



Press and Information

Court of Justice of the European Union

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Luxembourg, 23 January 2014

Judgment in Case C-371/12

Petillo and Petillo v Unipol Assicurazioni SpA

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**The limitation of compensation payable for non-material damage resulting from minor physical injuries caused by road traffic accidents is in accordance with EU law**

*Italian legislation determines the extent of the victim's right to compensation but does not limit the insurance cover against civil liability*

On 21 September 2007, Mr Enrico Petillo suffered physical injuries as a result of a road traffic accident with Mr Mauro Recchioni. Mr Petillo brought an action against Unipol, Mr Recchioni's insurance company, seeking an order directing Unipol to pay compensation for the material and non-material damage suffered.

In Italy, the amount of compensation to be paid for non-material damage suffered by victims of road traffic accidents or accidents involving waterborne craft is calculated according to a specific scheme. That scheme lays down restrictions in comparison with the assessment criteria applied to damage arising from other types of accidents and limits the court's discretion to increase the amount of compensation in view of the circumstances of the case, restricting such an increase to one fifth of the amount provided for. Moreover, the Italian legislation provides that the civil liability of the insured person cannot exceed the amounts covered by compulsory insurance.

The Tivoli General Court (Rome, Italy) asks the Court of Justice if the directives on approximation of compulsory insurance against civil liability<sup>1</sup> preclude national legislation which, in the context of a particular scheme, limits the compensation payable for non-material damage resulting from minor physical injuries caused by road traffic accidents in comparison with the compensation allowed for identical damage arising from causes other than road traffic accidents.

In its judgment delivered today, the Court first points out that EU law requires the Member States to ensure that civil liability in respect of the use of vehicles normally based in their territory is covered by insurance. That obligation to ensure insurance cover is distinct from the extent of the compensation to be paid, which is determined and governed, essentially, by national law<sup>2</sup>. The directives at issue do not seek to harmonise the rules of the Member States governing civil liability and, in principle, the Member States remain free to determine which damage is to be compensated, the extent of such compensation and the persons who are entitled to it.

However, the Member States must exercise their powers in that field in compliance with EU law and may not deprive the directives of their effectiveness. In rendering the cover of certain types of

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<sup>1</sup>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) and Second 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).

<sup>2</sup> See Case [C-22/12 Haasová](#) and Case [C-277/12 Drozdovs](#) (see also Press Release [No 144/13](#)).

damage – including personal injuries<sup>3</sup> – mandatory, specifying fixed minimum amounts of cover, the directives at issue have restricted the freedom enjoyed by the Member States in that respect.

The Court then notes that, in Italian law, the Civil Code provides the legal basis of the right to compensation for non-material damage resulting from road traffic accidents, while the Private Insurance Code lays down the means of determining the extent of the right to compensation, as regards the damage to health arising from minor injuries. Thus, the Private Insurance Code determines the extent of the victim's right to compensation on the basis of the insured person's civil liability and does not limit the insurance cover against civil liability. The Court points out that nothing in the documents before the Court indicates that the amounts provided for under the Italian legislation are not in accordance with the minimum amounts established in the directives.

The Court then examines whether the Italian legislation automatically excludes or disproportionately limits the victim's right to compensation.

It finds that the directives do not require that the Member States adopt a particular scheme for determining the extent of the right to compensation. Moreover, provided that national legislation does not automatically exclude or disproportionately limit the victim's right to compensation, the directives do not preclude either legislation imposing binding criteria on national courts for the determination of the non-material damage to be compensated or specific schemes adapted to the particular circumstances of road traffic accidents, even if such schemes comprise, for some non-material damage, a method of determining the extent of the right to compensation which is less favourable than that applicable to other accidents.

The Court concludes that, in the present case, the guarantee that civil liability in respect of the use of motor vehicles, provided for under national law, must be covered by insurance in accordance with European Law is not affected.

Accordingly, **EU law does not preclude national legislation which, in the context of a specific compensation scheme for non-material damage resulting from minor physical injuries caused by road traffic accidents, limits the compensation payable for such damage in comparison with the compensation allowed for identical damage arising from causes other than those accidents.**

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**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.

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

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<sup>3</sup> The notion of 'personal injuries' covers any type of damage resulting from an injury to physical integrity (physical and psychological suffering), in so far as compensation for such damage is provided for as part of the civil liability of the insured person under national law.