



## Aviation and Transport

### The right to compensation under Regulation (EC) No 261/2004 and Court jurisdiction in the case of connecting flights

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The European Court of Justice was recently called upon to rule on a case concerning the booking of connecting flights from Spain to Germany, operated by *Air Berlin* and *Iberia Airlines*. Both these flights made stopovers in Spain where they were operated by the Spanish airline *Air Nostrum*.

Due to the delay of the first connecting flight, the passengers missed their other flight to Germany and reached their final destination more than 3 hours late. Consequently, they have started a claim before German Courts against *Air Nostrum* airline in order to obtain compensation provided for by Regulation (EC) No 261/2004. The Regulation establishes common rules on compensation and assistance to passengers in the case of denied boarding, flight cancellation or long delay of flights.

In this specific case, the German Courts raised doubts about jurisdiction in consideration of the fact that *Air Nostrum* airline has its seat in another Member State and that it operated only the first domestic flight in Spain, without being the passengers' contracting partner.



The German courts decided to ask the European Court of Justice whether they have international jurisdiction over actions proposed by air passengers against an airline based in another Member State, which operated only the first leg of a connecting flight and which is not the direct contractual counterpart of the passengers. The Court of Justice has clarified that, according to Brussels I Regulation, and on the basis of Regulation (EC) No 261/2004, the "matters relating to a contract" include also actions aimed at obtaining compensation for the delay of flights in connection, toward an operating air carrier which is not the direct contractual counterpart. More specifically, the Court disposed that where an operating air carrier (which has not concluded a contract with the passenger) fulfils its obligations under the aforementioned Regulation, it is to be considered as doing so on behalf of the airline which concluded the contract with the passenger concerned.

In addition, the Court disposed that, in the case of a connecting flight where both flights are operated by two different air carriers, the "place of performance" must be considered as the place of arrival of the second flight.

Therefore, the final destination in Germany can be regarded as the place of performance of the services to be provided not only with respect to the second flight, but also with respect to the first domestic flight in Spain. As a result, the German Courts have, in principle, jurisdiction over the claims for the recognition of compensation proposed to the *Air Nostrum*.

With regard to the passengers' protection and to the right to compensation under Regulation (EC) No 261/2004, Ryanair airline has recently implemented a "compensation policy", in accordance with the recent decision of the London High Court issued in March 2018.

From now on, it will be possible for passengers to communicate directly with the company for the payment of compensation under Regulation (EC) No 261/2004 and to be reimbursed directly by Ryanair. The Irish Airline has set out a project team aimed at trying all the valid applications within a period of 10 working days, seeking to be the fastest in the sector.



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