



**The conclusion of a contract of insurance against civil liability in respect of motor vehicles is compulsory where the vehicle concerned is registered in a Member State and has not been officially withdrawn from use**

*Such an obligation cannot be excluded merely because a registered vehicle is not, at a given time, capable of being driven on account of its technical state*

On 7 February 2018, the Powiat Ostrowski (District of Ostrów, Poland), a Polish local government authority, became the owner, by judicial means following a forfeiture order, of a vehicle registered in Poland. After service of that decision, on 20 April 2018, the district insured the vehicle from the next day the administration was open, Monday 23 April 2018.

Given its poor technical state, the Powiat Ostrowski decided to have the vehicle destroyed. On the basis of the certificate issued by the disassembly facility, the vehicle was deregistered on 22 June 2018.

On 10 July 2018, the Ubezpieczeniowy Fundusz Gwarancyjny (Insurance Guarantee Fund, Poland) imposed a fine of 4 200 Polish zlotys (PLN) (approximately EUR 933) on the Powiat Ostrowski for failing to fulfil its obligation to take out a contract of insurance against civil liability in respect of the use of that vehicle during the period from 7 February to 22 April 2018.

The Powiat Ostrowski brought an action before the Sąd Rejonowy w Ostrowie Wielkopolskim (District Court, Ostrów Wielkopolski) seeking a declaration that, during the period at issue, it was not obliged to insure the vehicle. That court asked the Court of Justice whether there was an obligation to conclude a contract of insurance against civil liability<sup>1</sup> in respect of a vehicle registered in a Member State, which is on private land, which is not capable of being driven on account of its technical state and which, in accordance with the choice of its owner, is to be destroyed.

By its judgment delivered today, the Court has held that the conclusion of a contract of insurance against civil liability in respect of the use of a motor vehicle is compulsory where the vehicle concerned is registered in a Member State, as long as that vehicle has not been officially withdrawn from use in accordance with the applicable national rules.

#### Findings of the Court

In the first place, the Court notes that the conclusion of a contract of insurance against civil liability in respect of the use of a motor vehicle is, in principle, compulsory for a vehicle registered in a Member State, which is on private land and is to be destroyed in accordance with the choice of its owner, even where that vehicle is not, at a given time, capable of being driven on account of its technical state.

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<sup>1</sup> Article 3, first paragraph, of Directive 2009/103 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).

In that regard, the Court points out that the concept of 'vehicle'<sup>2</sup> is objective and is independent of the use which is made or may be made of the vehicle in question or of the intention of the owner or of another person actually to use it.

The technical state of a vehicle may vary over time and whether it may be restored to a state in which it is capable of being driven depends on subjective factors, such as the intention of its owner or its keeper to carry out or have carried out the necessary repairs and the availability of the budget necessary for that purpose. Consequently, if the mere fact that a vehicle is not, at a given time, capable of being driven were sufficient to deprive it of its status as a vehicle and to exempt it from the insurance obligation, the objective nature of that concept of 'vehicle' would be called into question. Furthermore, the insurance obligation<sup>3</sup> is not linked to the use of the vehicle as a means of transport at a given time or to the question whether or not the vehicle concerned has caused damage. Consequently, a registered vehicle cannot be exempted from the insurance obligation by the mere fact that it is not, at a given time, capable of being driven on account of its technical state and is therefore not capable of causing loss or injury, even if that is the case as of the point at which the right of ownership is transferred. Similarly, the intention of the owner or of another person to have the vehicle destroyed cannot of itself lead to the conclusion that that vehicle loses its status as 'vehicle' and thereby avoids that insurance obligation. The classification as a 'vehicle' and the scope of the insurance obligation cannot be dependent on those subjective factors, since that would undermine the predictability, stability and continuity of that obligation, compliance with which is, however, necessary in order to ensure legal certainty.

In the second place, the Court holds that the obligation, in principle, to insure a vehicle registered in a Member State which is on private land and which is intended by its owner to be destroyed, even if, at a given time, that vehicle is not capable of being driven because of its technical state, is necessary, first, in order to ensure the protection of victims of traffic accidents, given that the intervention of the body providing compensation for damage to property or personal injuries caused by a vehicle which is not insured<sup>4</sup> is provided for only in cases in which taking out the insurance is compulsory. That interpretation guarantees that those victims are, in any event, compensated, either by the insurer, under a contract concluded for that purpose, or by the compensation body where the vehicle involved in the accident was not insured or where that vehicle has not been identified. Secondly, it ensures the best possible compliance with the objective of guaranteeing the free movement of both vehicles normally based in the territory of the European Union and of the persons who are travelling in them. It is only by ensuring robust protection of potential victims of motor vehicle accidents that it is possible to ask Member States<sup>5</sup> to refrain from carrying out systematic checks on the insurance of vehicles entering their territory from the territory of another Member State, which is essential in order to guarantee that free movement.

In the third place, the Court states that, in order for a vehicle to be exempted from the insurance obligation, it must be officially withdrawn from use, in accordance with the applicable national rules. While registration of a vehicle certifies, in principle, that it is capable of being driven and thus used as a means of transport, a registered vehicle may, objectively, be definitively not capable of being driven on account of its poor technical state. The finding that a vehicle is not capable of being driven and has lost its status as a 'vehicle' must, however, be made objectively. In that regard, although the deregistration of the vehicle may constitute such an objective finding, EU law<sup>6</sup> does not lay down the manner in which a vehicle may as a matter of law be withdrawn from use. Consequently, that withdrawal may, under the applicable national rules, be established other than by the deregistration of the vehicle in question.

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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

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<sup>2</sup> Article 1, point 1, of Directive 2009/103.

<sup>3</sup> Article 3, first paragraph, of Directive 2009/103.

<sup>4</sup> Article 10(1) of Directive 2009/103.

<sup>5</sup> Article 4 of Directive 2009/103.

<sup>6</sup> Directive 2009/103.

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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