

**Request for a preliminary ruling from the Tribunal Judicial da Comarca de Lisboa — Juízo Local Cível de Lisboa — Juiz 18 (Portugal) lodged on 31 January 2019 — LE v Transport Aéreos Portugueses S.A.**

**(Case C-74/19)**

(2019/C 148/17)

*Language of the case: Portuguese*

**Referring court**

Tribunal Judicial da Comarca de Lisboa — Juízo Local Cível de Lisboa — Juiz 18

**Parties to the main proceedings**

*Applicant:* LE

*Defendant:* Transport Aéreos Portugueses S.A.

**Questions referred**

1. Does the fact that a passenger, in the course of a flight, bites other passengers and assaults crew members who attempt to calm him to such an extent as to justify, according to the flight commander, a diversion to the nearest airport to disembark that passenger and unload his luggage, which results in the delayed arrival of the flight at its destination, fall within the concept of 'extraordinary circumstances', referred to in recital 14 of Regulation (EC) No 261/2004? <sup>(1)</sup>
2. Is an 'extraordinary circumstance' which occurs on an outward flight immediately preceding the return flight made by the same aircraft, relevant to exempt the air carrier from liability for the delay in the take-off of that latter flight onto which the complainant passenger (the applicant in this case) has boarded?
3. For the purposes of Article 5(3) of Regulation No 261/2004, does the analysis carried out by the airline (the defendant in this case), which concluded that sending another aircraft would not avoid the situation of delay and therefore the transfer of the transit passenger (the applicant in this case) to a flight scheduled for the following day, since the airline operates only one daily flight to the passenger's final destination, correspond to conduct by the airline in which it took all reasonable measures, even if it was not possible to remedy the delay?

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<sup>(1)</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

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**Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Lithuania) lodged on 4 February 2019 — E. E.**

**(Case C-80/19)**

(2019/C 148/18)

*Language of the case: Lithuanian*

**Referring court**

Lietuvos Aukščiausiasis Teismas

## Parties to the main proceedings

*Appellant:* E. E.

*Other parties:* A notary of the fourth notary office of the city of Kaunas, K.-D. E.

## Questions referred

1. Is a situation such as that in the case under examination — in which a Lithuanian national whose habitual place of residence on the day of her death was possibly in another Member State, but who in any event had never severed her links with her homeland, and who, inter alia, had drawn up, prior to her death, a will in Lithuania and left all of her assets to her heir, a Lithuanian national, and at the time of the opening of the succession it was established that the entire estate comprised immovable property located solely in Lithuania, and a national of that other Member State surviving his spouse expressed in clear terms his intention to waive all claims to the estate of the deceased, did not take part in the court proceedings brought in Lithuania, and consented to the jurisdiction of the Lithuanian courts and the application of Lithuanian law — to be regarded as a succession with cross-border implications within the meaning of Regulation No 650/2012 and to which that regulation must be applied?
2. Is a Lithuanian notary who opens a succession case, issues a certificate of succession rights and carries out other actions necessary for the heir to assert his or her rights to be regarded as a 'court' within the meaning of Article 3(2) of Regulation No 650/2012, <sup>(1)</sup> regard being had to the fact that, in their activities, notaries respect the principles of impartiality and independence, their decisions are binding upon themselves or judicial authorities and their actions may be the subject of judicial proceedings?
3. If the second question is answered in the affirmative, are certificates of succession rights issued by Lithuanian notaries to be regarded as being decisions within the meaning of Article 3(1)(g) of Regulation No 650/2012 and must jurisdiction for that reason be established for the purpose of issuing them?
4. If the second question is answered in the negative, should the provisions of Articles 4 and 59 of Regulation No 650/2012 (together or separately, but without limitation to those articles) be construed as meaning that Lithuanian notaries are entitled to issue certificates of succession rights without following general rules on jurisdiction and that such certificates will be held to be authentic instruments which also give rise to legal consequences in other Member States?
5. Must Article 4 of Regulation No 650/2012 (or other provisions thereof) be construed as meaning that the habitual place of residence of the deceased can be established in only one specific Member State?
6. Should the provisions of Articles 4, 5, 7 and 22 of Regulation No 650/2012 (together or separately, but without limitation to those articles) be construed and applied in such a way that, in the present case, in accordance with the facts as set out in the first question, it must be concluded that the parties concerned agreed that the courts in Lithuania should have jurisdiction and that Lithuanian law should be applied?

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<sup>(1)</sup> Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ 2012 L 201, p. 107).