



Reports of Cases

Case C-11/11

Air France

v

Heinz-Gerke Folkerts and Luz-Tereza Folkerts

(Request for a preliminary ruling from the Bundesgerichtshof)

(Request for a preliminary ruling — Air transport — Regulation (EC) No 261/2004 — Articles 6 and 7 — Connecting flight(s) — Delay in arrival at the final destination — Delay equal to or in excess of three hours — A passenger's right to compensation)

Summary — Judgment of the Court (Grand Chamber), 26 February 2013

1. *Transport — Air transport — Regulation No 261/2004 — Common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights — Right to compensation if a flight is cancelled — Whether there is a right to compensation in the event of long delay*

(European Parliament and Council Regulation No 261/2004, Arts 5(1)(c)(iii), 6 and 7)

2. *Transport — Air transport — Regulation No 261/2004 — Common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights — Right to compensation if a flight is delayed — Connecting flight which has been delayed at departure for a period below the limits specified in that regulation, but has arrived at its final destination at least three hours later than the scheduled arrival time — Included — Right to compensation conditional upon there having been a delay at departure — Not included*

(European Parliament and Council Regulation No 261/2004, Arts 6 and 7)

3. *Transport — Air transport — Regulation No 261/2004 — Common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights — Aim*

(European Parliament and Council Regulation No 261/2004, recital 1)

4. *Transport — Air transport — Regulation No 261/2004 — Compensation and assistance to passengers in the event of cancellation of flights — Exemption from the obligation to pay compensation — Condition — Extraordinary circumstances — Definition*

(European Parliament and Council Regulation No 261/2004, recital 15 and Art. 5(3))

1. See the text of the decision.

(see para. 32)

2. Article 7 of Regulation No 261/2004, establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, must be interpreted as meaning that compensation is payable, on the basis of that article, to a passenger on directly connecting flights who has been delayed at departure for a period below the limits specified in Article 6 of that regulation, but has arrived at the final destination at least three hours later than the scheduled arrival time, given that the compensation in question is not conditional upon there having been a delay at departure and, thus, upon the conditions set out in Article 6 having been met.

In the case of directly connecting flights, it is only the delay beyond the scheduled time of arrival at the final destination, understood as the destination of the last flight taken by the passenger concerned, which is relevant for the purposes of the fixed compensation under Article 7 of Regulation No 261/2004. The opposite approach would constitute an unjustified difference in treatment, inasmuch as it would effectively treat passengers of flights arriving at their final destination three hours or more after the scheduled arrival time differently depending on whether their flights were delayed beyond the scheduled departure time by more than the limits set out in Article 6 of Regulation No 261/2004, even though their inconvenience linked to an irreversible loss of time is identical.

(see paras 35, 39, 47, operative part)

3. See the text of the decision.

(see paras 42, 46)

4. See the text of the decision.

(see para. 43)