

Title:

Justified Compensation Claim under the Air Passenger Rights Regulation due to Delay

Legal Basis:

Air Passenger Rights Regulation Articles 2 and 3

Headnotes:

1. The purpose of the Air Passenger Rights Regulation is to encourage airlines, through the obligation to pay compensation, to prevent or at least reduce avoidable inconveniences for flight passengers, and to mitigate inconveniences caused by delays.
2. Passengers typically do not place value on a short stopover when booking a flight—they generally want to reach their final destination as quickly as possible. A short stopover is therefore usually due to organizational and technical reasons on the airline's part.

Keywords:

Compensation claims, delay, ticket, separate flights, flight route, destination

Citation:

BeckRS 2023, 6390

Judgment

The defendant is ordered to pay the plaintiff €2,400.00 plus interest at 5 percentage points above the base rate from August 16, 2022.

The defendant shall bear the costs of the legal proceedings.

The judgment is provisionally enforceable against the plaintiff upon provision of security in the amount of 110% of the amount to be enforced.

Court Order:

The value of the dispute is set at €2,400.00.

Facts

1. The parties dispute compensation claims under Regulation (EC) No. 261/2004 (the "Air Passenger Rights Regulation").
2. The assignors booked, via a TUI travel agency, the following flights:
 - June 6, 2022: Nuremberg (NUE) to Istanbul (IST)
 - June 16, 2022: Istanbul (IST) to Antalya (AYT)
 - June 16, 2022: Antalya to Istanbul
 - June 16, 2022: Istanbul to Nuremberg

3. The flight details were itemized on the tickets. The flight from Nuremberg to Istanbul was scheduled to depart at [time] and arrive at [time], with the defendant as the operating carrier. The distance between Nuremberg and Istanbul is 1,678 km. The flight actually landed with a delay of 3 hours and 45 minutes. The other flights proceeded as scheduled.
 4. The assignors transferred their possible claims to the plaintiff. On August 1, 2022, the plaintiff's attorneys demanded payment of €2,400 by August 15, 2022. No payment was made.
 5. The plaintiff asserts entitlement to compensation under the Air Passenger Rights Regulation.
 6. The plaintiff requests:
 - That the defendant be ordered to pay €2,400 plus interest from August 16, 2022.
 7. The defendant requests:
 - That the claim be dismissed.
 8. The defendant argues that the entire journey should be considered a single flight and that the delay was made up for, negating any right to compensation.
 9. For further details, reference is made to the pleadings, exhibits, and protocolled submissions.
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Legal Reasoning

1. The lawsuit is admissible and well-founded.
2. Due to the delay of the flight from Nuremberg to Istanbul, the plaintiff is entitled to compensation under the Air Passenger Rights Regulation.
3. This was not a single flight from Nuremberg to Antalya, but rather several separately assessable flights.
4. The term "flight" is not defined in detail in the regulation.
5. The regulation defines the "final destination" as the destination on the ticket or, in the case of direct connecting flights, the final leg.
6. The tickets in this case do not allow for a clear conclusion. According to case law, the ticket does not determine whether it is one or multiple flights.
7. The ECJ defines a flight as a single air transport operation performed by an airline that determines the flight route.
8. The ECJ interprets the term "final destination" broadly and supports consumer protection.
9. The ECJ has rejected the segmented approach used by the German Federal Court in the "Wegener" ruling.
10. Under literature and ECJ case law, only flights considered "direct connections" should be treated as a single flight. Stopovers for private or touristic purposes are separate flights.
11. In this case, the stopover in Istanbul lasted several days and was therefore not part of a direct connection.
12. The delay of the flight to Istanbul caused inconvenience that must be compensated, even if the next flight was days later.

13. The delay shortened the planned stopover, violating the terms of the trip.
14. Compensation is due under the regulation's purpose: to protect passengers from avoidable inconvenience.
15. The costs are awarded under §91 ZPO (German Civil Procedure Code), enforceability under §709 ZPO, and interest under §§280, 286, 288 BGB (German Civil Code).