



## Reports of Cases

### **Order of the Court (Eighth Chamber) of 3 October 2022 – Freebird Airlines Europe**

**(Case C-302/22)**

(Reference for a preliminary ruling – Article 99 of the Rules of Procedure of the Court of Justice – Air transport – Regulation (EC) No 261/2004 – Article 5(3) – Compensation for air passengers in the event of long delays to flights – Exemption from the obligation to pay compensation – Extraordinary circumstances – Collision between an aircraft and birds – Emergency braking manoeuvre leading to damage to the tyres of that aircraft)

*Transport – Air transport – Regulation No 261/2004 – Article 5(3) – Compensation and assistance to passengers – Cancellation or long delay of flights – Exemption from the obligation to pay compensation – Condition – Extraordinary circumstances – Concept – Interruption of the take-off phase of an aircraft caused by the collision of that aircraft with birds and resulting in an emergency braking manoeuvre damaging the tyres of that aircraft – Included – All reasonable measures taken by the air carrier to avoid cancellation or delay – Scope – To be determined by the national court*

*(European Parliament and Council Regulation No 261/2004, recitals 14 and 15 and Arts 5(3) and 7)*

*(see paragraphs 16-23, operative part)*

#### **Operative part**

Article 5(3) of 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,

must be interpreted as meaning that the interruption of the take-off phase of an aircraft caused by the collision of that aircraft with birds and resulting in an emergency braking manoeuvre damaging the tyres of that aircraft comes within the scope of the concept of ‘extraordinary circumstances’, for the purposes of that provision.