

Parties to the main proceedings

Appellant: Germanwings GmbH

Respondent: Wolfgang Pauels

Question referred

Is the damage to an aircraft tyre caused by a screw lying on the take-off or landing runway (foreign object damage/FOD) an extraordinary circumstance within the meaning of Article 5(3) of Regulation (EC) No 261/2004? ⁽¹⁾

⁽¹⁾ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, OJ 2004 L 46, p. 1.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 25 August 2017 — Spiegel Online GmbH v Volker Beck

(Case C-516/17)

(2017/C 392/19)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Spiegel Online GmbH

Defendant: Volker Beck

Questions referred

1. Do the provisions of EU law on the exceptions or limitations to the rights concerned laid down in Article 5(3) of Directive 2001/29/EC ⁽¹⁾ allow any latitude in terms of implementation in national law?
2. In which way are the fundamental rights of the Charter of Fundamental Rights of the European Union to be taken into account when determining the scope of the exceptions or limitations provided for in Article 5(3) of Directive 2001/29/EC to the exclusive right of authors to reproduce (Article 2(a) of Directive 2001/29/EC) and communicate to the public their works, including the right to make their works available to the public (Article 3(1) of Directive 2001/29/EC)?
3. Can the fundamental rights of freedom of information (second sentence of Article 11(1) of the Charter) or freedom of the media (Article 11(2) of the Charter) justify exceptions or limitations to the exclusive rights of authors to reproduce (Article 2(a) of Directive 2001/29/EC) and communicate to the public their works, including the right to make their works available to the public (Article 3(1) of Directive 2001/29/EC), beyond the exceptions or limitations provided for in Article 5(3) of Directive 2001/29/EC?
4. Is the making available to the public of copyright-protected works on the web portal of a press undertaking to be excluded from consideration as the reporting of current events not requiring permission as provided for in Article 5(3) (c), second case, of Directive 2001/29/EC, because it was possible and reasonable for the press undertaking to obtain the author's consent before making his works available to the public?

5. Is there no publication for quotation purposes under Article 5(3)(d) of Directive 2001/29/EC if quoted textual works or parts thereof are not inextricably integrated into the new text — for example, by way of insertions or footnotes — but are made available to the public on the Internet by means of a link in the form of PDF files which can be downloaded independently of the new text?
6. In determining when a work within the meaning of Article 5(3)(d) of Directive 2001/29/EC has already been made available lawfully to the public, should the focus be on whether that work in its specific form was published previously with the author's consent?

⁽¹⁾ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, OJ 2001 L 167, p. 10.

**Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on
28 August 2017 — Milkiyas Addis v Bundesrepublik Deutschland**

(Case C-517/17)

(2017/C 392/20)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Milkiyas Addis

Defendant: Bundesrepublik Deutschland

Questions referred

1. Does EU law preclude a Member State (in this case, Germany) from rejecting an application for international protection as inadmissible on the ground that refugee status has been granted in another Member State (in this case, Italy), in implementation of the power under Article 33(2)(a) of Directive 2013/32/EU ⁽¹⁾ or under the rule in Article 25(2)(a) of Directive 2005/85/EC ⁽²⁾ that preceded it, if the form which the international protection takes, and more specifically, the living conditions of persons qualifying as refugees, in the other Member State which has already granted the applicant international protection (in this case, Italy), does not satisfy the requirements of Article 20 et seq. of Directive 2011/95/EU but does not, in and of itself, infringe Article 4 of the Charter of Fundamental Rights of the European Union or Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms?
2. If Question 1 is to be answered in the affirmative, is this also the case where, although the persons qualifying as refugees in the Member State in which they so qualify (in this case, Italy)
 - (a) do not receive any subsistence benefits at all, or those which they do receive are very limited by comparison with those available in other Member States, they are to this extent not treated any differently from nationals of that Member State, and they
 - (b) are admittedly, granted the rights provided for under Article 20 et seq. of Directive 2011/95/EU but in fact have greater difficulty in accessing the related benefits or benefits under family or social networks which replace or supplement State benefits?