

in circumstances in which (6) the consumer is not represented by a legal professional, (7) and his defence may not be effectively mounted, without his consent, by a consumer protection association, qualified and authorised to pursue the objective under Article 7(1) of Directive 93/13/EEC, as transposed by Article 53a(1) and (2) of the Civil Code?

(¹) OJ L 1993, L 95 p. 25.

**Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 4 August 2017 —
Funke Medien NRW GmbH v Federal Republic of Germany**

(Case C-469/17)

(2017/C 382/36)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Defendant and appellant: Funke Medien NRW GmbH

Applicant and respondent: Federal Republic of Germany

Questions referred

1. Do the provisions of Union law on the exclusive right of authors to reproduce (Article 2(a) of Directive 2001/29/EC (¹)) and publicly communicate their works, including the right to make works available to the public (Article 3(1) of Directive 2001/29/EC), and the exceptions or limitations to these rights (Article 5(2) and (3) of Directive 2001/29/EC) 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 ascertaining the scope of the exceptions or limitations provided for in Article 5(2) and (3) of Directive 2001/29/EC to the exclusive right of authors to reproduce (Article 2(a) of Directive 2001/29/EC) and publicly communicate their works, including the right to make 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 publicly communicate their works, including the right to make works available to the public (Article 3(1) Directive 2001/29/EC), beyond the exceptions or limitations provided for in Article 5 (2) and (3) of Directive 2001/29/EC?

(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).