PEOPIL ROAD TRAFFIC SIG CONFERENCE
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Update on CJEU Road Traffic Accident case law

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MID Overview

- Case law of the CJEU demonstrates the following tensions:

- Direct effect vs Interpretation
- Purposive interpretation: protection of injured victim vs economics of the Motor Insurance Market and free movement
- Imposition of responsibility (liability) on private persons (insurers) or the Guarantee Funds
- Application of the principle of effectiveness
- Application of the principle of proportionality
- Narrow technical interpretation vs general protection for injured victims

Case C-618/21, AR and five other cases, 30 March 2023

- Reference from the District Court for Warsaw
- Dispute over the method of assessment of loss: whether by reference to the costs of vehicle parts and labour or by reference to a valuation of the damage suffered according to a differential method, namely the difference between the value of the vehicle as at the date of the accident and the current value of the damaged vehicle
- No vehicle repair costs incurred as at trial; considered by the national Court to be hypothetical
- Question whether injured party can require the insurer to repair the vehicle or only provide compensation

AR Judgment

Held:

- Direct action under Article 18 concerned with the provision of the benefit which the insurer would have been required to provide the injured party, within the limits of the insurance contract. Where the benefit under the insurance contract is exclusively monetary in nature, then the payment of compensation is sufficient
- Issue arose as to whether cost of repairs recoverable where the injured person has sold the vehicle in its damaged state
- National courts entitled to ensure that the protection of rights guaranteed by the legal order of the EU does not result in unjust enrichment
- Obligation on the MS to exercise their powers which do not deprive EU law of its effectiveness by automatically excluding or disproportionately limiting the victim's right to compensation
- Article 18 read in conjunction with Article 3 precludes rules for the calculation of that compensation and conditions relating to its payment in so far as they would have the effect… of excluding or limiting the insurer's obligation under Article 3, to cover in full/all the compensation which the person responsible for the damage must provide to the injured party

Case C-86/23, HUK-COBURG II, 5 September 2024

- Reference from the Supreme Court of Cassation of Bulgaria
- Fatal accident in Germany. Involved the same accident as HUK-COBURG I, concerning Bulgarian nationals resident in Germany
- HUK-COBURG I (Case C-577/21) concerned a claim by the children of the deceased Passenger. In that case, the CJEU ruled that German law, when applying a narrow definition of non-pecuniary loss, by reference to pathological damage, did not conflict with EU law.
- In HUK-COBURG II, a claim for approximately 61 000 EUR was made in relation to the death in the RTA of their daughter by her parents for non-material loss, by reference to the Bulgarian principle of fairness (in circumstances where German law would have made an award of 5000 EUR)
- Is such a principle to be regarded as an overriding mandatory provision under Article 16 of the Rome II Regulation (864/2007)?

HUK-COBURG II Judgment

The CJEU considered its earlier ruling in Case C-149/18, Da Silva Martins, and held:

- Article 16 of the Rome II Regulation must be interpreted as meaning that a national provision under which compensation for non-material damage suffered by the close family members of a person who died in a road traffic accident is determined by the court on the basis of fairness, cannot be regarded as an overriding mandatory provision, within the meaning of the article, unless, where the legal situation in question has sufficiently close links with the Member State of the forum, the Court before which the case has been brought finds, on the basis of a detailed analysis of the wording, general scheme, objectives and the context in which that national provision was adopted, that respect for it is regarded as crucial in the legal order of the Member State, on the ground that it pursues an objective of safeguarding an essential public interest that cannot be achieved by the application of the law designated pursuant to Article 4 of that regulation

Case C-236/23, Matmut, 19 September 2024

- Reference from the Cour de Cassation, France
- PQ buys insurance from Matmut and states that he was the only driver of the insured vehicle
- PQ injured as a passenger in the vehicle driven by TN who was under the influence of alcohol
- In fact, TN was the owner of the vehicle and its usual driver; and had a previous conviction for drink-driving
- Can the nullity of the insurance contract be relied upon against the passenger victim where he/she is the policyholder and the person who made the false statement that led to the invalidity of the contract? If no, can the insurer claim against the policyholder for the reimbursement of the sums paid?

