



Reports of Cases

Case C-139/11

Joan Cuadrench Moré

v

Koninklijke Luchtvaart Maatschappij NV

(Reference for a preliminary ruling from the Audiencia Provincial de Barcelona)

(Air transport — Compensation and assistance to passengers — Denied boarding and cancellation or long delays of flights — Period allowed for commencing proceedings)

Summary — Judgment of the Court (Third Chamber), 22 November 2012

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 — The right of the passengers of those flights to compensation — Time-limit for bringing proceedings — Application of the national law on the limitation of actions

(European Parliament and Council Regulation No 261/2004, Arts 5 and 7; Council Regulation No 2027/97; 1999 Montreal Convention, Art. 35)

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 the time-limits for bringing actions for compensation under Articles 5 and 7 of that regulation are determined in accordance with the rules of each Member State on the limitation of actions.

Since Regulation No 261/2004 contains no provision on such time-limits and in the absence of provisions of EU law on the matter, it is for the domestic legal system of each Member State to lay down the detailed procedural rules governing actions for safeguarding rights which individuals derive from EU law, provided that those rules observe the principles of equivalence and effectiveness.

That conclusion cannot be called into question by the fact that Article 29 of the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, and Article 35 of the Convention for the Unification of Certain Rules for International Carriage by Air, concluded in Montreal on 28 May 1999, lay down a two-year limitation period for bringing an action for damages in respect of the rights granted by those conventions. The compensation measure laid down in Articles 5 and 7 of Regulation No 261/2004 falls outside the scope of those conventions. Consequently, the two-year limitation period laid down in those conventions cannot be considered to apply to actions brought, inter alia, under Articles 5 and 7 of Regulation No 261/2004.

In addition, the sole purpose of Regulation No 2027/97, on air carrier liability in the event of accidents, was to substitute certain provisions affording greater protection to passengers involved in air accidents than the provisions laid down by the Warsaw Convention, without, however, precluding the application of the remaining provisions, which included, in particular, the procedural rules for bringing an action for damages laid down in Article 29 of that convention. By contrast, Regulation No 261/2004 establishes a system to redress, in a standardised and immediate manner, the damage that is constituted by the inconvenience that delay and cancellations to flights cause, which operates at an earlier stage than the Montreal Convention and, consequently, is independent of the system stemming from that convention.

(see paras 24-29, 32, 33, operative part)