First Advocate General, where there is a serious risk of the unity or consistency of EU law being affected. If no such proposal is made within one month of the ruling by the General Court, that ruling will become final. However, if the First Advocate General makes a proposal for review, it will be necessary to wait for the outcome of the proceedings before the Court of Justice either in order for the ruling by the General Court to become final or in order for the ruling by the Court of Justice to be substituted for the ruling by the General Court.

Neither the Court of Justice nor the General Court decides the national dispute itself. It is for the national court or tribunal to resolve the case in accordance with the ruling by the Court of Justice or by the General Court.

Unofficial document for media use, not binding on the General Court.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

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

Stay Connected!



¹ The Regional Court, Düsseldorf, starts from the premiss that the shortcomings in the security checks were widespread at the airport in question and that they therefore constituted an extraordinary circumstance. Accordingly, it has doubts only as to the causal link between the extraordinary circumstance which affected the earlier flight and the delay in the arrival of the flight at issue.

² The General Court, more specifically, is asked to interpret [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.

³ The General Court specifically answers as follows: the autonomous decision of the airline to wait for the passengers of a flight who have not yet cleared security, due to shortcomings in the security checks, is capable of breaking the direct causal link between the extraordinary circumstance of those shortcomings and the delay of at least three hours in the arrival of a subsequent flight, scheduled for the same day on the same aircraft, if that decision is the determining cause of the delay. According to the General Court, since Regulation No 261/2004 does not set out the requirements relating to the direct nature of the causal link between the extraordinary circumstance and the cancellation or the delay of a flight, it is necessary to refer, by analogy, to the causal link criteria applicable to non-contractual liability of the European Union. Those criteria require that that link must be sufficiently direct, so that the conduct complained of must be the determining cause of the damage.

⁴ According to the General Court, the decision of the airline at issue is capable of breaking the direct causal link between the extraordinary circumstance and the delay of the subsequent flight if it is the determining cause for the delay of the flight at issue and provided that the air carrier in question was not obliged to take that decision, in particular under a legal obligation.