Matmut Judgment

Held:

- General principle that EU law cannot be relied upon for abusive or fraudulent ends, which general principle must be complied with by individuals
- MS must refuse to grant the benefit of the provisions of EU law where they are relied upon by a person … with the aim of benefitting from an advantage granted to that person by EU law when the objective conditions required for obtaining the advantage sought prescribed by EU law are met only formally
- Proof of abusive practice requires a combination of objective circumstances in which despite formal observance of the conditions laid down by the EU rules, the purpose of these rules has not been achieved, and a subjective element consisting in the intention to obtain an advantage from the EU rules by artificially creating the conditions laid down for obtaining it
- The preliminary view of the CJEU was that the constituent elements of abusive practice were not present, in which case it is not possible to apply nullity of the contract
- Also held that requiring reimbursement of all the sums paid is disproportionate

Case C-370/24, Nastolo, 30 April 2025

- Reference from the District Court, Lodi, Italy
- Accident involving a vehicle the local police found had been stolen
- Italian law provided that compensation payable only to passengers who had no knowledge that they were in a vehicle the use of which was unlawful; and that it is for the injured party to prove that he/she did not know the use of that vehicle was unlawful
- The victim passenger (AT) argued under Article 13 of the MID that the burden of proof is on the Guarantee Fund, and that national law should be disapplied

Nastolo Judgment

Held:

- Where the MS have imposed the obligation to compensate victims of accidents caused by stolen vehicles on the Guarantee Fund in place of the insurer, then the burden of proof which applied to the insurer, applies in like manner to the MS/compensation body. Similar to the burden of proof of knowledge that applies where a vehicle was uninsured
- The CJEU reviewed the case law on the duty to interpret national law to achieve the result required by the Directive
- Thus it will be for the referring Court to ensure that Directive 2009/103 is given full effect, and if necessary to disapply, of its own motion, the interpretation adopted by Italian courts, in so far as that interpretation is not consistent with EU law [para 46]
- This principle is subject to limitation that one cannot interpret national law contra legem
- Since the national rule in relation to the burden of proof is not clearly expressed in the legislative decree, an interpretation consistent with EU law would not be contra legem

Case C-490/24, Koskea, 12 February 2026

- Reference from the Hoge Raad der Nederlanden (Supreme Court of the Netherlands)

- ED was the driver of a minibus travelling at about 70km/h when a passenger sitting behind the driver suddenly pulled the handbrake, causing the vehicle to crash
- There were 2 insurance policies in existence. One covered the compulsory insurance of the use of the vehicle. The second policy covered the driver. Cover of the driver under the indemnity policy was refused because the driver had drunk alcohol before driving. The insurer under the compulsory policy argued that the circumstances of the accident were not covered by the policy because ED was the driver.
- Is the injured driver in a one-vehicle accident covered under the MID where the accident was caused by the conduct of a passenger?

Koskea Judgment

The CJEU held:

- The insurance cover referred to in Article 3 is to cover liability for personal injuries to all passengers, other than the driver
- There was a distinction drawn in the provisions of the MID between the driver and passengers
- The scope of civil law liability in tort is distinct from the personal scope of the compulsory insurance provided by the MID
- A passenger's interaction in the driving of a vehicle which causes an accident cannot have the effect of depriving the driver of that vehicle of his/her status as a driver
- Therefore, the damage suffered by the driver of the only vehicle involved in an accident does not have to be covered by the compulsory insurance

Concluding remarks

The case law indicates:

- A continuing tension between the overall purpose to protect injured victims, and the economic interests of insurers
- The outcome may depend on a detailed analysis of the applicable rules, and previous case law
- The results in the CJEU case law are not always predictable/pro-Claimant
- Query whether the CJEU is becoming more vigilant in fatal accident cases

Thank You

Enjoy the rest of the Conference !!!