



Press and Information

Court of Justice of the European Union

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Judgment in Case C-65/20
KRONE – Verlag

An article in a printed newspaper that provides inaccurate health advice relating to the use of a plant which, when followed, has proved injurious to the health of a reader, does not constitute a defective product within the meaning of EU law

Such an article cannot therefore render the publisher or printer of that newspaper liable without fault under the directive on liability for defective products

KRONE – Verlag is a newspaper company established in Austria. It is a media proprietor and the publisher of a regional edition of the *Kronen-Zeitung* newspaper. On 31 December 2016, it published an article in that newspaper on the benefits of grated horseradish poultices, signed by a member of a religious order who, as an expert in the field of herbal medicine, provides free advice in a column published daily by the newspaper.

The article read as follows:

‘Alleviating rheumatic pain

Fresh coarsely grated horseradish can help to reduce the pain experienced as a result of rheumatism. First, rub a fatty vegetable oil or lard into the affected areas, before applying a layer of grated horseradish to them and applying pressure. You can leave this layer on for two to five hours before then removing it. Its application has a positive draining effect.’

However, the length of time, between two and five hours, specified in the article, for which the substance should be applied, was, however, inaccurate, as the term ‘hours’ had been used instead of ‘minutes’. The applicant, an Austrian national, following the duration of the treatment set out in the article, applied the substance to her ankle joint for approximately three hours and removed it only after experiencing severe pain due to a toxic skin reaction.

Considering that she had suffered damage, the applicant made a claim for compensation for corporeal damage against KRONE – Verlag. As that claim was dismissed at first instance and on appeal, the applicant brought an appeal on a point of law before the Oberster Gerichtshof (Supreme Court, Austria).

Ruling on a question referred by that court, **the Court of Justice holds that a copy of a printed newspaper that, concerning paramedical matters, provides inaccurate health advice relating to the use of a plant which, when followed, has proved injurious to the health of a reader of that newspaper, does not constitute a ‘defective product’ within the meaning of the directive on liability for defective products.**¹

Findings of the Court

¹ Article 2 of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ 1985 L 210, p. 29), as amended by Directive 1999/34/EC of the European Parliament and of the Council of 10 May 1999 (OJ 1999 L 141, p. 20), read in the light of Articles 1 and 6 thereof.

The Court highlights at the outset that a product is defective within the meaning of the directive on liability for defective products² when it does not provide the safety which a person is entitled to expect. Its defective nature is determined on the basis of certain characteristics inherent to the product itself and related to, inter alia, its presentation, its use and the time when it was put into circulation.

Next, recalling that the fact that no provision is made in the directive for the possibility of liability for defective products in respect of damage caused by a service, of which the product is merely the medium, reflects the intentions of the EU legislature, the Court observes that, in this instance, the inaccurate advice does not relate to the printed newspaper of which it is the medium. More specifically, that service does not concern either the presentation or the use of the latter, with the result that that service is not part of the inherent characteristics of the printed newspaper which alone permit an assessment as to whether the product is defective.

Last, highlighting that the liability of service providers and the liability of manufacturers of finished products constitute two distinct liability regimes, as the activity of service providers cannot be equated with those of producers, importers and suppliers, the Court recalls that, having regard to the distinct characteristics of services, the liability regime applicable to providers should be governed by separate legislation.³

Therefore, according to the Court, **inaccurate health advice which is published in a printed newspaper and concerns the use of another physical item falls outside the scope of the directive on liability for defective products and is not such as to render that newspaper defective and the ‘producer’ strictly liable pursuant to that directive, whether they are the publisher or the printer of that newspaper or even the author of the article.**

In that regard, the Court specifies that although strict liability for defective products, provided for by the directive, is inapplicable to the present case, other systems of contractual or non-contractual liability based on other grounds, such as fault or a warranty in respect of latent defects, may be applicable.

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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² Article 6 of the directive.

³ Proposal for a Council Directive on the liability of suppliers of services COM(90) 482 final (OJ 1991 C 12, p. 8) submitted by the Commission on 9 November 1990.