



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 144/13

Luxembourg, 24 October 2013

Judgments in Case C-22/12

Katarína Haasová v Ratislav Petřík and Case C-277/12 Blanka Holingová
and Vitālijs Drozdovs v Baltikums AAS

If national law allows family members of the victim of a road traffic accident to seek compensation for non-material damage suffered, that compensation must be covered by compulsory insurance against civil liability in respect of the use of motor vehicles

In such a case, the minimum cover laid down under EU law for personal injuries also applies to non-material damage

The First Directive¹ on compulsory insurance requires the Member States to ensure that civil liability in respect of the use of motor vehicles normally based in their territory is covered by insurance. Although the Member States are free to determine the damage covered by that insurance and the detailed rules in that respect, the Second Directive² adopted in this field provides that insurance must cover personal injuries to a minimum amount of €1 million per victim or €5 million per claim, irrespective of the number of victims in the latter case. Similarly, it must also cover material damage to a minimum amount of €1 million per claim, irrespective of the number of victims.

Case C-22/12

Mr Haas was killed on 7 August 2008 in Czech territory in a road traffic accident caused by Mr Petřík, who was driving a private motor vehicle belonging to Mrs Holingová.

Mrs Holingová's car, registered in Slovakia and in which Mr Haas was a passenger, collided with a heavy goods vehicle registered in the Czech Republic. Mr Petřík, who was held responsible for that accident, was ordered, inter alia, to pay compensation to Mrs Haasová, the victims's wife, for the damage she suffered as a result of the accident. Nonetheless, Mrs Haasová and her daughter are also claiming, from Mrs Holingová's insurer, compensation for the non-material damage resulting from the loss of their husband and father.

The court before which the case was brought explains that Czech civil law, which it considers to be applicable in this case, enables a physical person to seek compensation for non-material damage resulting from an infringement of his personal rights. However, considering that compulsory insurance against civil liability in respect of the use of motor vehicles does not cover, under Slovak compulsory insurance law, non-material damage, Mrs Holingová's insurer refuses to pay such compensation.

The Krajský súd v Prešove (Regional Court of Prešove, Slovakia) asks the Court of Justice whether such compulsory insurance must cover compensation for non-material damage suffered by the next of kin of the deceased victims of a road traffic accident.

¹ Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability (OJ, English Special Edition 1972 (II), p. 360).

² Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (OJ 1984 L 8, p. 17), as amended by Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 (OJ 2005 L 149, p. 14).

In its judgment, the Court of justice finds, first of all, that the obligation to provide insurance cover against civil liability for damage caused to third parties by motor vehicles is distinct from the extent of the compensation to be afforded to them on the basis of the civil liability of the insured person. Whereas the former is defined and guaranteed by EU law, the latter is, essentially, governed by national law.

Thus, in principle the Member States remain free, in relation to their civil liability schemes, to determine, in particular, which damage caused by motor vehicles is to be compensated, the extent of such compensation and the persons who are entitled to it. However, the Court points out that it is in order to reduce the disparities which continued to exist between the laws of the Member States with respect to the extent of the obligation of insurance cover that EU law required compulsory cover against civil liability, for both damage to property and personal injuries, up to specified sums laid down in the Second Directive. The Member States are thus free to determine the damage covered and the terms and conditions of compulsory insurance, provided that they comply with the rules laid down under EU law.

Next, the Court points out that personal injuries, in respect of which cover is compulsory under the Second Directive, **includes any type of damage resulting from an injury to physical integrity**, including both physical and psychological suffering. Thus, **non-material damage, compensation for which is provided for as part of the civil liability of the insured person, under the national law** applicable in the dispute, **features among the types of damage in respect of which compensation must be provided in accordance with EU law.**

Finally, the Court states that the protection which must be assured under that directive extends to anyone who is entitled, under national civil liability law, to compensation for damage caused by motor vehicles. Since, in accordance with the information submitted by the Slovak court, Czech law grants Mrs Haasová and her daughter the right to compensation for the non-material damage suffered as a result of the death of their spouse and father, they should thus be able to benefit from the protection afforded by that directive.

Case C-277/12

In Latvia, although compensation for pain and psychological suffering caused by the death of the family's economic provider, a dependant or a spouse may be claimed from the insurer of the person responsible for a road traffic accident, it is limited, however, to LVL 100 (approximately €142) for each applicant and per deceased person.

On 14 February 2006, the parents of Vitālijs Drozdovs died in a road traffic accident in Riga (Latvia). Vitālijs Drozdovs, who is 10 years old, was placed under the supervision of his grandmother, who was also made his legal guardian. His guardian then requested the insurer of the person responsible for the road traffic accident to pay compensation in the amount of LVL 200 000 (approximately €284 820) for the non-material damage which her grandson has suffered as a result of the loss of his parents.

The Augstākās tiesas Senāts (Senate of the Supreme Court of Latvia), before which the dispute between Vitālijs Drozdovs and the insurer has been brought, first referred the same question to the Court of Justice as the Slovak court in Haasová and, second, asked whether the limitation under Latvian law on the maximum amount of compensation for non-material damage suffered as a result of a road traffic accident is compatible with EU law.

In the same way as it ruled in today's judgment in Hassová, the Court of Justice finds that, if national law allows family members of the victim of a road traffic accident to seek compensation for non-material damage suffered, that compensation must be covered by compulsory insurance against civil liability in respect of the use of motor vehicles. Since, according to the information submitted by the national court, Latvian law grants Mr Drozdovs the right to compensation for the non-material damage which he suffered as a result of the death of his parents, he should thus be able to benefit from the protection afforded by the First Directive.

The Court also finds that, if a Member State recognises the right to compensation for non-material damage suffered, it may not provide, for that specific category of damage – which falls under the category of personal injuries for the purposes of the Second Directive – maximum amounts to be guaranteed which are lower than the minimum amounts guaranteed under that directive. The Second Directive neither provides for nor makes a distinction between the damage covered, other than the distinction made between personal injuries and damage to property.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355