

**Parties to the main proceedings**

*Applicant:* YL

*Defendant:* Altenrhein Luftfahrt GmbH

**Question referred**

Does a hard landing, albeit still made within the normal operating range of an aircraft, which results in injury to a flight passenger constitute an accident within the meaning of Article 17(1) of the Convention for the Unification of Certain Rules for International Carriage by Air concluded on 28 May 1999 in Montreal, signed on 9 December 1999 by the European Community and approved on its behalf by Council Decision 2001/539/EC of 5 April 2001? <sup>(1)</sup>

<sup>(1)</sup> 2001/539/EC: Council Decision of 5 April 2001 on the conclusion by the European Community of the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention) (OJ 2001 L 194, p. 38).

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**Appeal brought on 14 February 2020 by Lazarus Szolgáltató és Kereskedelmi Kft. 'in liquidation' against an order of the General Court (Tenth Chamber) delivered on 18 December 2019 in case T-763/18, Lazarus Szolgáltató és Kereskedelmi v Commission**

**(Case C-85/20 P)**

(2020/C 201/17)

*Language of the case: Hungarian*

**Parties**

*Appellant:* Lazarus Szolgáltató és Kereskedelmi Kft. 'in liquidation' (represented by L. Szabó, ügyvéd)

*Other party to the proceedings:* European Commission

**Form of order sought by the applicant**

- The appellant requests that the Court of Justice declare the appeal admissible and well founded and consequently annul the order given by the General Court (Tenth Chamber) on 18 December 2019 in Case T-763/18, *Lazarus Szolgáltató és Kereskedelmi v Commission*, of which the appellant was notified that same day.
- Further, the appellant requests that the Court of Justice refer the case back to the General Court for it to rule on the issues relating to the plea of inadmissibility which were not resolved by the order given at first instance.
- The appellant requests that the Court of Justice order the respondent to pay the costs of the first-instance proceedings and of the appeal, unless it refers the case back to the General Court, in which case it requests that the Court of Justice refrain from ruling on the costs of the first-instance proceedings and of the appeal, and that the decision be reserved until final judgment.

**Pleas in law and main arguments****I. Error in the legal characterisation of the facts and inadequacy of the statement of reasons.**

By its first ground of appeal, the appellant submits that the General Court did not take due account of the legal uncertainty arising from its knowledge of the contested decisions of the Commission.

The case-law referred to by the General Court deals with knowledge of the existence of decisions concerning or referring to the appellant.

The appellant brought an action against the decision taken by the national court to stay the proceedings because it disputed that the European Union's resolution on the contested decisions of the Commission constituted a preliminary question to be adjudicated in relation to the action for damages brought by Lazarus Kft. The appellant and its legal representative can only be considered to be one and the same person for legal purposes with regard to the case referred to in the general power of attorney to litigate executed by both of them, namely the action for damages brought before the national court.

Given that the power granted by the appellant to its legal representative referred exclusively to the action for damages brought before the national court, the legal representative did not have a duty to inform the appellant within a reasonable period, for the purposes of EU law, nor did they have an obligation to request the complete text of the decisions at issue, since their power did not extend that far. The appellant itself could only have made such a request personally from the moment it had knowledge that it was concerned by EU legislation.

## **II. Error in the interpretation and application of the case-law on the 'reasonable period'**

The case-law referred to by the General Court cannot be applied to the present case since the facts of the cases relied on are not identical to the present case.

## **III. Error in the characterisation of the Commission's letter of 24 February 2017**

The national court delivered a judgment dismissing the complaint from OPS Újpest Kft., on the basis of the contested informative letter from the respondent. That judgment harmed the appellant's interests and substantially altered its legal position, given that the national court declared, on the basis of the letter referred to, that the national authority had lawfully granted the aid.

## **IV. Infringement of the applicant's rights of defence. Infringement and misapplication of Article 126 of the Rules of Procedure of the General Court.**

Although the General Court decided to adopt measures of organisation of procedure, it did not give the parties notice to submit observations on whether the application had been made within the prescribed period. The General Court examined the issue of late submission for the first time in the order and rejected the application on that ground, without allowing the parties, and in particular the appellant, to make submissions or objections in that respect.

Given that that notice was not given, it was not possible to submit a document that could have supported the appellant's position that the application had been made within the prescribed period.

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**Request for a preliminary ruling from the Finanzgericht Düsseldorf (Germany) lodged on  
25 February 2020 — Rottendorf Pharma GmbH v Hauptzollamt Bielefeld**

(Case C-92/20)

(2020/C 201/18)

*Language of the case: German*

### **Referring court**

Finanzgericht Düsseldorf

### **Parties to the main proceedings**

*Applicant:* Rottendorf Pharma GmbH

*Defendant:* Hauptzollamt Bielefeld