

to the recipients of income from debt-claims or loans granted to a coordination centre, within the meaning of Royal Decree No 187 of 30 December 1982 on the creation of coordination centres, subject to the condition that no right to use the tangible asset financed by means of those debt-claims or loans is conferred on a member of the group established in another Member State, by any company in the group, and not only by the company which acquires the tangible asset through that financing, and which uses it in Belgium in the exercise of its business activity?

**Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 11 January 2011 — Société Air France S.A. v Heinz-Gerke Folkerts and Luz-Tereza Folkerts**

(Case C-11/11)

(2011/C 95/07)

*Language of the case: German*

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Applicant:* Société Air France S.A.

*Defendant:* Heinz-Gerke Folkerts, Luz-Tereza Folkerts

**Questions referred**

1. Does a passenger have a right to compensation under Article 7 of 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,<sup>(1)</sup> in the case where departure was delayed for a period which is below the limits specified in Article 6(1) of that regulation, but arrival at the final destination was at least three hours later than the scheduled arrival time?
2. If the first question is answered in the negative:

For the purpose of determining whether there was a delay, within the terms of Article 6(1) of Regulation No 261/2004, in the case of a flight consisting of several stages, should reference be made to the individual stages or to the distance to the final destination?

<sup>(1)</sup> OJ 2004 L 46, p. 1.

**Reference for a preliminary ruling from the Tribunal da Relação de Guimarães (Portugal) lodged on 11 January 2011 — Maria das Dores Meira da Silva v Zurich — Companhia de Seguros SA**

(Case C-13/11)

(2011/C 95/08)

*Language of the case: Portuguese*

**Referring court**

Tribunal da Relação de Guimarães

**Parties to the main proceedings**

*Applicant:* Maria das Dores Meira da Silva

*Defendant:* Zurich — Companhia de Seguros SA

**Questions referred**

1. In a road-traffic accident involving a motor vehicle and a pedestrian crossing the road, in which the pedestrian suffers personal and material damage, is the exclusion of compensation for such loss where the loss-causing event is due to the conduct of the pedestrian — in accordance with Articles 505 and 570 of the Portuguese Civil Code as interpreted — contrary to Community law and in particular to Articles 3(1) of the First Directive (72/166/EEC),<sup>(1)</sup> 2(1) of the Second Directive (84/5/EEC)<sup>(2)</sup> and 1a of the Third Directive (90/232/EEC),<sup>(3)</sup> inserted by Article 4 of the Fifth Directive (2005/14/EC)<sup>(4)</sup> (all relating to insurance against civil liability in respect of the use of motor vehicles), in the light of the case-law of the Court of Justice concerning the circumstances in which compensation on the basis of compulsory motor vehicle insurance may be excluded?
2. If the answer is in the affirmative, that is, that such an exclusion of compensation is contrary to Community law, is the interpretation of the abovementioned provisions of Portuguese civil law to the effect that such compensation may be limited or reduced having regard to the fault of the pedestrian, on the one hand, and the risk posed by the motor vehicle, on the other, in causing the accident, consistent with the Community directives referred to?

<sup>(1)</sup> Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability (OJ, English Special Edition 1972 (II), p. 360).

<sup>(2)</sup> Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (OJ 1984 L 8, p. 17).

<sup>(3)</sup> Third Council Directive 90/232/EEC of 14 May 1990 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (OJ 1990 L 129, p. 33).

<sup>(4)</sup> Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles (OJ 2005 L 149, p. 14).