

## **Title of the writing:** Analysis of the institute of extraordinary circumstances or abbreviation of air passenger rights: Theory, practice and future directions

### **Abstract**

Air passengers have a number of rights against air carriers under EU law. One of these rights is the right to a flat-rate compensation in the event of cancellation or significant delay of a flight. Cancellations or significant delays can be caused by a wide variety of circumstances. If these circumstances are extraordinary and could not have been prevented by the carrier using all reasonable measures, passengers are not entitled to compensation and the carrier is thus relieved of its obligation.

Extraordinary circumstances in air transport are very often applied in practice as a means of relieving the carrier of its obligation to pay damages to air passengers. Unfortunately, this remedy is enshrined in the legislation in a very vague and indeterminate manner, in the form of vague legal terms. It can therefore be abused in practice to the detriment of passengers. The Court of Justice of the European Union, in the context of the preliminary ruling procedure, does interpret the institute, but again using general and vague terms, which requires further specification by means of further preliminary questions.

This paper aims to explain the meaning and significance of extraordinary circumstances and to outline what is hidden under this vague legal concept. It does so by examining Regulation 261/2004, available case law, soft law and a legislative proposal to amend the Regulation. The thesis is also structured in this way, with an analysis of court decisions at its core. These are systematized according to the nature of the circumstances addressed in the decisions. The text also includes reflections on the assessment of circumstances that the CJEU has not yet had the chance to resolve in a binding manner. The work also includes a critical assessment of the European Commission's proposal to amend the Regulation. The final result is a synthesis of the relevant concepts and their comparison in a summary table.

The EU legislator should try to legislate the institution in a way that leaves as little room as possible for divergent interpretations. This would help to establish legal certainty for the addressees of the regulation. At the same time, the legislator should bear in mind when drafting the law that high passenger protection in the sense of more obligations on the carrier may ultimately be to the detriment of passengers.

**Key words:**

Air transport

Air passenger rights

Extraordinary circumstances

Reasonable measures

Right to compensation

Liberation of the carrier