

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 10 August 2017 — Verbraucherzentrale Berlin e.V. v Unimatic Vertriebs GmbH

(Case C-485/17)

(2017/C 392/17)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Verbraucherzentrale Berlin e.V.

Defendant: Unimatic Vertriebs GmbH

Questions referred

1. Does a trade fair stand in a hall which is used by a trader for the purpose of selling his products during a trade fair taking place for a few days each year constitute immovable retail premises within the meaning of Article 2(9)(a) of Directive 2011/83/EU ⁽¹⁾ or movable retail premises within the meaning of Article 2(9)(b) of Directive 2011/83/EU?

2. If it constitutes movable retail premises:

Is the question whether a trader carries out his activity ‘on a usual basis’ on trade fair stands to be answered by reference to

(a) how the trader organises his activity or

(b) whether the consumer can expect to conclude a contract for the goods concerned at the trade fair in question?

3. If, in the answer to the second question, the perspective of the consumer is relevant (Question 2(b)):

In connection with the question whether the consumer can expect to conclude a contract for the goods concerned at the trade fair in question, must regard be had to how the trade fair is presented to the public or to how the trade fair actually appears to the consumer when he makes the contractual declaration?

⁽¹⁾ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council, OJ 2011 L 304, p. 64.

Request for a preliminary ruling from the Landgericht Köln (Germany) lodged on 18 August 2017 — Germanwings GmbH v Wolfgang Pauels

(Case C-501/17)

(2017/C 392/18)

Language of the case: German

Referring court

Landgericht Köln

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?