



Court of Justice of the European Union

**PRESS RELEASE No 124/17**

Luxembourg, 28 November 2017

Judgment in Case C-514/16

Isabel Maria Pinheiro Vieira Rodrigues de Andrade and Fausto da Silva Rodrigues de Andrade v José Manuel Proença Salvador, Crédito Agrícola Seguros – Companhia de Seguros de Ramos Reais SA and Jorge Oliveira Pinto

Press and Information

**Damage caused by vehicles which are also intended to be used as machines for carrying out work must be covered by compulsory motor-vehicle insurance against civil liability only when such vehicles are being used principally as a means of transport**

*The fact that the vehicle is stationary or that its engine may not be running at the time of the accident does not, in itself, rule out the possibility that the function of the vehicle at that time is use as a means of transport*

In March 2006, Mrs Maria Alves died following an accident on the farm on which she was working. Mrs Alves was crushed by a tractor which had been stationary on a farm track, with its engine running in order to drive the pump of a herbicide sprayer. The tractor was carried away by a landslide caused by a number of factors, including the weight of the tractor, the vibrations produced by its engine and by the pump of the herbicide sprayer, and heavy rainfall. Mrs Alves' widower brought an action for damages for non-material loss resulting from the accident, seeking an order for damages against either the owners of the farm and the owners of the tractor, jointly and severally, or CA Seguros — the insurance company with which the owner of the vehicle had concluded an insurance contract against civil liability in respect of the use of the vehicle — in the event of that company being obliged to cover such a claim.

The First Directive relating to insurance against civil liability in respect of the use of motor vehicles<sup>1</sup> provides that civil liability in respect of the use of vehicles normally based in the territory of the Member States must be covered by insurance.

The Tribunal da Relação de Guimarães (Court of Appeal, Guimarães, Portugal) notes that, in a case concerning a reversing manoeuvre by an agricultural tractor,<sup>2</sup> the Court of Justice held that the concept of 'use of vehicles' encompasses any use of a vehicle that is consistent with the normal function of that vehicle. The Portuguese court takes the view that the circumstances of that case suggest that the normal function of a vehicle is to be in motion. It observes, however, that the Court of Justice has not yet ruled on the question whether the concept of 'use of vehicles' also covers the use of a vehicle as a machine generating motive power when the vehicle itself is not travelling. The Tribunal da Relação de Guimarães therefore queries whether in the light of both the objective of protecting victims that underlies EU legislation on compulsory insurance, and the need to ensure the uniform application of EU law, it would be justified to exclude from the scope of the concept of 'use of vehicles' the case of a stationary vehicle in which its normal function as a

<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; 'the First Directive'). Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (OJ 2009 L 263, p. 11) repealed the First Directive. However, in view of the date of the facts, the case is still governed by the First Directive.

<sup>2</sup> Case: [C-162/13](#) Vnuk; see Press Release No [117/14](#). In another case pending before it, the Court must provide further clarification of the concept of 'use of vehicles' in relation to an accident involving a military vehicle which took place on a military practice ground [C-334/16](#) Núñez Torreiro,.

machine generating motive power is being used in order to carry out another task, when such use is capable of causing serious or even fatal accidents.<sup>3</sup>

**By today's judgment, the Court holds that the concept of 'use of vehicles', within the meaning of the Directive, does not cover a situation in which an agricultural tractor has been involved in an accident when its principal function, at the time of that accident, was not to serve as a means of transport but to generate, as a machine for carrying out work, the motive power necessary to drive the pump of a herbicide sprayer.**

The Court notes first that the question raised by the Portuguese court is based on the premiss that the insurance contract entered into by the owner of the tractor is intended to cover only civil liability linked to the use of that tractor for transport purposes. Accordingly, the Court examines whether or not the situation that resulted in Mrs Alves' death may be classified as an accident linked to the use of the tractor, within the meaning of the Directive.

The Court goes on to observe that the concept of 'use of vehicles' cannot be left to the assessment of each Member State but is an autonomous concept of EU law, which must be interpreted uniformly.

The Court points out that **the concept of 'use of vehicles' within the meaning of the Directive does not depend on the characteristics of the terrain on which the vehicle is used and that it covers any use of a vehicle as a means of transport.** In that regard, the fact that the tractor was stationary when the accident occurred does not, in itself, preclude the use of that vehicle at that time from falling within the scope of its function as a means of transport and, therefore, within the scope of the concept of 'use of vehicles' within the meaning of the Directive. It adds that whether or not the tractor's engine was running at the time when the accident occurred is not conclusive in that respect. The Court observes, however, that **in the case of vehicles which are also intended to be used in certain circumstances as machines for carrying out work, it is necessary to determine whether, at the time of the accident involving such a vehicle, the vehicle was being used principally as a means of transport, in which case that use can be covered by the concept of 'use of vehicles' within the meaning of the Directive, or as a machine for carrying out work, in which case the use in question is not covered by that concept.** The Court concludes that **in the circumstances of this case it appears that the use of the tractor was principally connected with its function as a machine for carrying out work, namely as a machine generating the motive power required to drive the pump of the herbicide sprayer attached to it for the purpose of applying herbicide to the vines on the farm. Consequently, that use is not covered by the concept of 'use of vehicles' within the meaning of the Directive.**

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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 Portuguese, Estonian, Spanish, Latvian and UK Governments and Ireland have submitted observations in this case.