

Aviation - Germany

Regional court rules on legal costs under Montreal Convention

Contributed by [Arnecke Siebold](#)

April 07 2010

[Facts](#)
[Decision](#)
[Comment](#)

The Darmstadt Regional Court has ruled on carriers' liability under the Montreal Convention. On August 4 2009 the court dealt with the question of whether a plaintiff is entitled to claim compensation for lawyers' fees and interest if the carrier offered compensation based on the convention after the incident but before the claimant had filed legal action.

Facts

Goods were to be shipped from Germany to the United States. They were carried by truck to the departure airport, where they were lost. The carrier offered compensation for damages based on its liability under Article 22(3) of the convention. The claimant rejected the carrier's offer and asked for higher compensation in excess of the limits of liability under the the convention. The shipper's insurance company filed legal action against the carrier and argued that the carrier was fully liable under the Act for the Multimodal Transport of Goods.

Decision

The court ordered the carrier to pay damages of 17 special drawing rights per kilogram, as stipulated under the convention. The court dismissed the further legal action brought against the carrier. The court further ordered the claimant to bear the entire cost of the pending lawsuit, (ie, the court fees and charges, as well as the attorneys' fees for both parties). The court held that the claimant was not entitled to claim interest, and that the stipulation pursuant to Article 22(6) of the convention pre-empts the application of the rules and regulations of the Code on Civil Procedure.

Comment

The decision is open to appeal, but appears to be in line with the balance of opinion among legal academics on the application of the convention. The decision minimizes the cost and risk exposure for carriers in pending lawsuits as regards court and legal fees and thereby strengthens the position of freight carriers in settlement negotiations.

For further information on this topic please contact [Carsten Vyvers](#) at [Arnecke Siebold](#) by telephone (+49 69 97 98 85 0), fax (+49 69 97 98 85 85) or email (carsten.vyvers@arneckesiebold.de).

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription. Register at www.iloinfo.com.

Author

[Carsten Vyvers](#)



