

4. If the determination of actual data processing operations is relevant for the interpretation of the concept of ‘controller’, is the definition of ‘processing’ of personal data under Article 4(2) of the GDPR to be interpreted as also covering situations in which copies of personal data have been used for the testing of IT systems in the process for the acquisition of a mobile application?
5. Can joint control of data in accordance with Article 4(7) and Article 26(1) of the GDPR be interpreted exclusively as involving deliberately coordinated actions in respect of the determination of the purpose and means of data processing, or can that concept also be interpreted as meaning that joint control also covers situations in which there is no clear ‘arrangement’ in respect of the purpose and means of data processing and/or actions are not coordinated between the entities? Are the circumstance relating to the stage in the creation of the means of personal data processing (IT application) at which personal data were processed and the purpose of the creation of the application legally significant for the interpretation of the concept of joint control of data? Can an ‘arrangement’ between joint controllers be understood exclusively as a clear and defined establishment of terms governing the joint control of data?
6. Is the provision in Article 83(1) of the GDPR to the effect that ‘administrative fines ... shall ... be effective, proportionate and dissuasive’ to be interpreted as also covering cases of imposition of liability on the ‘controller’ when, in the process of the creation of an IT product, the developer also performs personal data processing actions, and do the improper personal data processing actions carried out by the processor always give rise automatically to legal liability on the part of the controller? Is that provision to be interpreted as also covering cases of no-fault liability on the part of the controller?

(¹) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the General Data Protection Regulation) (OJ 2016 L 119, p. 1).

Request for a preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) lodged on 12 November 2021 — Papierfabrik Doetinchem B.V. v Sprick GmbH Bielefelder Papier- und Wellpappenwerk & Co.

(Case C-684/21)

(2022/C 84/35)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Appellant: Papierfabrik Doetinchem B.V.

Respondent: Sprick GmbH Bielefelder Papier- und Wellpappenwerk & Co.

Questions referred

1. According to the case-law of the Court of Justice, the assessment as to whether the features of appearance of a product are dictated exclusively by its technical function must be made having regard to the design at issue, (¹) the objective circumstances indicative of the reasons which dictated the choice of features of appearance of the product concerned, information on its use or the existence of alternative designs which fulfil the same technical function (Court of Justice of the European Union, judgment of 8 March 2018, *DOCERAM*, C-395/16, EU:C:2018:172). With regard to the aspect of the existence of other designs, what significance is attached to the fact that the proprietor of the design also holds design rights for numerous alternative designs?

2. In the assessment as to whether the appearance is dictated exclusively by the technical function, is it necessary to take into account the fact that the design allows for a multicolour appearance in the case where the colour design is not, as such, apparent from the registration?
3. If Question 2 is answered in the affirmative: Does this affect the scope of protection of the design?

(¹) Within the meaning of Article 8 of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ 2002 L 3, p. 1).

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 15 November 2021 — YV v Stadtverkehr Lindau (B) GmbH

(Case C-685/21)

(2022/C 84/36)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: YV

Defendant: Stadtverkehr Lindau (B) GmbH

Question referred

Does ‘insurer’ within the meaning of Article 11(1) and Article 13(2) of Regulation (EU) No 1215/2012 (¹) include an undertaking which, although not an insurance undertaking, is liable under the applicable law as ‘quasi insurer’ for the motor vehicles kept by it, as if it were an insurer under the provisions of insurance law, due to a derogation from the obligation in respect of compulsory insurance within the meaning of Article 5(1) of Directive 2009/103/EC? (²)

(¹) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (OJ 2012 L 351, p. 1).

(²) 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 (codified version) (OJ 2009 L 263, p. 11).

Request for a preliminary ruling from the Nederlandstalige rechtbank van eerste aanleg Brussel (Belgium) lodged on 19 November 2021 — Recreatieprojecten Zeeland BV, Casino Admiral Zeeland BV, Supergame BV v Belgische Staat

(Case C-695/21)

(2022/C 84/37)

Language of the case: Dutch

Referring court

Nederlandstalige rechtbank van eerste aanleg Brussel

Parties to the main proceedings

Appellants: Recreatieprojecten Zeeland BV, Casino Admiral Zeeland BV, Supergame BV

Respondent: Belgische Staat