

EUROPEAN COURT OF JUSTICE RULED ABOUT REGULATION (EU) NO 1177/2010 CONCERNING THE RIGHTS OF PASSENGERS WHEN TRAVELLING BY SEA AND INLAND WATERWAY (“REGULATION”)

A recent judgment issued by the Court of Justice clarified the construction of several provisions of Regulation, in relation to **cancelled sailings**.

First, the Court maintained that Regulation applies both to passengers whose imminent sailing is cancelled/delayed and who are physically present in the port, and to passengers who intend to travel and have purchased a ticket, even if sailing is not imminent. The Court thus declared that Regulation applies when a carrier cancels a passenger service **giving a prior notice of several weeks to the originally scheduled departure**.

Additionally, the Court said that article 18 of Regulation must be interpreted as meaning that, when a passenger service is cancelled and there is no alternative service on the same route, **the carrier is required to offer** to passengers, by virtue of the passengers’ right to be re-routed to the final destination described in the transport contract:

- (i)** an alternative service that follows a **different itinerary** from that of the cancelled service, or
- (ii)** a maritime service coupled with **other modes of transport** (such as rail or road transport).

The carrier is also anyway required to bear **any additional costs** incurred by passengers in re-routing to the final destination (such as fuel or road tolls which passengers incurred to travel to the alternative port of embarkation, or to leave the alternative port of disembarkation, or costs incurred in connection with a landbridge).

If passengers accept the carrier’s offer to be re-routed or decide to postpone the journey to a later date, and then arrive at the originally scheduled final destination with a delay exceeding the thresholds laid down in article 19 of Regulation, they have also a right to receive compensation under same article. By contrast, **if passengers decide** (as an alternative to be re-routed to the final destination) **to be reimbursed for the ticket price, they do not have such a right to compensation**.

As to the passengers’ choice to obtain reimbursement of the ticket price, the Courts specified that the meaning of “ticket price”, referred to in Regulation, includes the costs relating to the **additional optional services** chosen by the passenger, such as the booking of a cabin or a kennel, or access to premium lounges.

In relation to possible exemptions to the application of article 19 of Regulation, the Court ruled that the late delivery of a vessel which led to the cancellation of all the scheduled sailings to be operated by that vessel, is not considered as an “extraordinary circumstance” and therefore does not fall within the exemptions provided by article 20 of Regulation.

Finally, the Court also ruled that:

- a)** passengers requesting compensation under article 19 are not required to submit their requests to the carrier within the two-months deadline provided by same Regulation;
- b)** the competence of the national body responsible for the enforcement of Regulation designated by a Member State, covers not only the passenger service provided from a port situated in the territory of that Member State, but also a passenger service provided from a port situated in the territory of another Member State to a port situated in the territory of the first Member State, where the latter service is part of a round trip which has been entirely cancelled.

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