

# **LITHUANIA**

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## **Notion of a Vehicle Keeper and Liability of Vehicle Owner together with the Keeper**

*Civil claim in the penal case of SB*

Lithuanian Supreme Court

LSC 19 April 2016

No 2K-7-49-788/2016

## **Facts of the case**

- The claim was brought by 3 secondary victims in the penal case of D1 against him and his mother, D2
- D1 was sentenced to 4 years and 9 months imprisonment for injuring the victim in a traffic accident and abandoning him in a garage in a helpless situation to die
- The car belonged to D2



## **Decisions of the lower instance courts**

- The first instance court awarded to the wife € 12,814, to the adult son € 11,366 and to the adult daughter from the first marriage € 5,573 in non-pecuniary damages from D1 and D2 in solidum
- The appellate instance court affirmed
- The decision was appealed to the cassation court by both defendants. D2 contested her solidary liability for the damage, arguing that, according to the regulation, it was only the keeper of an object of a higher danger, in this case her grown-up son in his late twenties, who should be held liable for the damage

## **Regulation**

- Art 6.270(2) CC: A defendant in the cases established in this article shall be the keeper of a source of higher danger by the right of ownership or trust or any other legitimate grounds (loan for use, lease, or any other contract, by the power of attorney, etc).
- Art 6.270(3) CC: The keeper of a source of higher danger shall not be liable for damage caused if he proves to have lost the operation thereof due to unlawful actions of other persons. In such an event, liability shifts to the person or persons who unlawfully overtook the operation of a source of higher danger. If the loss of operation of a source of higher danger results also from the fault of the keeper, the latter and the person who seized the source of higher danger unlawfully shall be solidarily liable for the damage.

## Findings of the Lithuanian Supreme Court

- The keeper of an object of a higher danger is the person who has ***wilfully and legally accepted the operation*** of it from the first legal keeper.
- The transfer of the keeping occurs when the new person acquires a ***factual right to use the object*** and ***gains independent control over the object, even for a short period of time***.
- However, the liability of the first keeper of an object of a higher danger may rest ***on general grounds***, ie general tort liability rule.