



Press and Information

Court of Justice of the European Union

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Judgment in Case C-417/18

AW and Others v Lietuvos valstybė, represented by the Lietuvos Respublikos ryšių reguliavimo tarnyba, the Bendrasis pagalbos centras and the Lietuvos Respublikos vidaus reikalų ministerija

Telecommunications undertakings must transmit, free of charge, to the authority handling emergency calls made to ‘112’ information enabling the caller to be located

Member States must ensure that that requirement is applied even if the mobile telephone is not fitted with a SIM card

AW and Others are close relatives of ES, a girl aged 17 who was the victim of a criminal act. On 21 September 2013, at around 6.00 a.m., in a suburb of Panevėžys (Lithuania), ES was kidnapped, raped and burnt alive in the boot of a car. Finding herself trapped in that car boot, she had called, using a mobile telephone, the single European emergency call number ‘112’ 10 times, in order to seek help. However, the equipment in the emergency call answering centre did not show the number of the mobile telephone used, which prevented her from being located. It has not been possible to determine whether the mobile telephone used by ES was fitted with a SIM card or why her number was not visible at the emergency call answering centre.

AW and Others brought an action before the Vilniaus apygardos administracinis teismas (Regional Administrative Court, Vilnius, Lithuania) seeking an order requiring the Lithuanian State to pay compensation for the non-material damage suffered by the victim, ES, and by themselves. In support of their action they submit that Lithuania has failed properly to ensure practical implementation of the Universal Service Directive,¹ which provides that the Member States are to ensure that telecommunications undertakings make available, free of charge, to the authority handling emergency calls made to ‘112’, caller location information as soon as the call reaches that authority.² That rule applies to all calls made to the single European emergency call number ‘112’. That failure meant that it was impossible to pass on to operational police officers information on ES’s location, which prevented the police from coming to her assistance.

The Vilniaus apygardos administracinis teismas asks the Court of Justice, whether the Universal Service Directive requires Member States to ensure that such location information is made available even where the call is made from a mobile telephone which is not fitted with a SIM card and whether the Member States have some discretion when laying down the criteria relating to the accuracy and reliability of the information on the location of the caller to ‘112’ which enables them to limit that information to the identification of the base station which relayed the call.

In today’s judgment, the Court notes that it is apparent from the wording of the Universal Service Directive, that ‘all calls to the single European emergency call number’ are covered by the obligation to make caller location information available. Furthermore, the Court has previously held that the Universal Service Directive, in its original version, imposes on the Member States, subject to technical feasibility, an obligation to achieve a result, which is not limited to putting in place an appropriate regulatory framework, but which requires that the information on the location of all callers to ‘112’ be actually transmitted to the emergency services. Therefore, calls to ‘112’ made from a mobile telephone not fitted with a SIM card cannot be excluded from the scope of the Universal Service Directive.

¹ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (OJ 2002 L 108, p. 51), as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 (OJ 2009 L 337, p. 11).

² Article 26(5).

Consequently, the Court holds that **the Universal Service Directive requires the Member States, subject to technical feasibility, to ensure that the undertakings concerned make caller location information available free of charge to the authority handling emergency calls to '112' as soon as the call reaches that authority, including in cases where the call is made from a mobile telephone which is not fitted with a SIM card.**

Next, the Court finds that although the Member States enjoy some latitude when laying down the criteria relating to the accuracy and reliability of information on the location of the caller to 112, those criteria must, in any event, ensure, subject to technical feasibility, that the position of that caller is located as reliably and accurately as is necessary to enable the emergency services usefully to come to that caller's assistance. **The discretion enjoyed by the Member States in laying down those criteria is therefore limited by the need to ensure the usefulness of the information transmitted in enabling the caller to be effectively located and, therefore, in enabling the emergency services to intervene.** Since such an assessment is eminently technical and intimately linked to the specific characteristics of the Lithuanian mobile telecommunications network, it is for the national court to carry out that assessment.

Lastly, the Court notes that the conditions that must be satisfied in order for a Member State to incur non-contractual liability for loss and damage caused to individuals as a result of breaches of EU law for which it is responsible include that relating to the existence of a direct causal link between the breach of EU law and the non-contractual loss or damage sustained by those individuals. However, the conditions for reparation of loss and damage laid down by national law may not be less favourable than those relating to similar domestic claims.

Consequently, **where, in accordance with the domestic law of a Member State, the existence of an indirect causal link between the unlawful act committed by the national authorities and the damage sustained by an individual is regarded as sufficient to render the State liable, such an indirect causal link between a breach of EU law attributable to that Member State and the damage sustained by an individual must also be regarded as sufficient for the purposes of rendering that Member State liable for that breach of EU law.**

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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