

**Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 27 July 2018 — ZW v Deutsche Lufthansa AG**

**(Case C-498/18)**

(2018/C 399/31)

*Language of the case: Spanish*

**Referring court**

Tribunal Supremo

**Parties to the main proceedings**

*Appellant: ZW*

*Respondent: Deutsche Lufthansa AG*

**Questions referred**

1. Can the period of two years in which to bring an action, laid down in Article 35(1) of the Montreal Convention, be interrupted or suspended?
2. Does the provision contained in Article 35(2) of the Montreal Convention, [...] [according to which] ... '[t]he method for calculating that period shall be determined by the law of the court seised of the case', allow it to be considered that a national legal provision on when the limitation period begins to run can prevail over the general provision contained in Article 35(1) whereby the limitation period begins with the arrival at the destination?

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**Request for a preliminary ruling from the Tribunalul Ilfov (Romania) lodged on 13 August 2018 — EP v FO**

**(Case C-530/18)**

(2018/C 399/32)

*Language of the case: Romanian*

**Referring court**

Tribunalul Ilfov

**Parties to the main proceedings**

*Applicant at first instance: EP*

*Respondent at first instance: FO*

**Questions referred**

1. Must Article 15 of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility<sup>(1)</sup> be interpreted as establishing an exception to the rule that the national courts of the place where the child is actually resident are to have jurisdiction?
2. Must Article 15 of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility be interpreted as meaning that the facts set out by a party to proceedings (namely: the child was born in France, her father is a French citizen, her blood relations in France include two sisters and a brother, a niece (her sister's daughter), her paternal grandfather, her father's current partner and their minor daughter, whereas she has no family ties on her mother's side in Romania, she attends French school, her upbringing and mentality have always been French, the language spoken at home between the parents and by the parents to the child has always been French) are factors indicating that the child has a particular connection with France, and must the national court therefore declare that the French courts are better placed to hear the case?

3. Must Article 15 of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility be interpreted as meaning that the procedural differences between the legislation of the two States, such as hearings held *in camera* by specialised judges, are subject to the best interests of the child for the purposes of that provision [of EU law]?

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<sup>(1)</sup> Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ 2003 L 338, p. 1).

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**Action brought on 12 September 2018 — European Commission v Italian Republic**

**(Case C-576/18)**

(2018/C 399/33)

*Language of the case: Italian*

**Parties**

*Applicant:* European Commission (represented by: B. Stromsky and D. Recchia, acting as Agents)

*Defendant:* Italian Republic

**Form of order sought**

The applicant claims that the Court should:

- declare that, by having failed to adopt all the measures necessary to ensure compliance with the judgment of the Court of 29 March 2012 in Case C-243/10, concerning the recovery from beneficiaries of the aid held to be unlawful and incompatible with the common market within the meaning of Commission Decision 2008/854/EC <sup>(1)</sup> of 2 July 2008, the Italian Republic has failed to fulfil its obligations under that decision and Article 260 TFEU;
- order the Italian Republic to pay to the Commission a lump sum, the amount of which is calculated by multiplying a *per diem* amount of EUR 13 892 by the number of days over which the failure to fulfil obligations persists, and representing a minimum of EUR 8 715 000, from the date of delivery of the judgment in Case C-243/10 until the date of judgment in the present case;
- order the Italian Republic to pay to the Commission a penalty on a half yearly basis, fixed by the Commission as from the semester following the date of judgment in the present case and equivalent to EUR 126 840 per day;
- order the Italian Republic to pay the costs of the proceedings.

**Pleas in law and main arguments**

By Decision 2008/854/EC of 2 July 2008, concerning an aid scheme for the hotel industry in Sardinia (Regional Law No 9 of 1998 — misuse of aid measure No 272/98), published in the *Official Journal of the European Union* L 302 of 13 November 2008, the Commission declared that the State aid in question granted by Italy was unlawful and incompatible with the internal market and ordered its recovery.

By judgment of 29 March 2012 in Case C-243/10, *Commission v Italy*, the Court declared that Italy had failed in its obligations under that decision by failing to adopt, within the prescribed period, all of the measures necessary to ensure recovery from the beneficiaries of the aid granted in the context of the scheme set out under that decision.

After a period of more than six years since that judgment, despite the numerous requests made by the Commission to the Italian Government, a large part of the aid in question has not yet been recovered. The arguments put forward in that respect by the Italian Government, in particular in relation to pending national proceedings, do not amount to valid justifications for such a failure. It therefore follows that, as at the date of filing of the present action, Italy has not yet recovered all of the aid and has thus not complied in full with the judgment of the Court in Case C-243/10.