



PRESS RELEASE No 3/26

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Judgment of the Court in Case C-45/24 | Verein für Konsumenteninformation (Commission collected by an intermediary)

Cancellation of a flight: the refund of the airline ticket price must include the commission collected by an intermediary at the time of purchase

It is not necessary for the airline to know the exact amount of that commission

Several travellers purchased airline tickets on the booking portal of the Opodo travel agency¹ for a KLM return flight from Vienna (Austria) to Lima (Peru). Since the flights were cancelled, KLM reimbursed the amount they had paid, minus approximately € 95 that Opodo had charged them as agency commission.

The air passengers concerned assigned their potential rights to reimbursement to a consumer protection association. That association contends, before the Austrian courts, that the reimbursement of the cost of the airline tickets by the airline in question should include the agency commission charged to passengers, as in the present case, by a travel agency acting as that airline's intermediary. KLM, on the other hand, argues that it is not obliged to reimburse the disputed agency commission, since it was unaware that it had been collected, let alone its amount.

The Austrian Supreme Court has referred questions to the Court of Justice in this regard.² More specifically, that court points out that the Court has already ruled on agency commissions in the context of interpreting the scope of air passengers' right to reimbursement, holding that such commissions must be included in the amount of the reimbursement unless they were set without the airline's knowledge.³ That exception, relating to whether or not the air carrier is aware of the commission, could be interpreted in different ways.

The Court of Justice specifies in the present case that where an airline accepts that the intermediary issues air tickets in its name and on its behalf, it may be assumed that it is necessarily aware of that intermediary's commercial practice of collecting an agency commission.⁴ Since the collection of that agency commission is an 'unavoidable' component of the price of the airline ticket, it must be regarded as being authorised by the airline. Consequently, the airline must reimburse the commission.

It is not necessary for the airline to know the exact amount of the agency commission. Otherwise, the protection of passengers provided by EU legislation would be weakened and the attractiveness of using the services of an intermediary reduced.

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.

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

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.

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

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¹ Opodo is a travel agency certified by the International Air Transport Association (IATA) and authorised to issue airline tickets for KLM.

² More specifically, the Court of Justice 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 Judgment of the Court of 12 September 2018, *Harms*, [C-601/17](#) (see also press release [No 128/18](#)).

⁴ This applies even in the absence of any explicit contractual clause to that effect.