

2. If the first question is answered in the negative, and it falls to be examined whether the circumstances in question are the result of events which are inherent in the normal exercise of the activity of the air carrier concerned and are not beyond the actual control of that carrier on account of their nature or origin, is the case-law of the Court of Justice of the European Union on the premature failure of certain technical parts of an aircraft applicable in a case such as that here, in which, at the time when the flight was cancelled, neither the manufacturer nor the air carrier knew the nature of the defect in the new aircraft type at issue or how it could be rectified?

(¹) 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, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

Action brought on 5 July 2023 — European Commission v Slovak Republic

(Case C-412/23)

(2023/C 314/10)

Language of the case: Slovak

Parties

Applicant: European Commission (represented by: G. Gattinara and R. Lindenthal, acting as Agents)

Defendant: Slovak Republic

Form of order sought

- Declare that, by continuously failing, in 2015, 2016, 2017 and from 2018, to ensure that public entities providing healthcare paid their commercial debts within a period of a maximum of 60 calendar days, and as a result of this situation continuing to exist, the Slovak Republic has failed to fulfil its obligations under Directive 2011/7 (¹) on combating late payment in commercial transactions, in particular Article 4(3) and 4(4)(b) thereof;
- order Slovak Republic to pay the costs.

Pleas in law and main arguments

Under Article 4(3) of Directive 2011/7, the Slovak Republic was to ensure that, in commercial transactions where the debtor was a public authority, the period for payment of those sums due as remuneration for those transactions with undertakings did not exceed 30 calendar days from fulfilment of the factual circumstances listed therein. Meanwhile, under Article 4(4)(b) of the Directive, in the Slovak Republic public entities providing healthcare can extend that deadline to 60 calendar days.

However, the Slovak Republic has failed to ensure that, in the case of those public entities providing healthcare, the period for payment in commercial transactions where those entities constitute the debtors did not exceed 60 calendar days.

From data concerning the average period for payment of debts on the part of public hospitals in commercial transactions, it is apparent that in 2015, 2016, 2017 and from 2018 until the point at which the present application was lodged, the Slovak Republic has continuously failed to comply with Article 4(3) and Article 4(4)(b) of the Directive.

(¹) Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ 2011 L 48, p. 1).