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# Liability and Claims Handling Developments

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1. Will the “new” definition of an accident under art. 17 of the Montreal convention have an impact on claims and claims handling ?



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JUDGMENT OF 2. 6. 2022 – CASE C-589/20 AUSTRIAN AIRLINE

Concept of accident :

¶¶ *The Court has already held that the concept of ‘accident’, in its ordinary meaning and in the context of which it forms part, is that of an **unforeseen, harmful and involuntary event** and that that concept does not require that the damage is due to the materialisation of a hazard typically associated with aviation or that there be a connection between the ‘accident’ and the operation or movement of the aircraft.*

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On those grounds, the Court (Third Chamber) hereby rules :

¶¶ 1. *Article 17(1) of the Convention for the unification of certain rules for international carriage by air concluded on 28 May 1999 in Montreal, signed on 9 December 1999 by the European Community and approved on its behalf by*

*Council Decision 2001/539/EC of 5 April 2001, must be interpreted as meaning that a situation in which, for no ascertainable reason, a passenger falls on a mobile stairway set up for the disembarkation of passengers of an aircraft and injures himself or herself constitutes an ‘accident’, within the meaning of that provision, including where the air carrier concerned has not failed to fulfil its diligence and safety obligations in that regard.* ¶¶



*2. The first sentence of Article 20 of the Convention for the unification of certain rules for international carriage by air concluded on 28 May 1999 in Montreal must be interpreted as meaning that, where an accident which caused damage to a passenger consists of a fall of that passenger, for no ascertainable reason, on a mobile stairway set up for the disembarkation of the passengers of an aircraft, the air carrier concerned may be exonerated from its liability towards that passenger only to the extent that, taking account of all the circumstances in which that damage occurred, that carrier proves, in accordance with the applicable national rules and subject to the observance of the principles of equivalence and effectiveness, that the damage suffered by that passenger was caused or contributed to by the negligence or other wrongful act or omission of that passenger, within the meaning of that provision.*



2. Will the possibility to obtain compensation of a purely psychological injury under art. 17 of the Montreal convention have an impact on claims and claims handling ?



JUDGMENT OF 20. 10. 2022 – CASE C-111/21 LAUDAMOTION GMBH

On those grounds, the Court (Third Chamber) hereby rules :

¶¶ *Article 17(1) of the Convention for the Unification of Certain Rules for International Carriage by Air, concluded at Montreal on 28 May 1999, signed by the European Community on 9 December 1999 and approved on its behalf by Council Decision 2001/539/EC of 5 April 2001, must be interpreted as meaning that a psychological injury caused to a passenger by an `accident', within the meaning of that provision, which is not linked to `bodily injury', within the meaning of that provision, must be compensated in the same way as such a bodily injury, provided that the aggrieved passenger demonstrates the existence of an adverse effect on his or her psychological integrity of such gravity or intensity that it affects his or her general state of health and that it cannot be resolved without medical treatment.*





3. What would be your advice to airlines ?





## 4. Role of consumer/passengers protection associations



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## 5. Social Medias' impact



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Questions ?



