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Airlines Must Pay Over Canceled Flights, Court Says (Update2)

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By Stephanie Bodoni

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Dec. 22 (Bloomberg) -- Airlines may have to compensate passengers over flight cancellations caused by a mechanical problem, the European Union's highest court said.

In a case involving [Alitalia SpA](#), the European Court of Justice in Luxembourg said that technical issues found during aircraft maintenance don't constitute "extraordinary circumstances" that would allow airlines to avoid paying passengers compensation for canceled flights.

EU rules allow passengers on canceled flights to seek anywhere from 250 euros (\$350) to 600 euros. While routine mechanical problems require airlines to pay compensation, the court said serious issues that ground an entire fleet of aircraft or defects caused by sabotage would qualify as extraordinary.

"Airlines are often of the opinion that technical problems count as 'extraordinary circumstances,'" James Fremantle, a spokesman for the Air Transport Users Council, a London-based consumer group for passengers, said by telephone. "This ruling could have positive ramifications for customers."

A carrier must prove that the mechanical problem leading to the cancellation was "beyond its actual control," the court said in a statement.

2005 Alitalia Flight

Friederike Wallentin-Hermann sued now insolvent Alitalia for refusing to compensate her for canceling a flight in 2005 which delayed her arrival in Italy from Austria by almost four hours. Alitalia said the mechanical problems that caused the disruptions must be considered "extraordinary circumstances," which under EU rules exempt airlines from any refunds or compensation.

A spokesman for Rome-based Alitalia couldn't immediately be reached to comment.

The case centers on an EU law that took effect in 2005 and increases compensation for travelers stranded because of canceled or overbooked flights. It's the first time the court has ruled on whether mechanical or technical defects can be considered one of the "extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken" under the EU rules.

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Wallentin-Hermann in today's case sought damages of 250 euros and 10 euros for telephone charges from Alitalia for canceling a flight on June 28, 2005, from Vienna via Brindisi in Italy to Rome five minutes before departure. Alitalia had been informed the night before of an engine defect in the turbine of the plane the woman, her husband and daughter were due to take.

Alitalia appealed after Wallentin-Hermann won her case in a lower court. The commercial court in Vienna, which last year referred the case to Luxembourg for guidance on the scope of the EU rules, will give a final decision in the case.

Alitalia buyers on Dec. 12 signed an agreement concluding the takeover of the insolvent Italian carrier's main assets, paving the way for the sale of a stake to Air France-KLM Group or Deutsche Lufthansa AG.

In January 2006 the top EU court upheld the passenger compensation law, rejecting appeals by British Airways Plc, EasyJet Plc and other airlines. They

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had argued the rule contravenes an international agreement that provides a defense to airlines for circumstances that are beyond their control.

The case is C-549/07 Friederike Wallentin-Hermann v Alitalia.

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