

Order of the Court (Ninth Chamber) of 18 April 2013
(request for a preliminary ruling from the Landgericht
Köln — Germany) — Germanwings GmbH v Thomas
Amend

(Case C-413/11) ⁽¹⁾

*(Article 99 of the Rules of Procedure — Air transport —
Regulation (EC) No 261/2004 — Passengers' right to
compensation in the event of long delay to a flight —
Principle of the separation of powers in the European Union)*

(2013/C 225/69)

Language of the case: German

Referring court

Landgericht Köln

Parties to the main proceedings

Applicant: Germanwings GmbH

Defendant: Thomas Amend

Re:

Request for a preliminary ruling — Landgericht Köln — Interpretation of Articles 5, 6, 7, 8(1)(a) and 9 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 (OJ 2004 L 46, p. 1) — Right to compensation in the event of delay — Limits of the jurisdiction of the Court — Scope of the interpretation given in the judgment of the Court of 19 November 2009 in Joined Cases C-402/07 and C-432/07 *Sturgeon and Others*, extending, by analogy, the right to compensation to delay to a flight

Operative part of the order

The interpretation given by the Court to 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, to the effect that passengers whose flights are delayed have a right to compensation where they reach their final destination three hours or more after the arrival time initially scheduled, even though, first, Article 6 of that regulation, relating to delay, provides only for the application of measures of assistance and of care and, secondly, reference is made to Article 7 of that regulation, relating to the right to compensation, only in situations of denied boarding and flight cancellation, has no bearing on the principle of the separation of powers in the European Union.

⁽¹⁾ OJ C 319, 29.10.2011, p. 9.

Order of the Court (Tenth Chamber) of 21 March 2013
(request for a preliminary ruling from the Tribunal
da Relação de Guimarães — Portugal) — Jonathon
Rodrigues Esteves v Companhia de Seguros Allianz
Portugal SA

(Case C-486/11) ⁽¹⁾

*(Article 99 of the Rules of Procedure — Insurance against
civil liability in respect of the use of motor vehicles —
Directives 72/166/EEC, 84/5/EEC, 90/232/EEC and
2005/14/EC — Right to compensation by means of
compulsory insurance against civil liability in respect of the
use of motor vehicles — Victim's contribution to loss or injury
— Exclusion or limitation of the right to compensation)*

(2013/C 225/70)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Guimarães

Parties to the main proceedings

Applicant: Jonathon Rodrigues Esteves

Defendant: Companhia de Seguros Allianz Portugal SA

Re:

Request for a preliminary ruling -Tribunal da Relação de Guimarães — Interpretation of Article 1a of 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) — National provisions allowing the exclusion of the right of victims to compensation for accidents on the basis of an individual assessment of their contribution to the accident

Operative part of the order

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, 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, and 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 must be interpreted as not precluding national provisions falling within civil liability law that allow exclusion or limitation of the right of the victim of an accident to claim compensation under the civil liability insurance of

the motor vehicle involved in the accident, on the basis of an individual assessment of the exclusive or partial contribution of that victim to his own loss or injury.

(¹) OJ C 355, 3.12.2011.

**Order of the Court (Tenth Chamber) of 16 May 2013
(request for a preliminary ruling from the Consiglio di Stato — Italy) — Consulta Regionale Ordine Ingegneri della Lombardia and Others v Comune di Pavia**

(Case C-564/11) (¹)

(Article 99 of the Rules of Procedure — Public contracts — Directive 2004/18/EC — Article 1(2)(a) and (d) — Services — Study and technical and scientific consultancy for the purposes of drawing up the measures forming a municipal town and country planning programme — Contract concluded between two public entities, one of which is a university — Public entity capable of being classified as an economic operator)

(2013/C 225/71)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: Consulta Regionale Ordine Ingegneri della Lombardia, Ordine degli Ingegneri della Provincia di Brescia, Ordine degli Ingegneri della Provincia di Como, Ordine degli Ingegneri della Provincia di Cremona, Ordine degli Ingegneri della Provincia di Lecco, Ordine degli Ingegneri della Provincia di Lodi, Ordine degli Ingegneri della Provincia di Milano, Ordine degli Ingegneri della Provincia di Pavia, Ordine degli Ingegneri della Provincia di Varese

Respondent: Comune di Pavia

In the presence of: Università degli Studi di Pavia

Re:

Request for a preliminary ruling — Consiglio di Stato — Interpretation of Article 1(2)(a) and (d), Article 2 and Article 28 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114), and of Categories 8 and 12 of Annex II thereto — Award of a public procurement contract outwith the procurement procedures provided for under that directive — Contract entered into by two public administrative authorities, under which the supplier of services is a university and the consideration is in essence non-remunerative

Operative part of the order

European Union public procurement law precludes national legislation under which public entities may, without issuing an invitation to tender, enter into a contract establishing mutual cooperation, where — this being for the referring court to determine — the purpose of such a contract is not to ensure the performance of a public service task incumbent upon all those entities, or where that contract is not governed solely by considerations and requirements relating to the pursuit of objectives in the public interest, or where that contract is of such a nature as to place a private provider of services in a position of advantage vis-à-vis its competitors.

(¹) OJ C 73, 10.3.2012

Order of the Court (Fifth Chamber) of 7 May 2013 — Dow AgroSciences Ltd, Dow AgroSciences LLC, Dow AgroSciences SAS, Dow AgroSciences Export SAS, Dow AgroSciences BV, Dow AgroSciences Hungary kft, Dow AgroSciences Italia srl, Dow AgroSciences Polska sp. z o.o., Dow AgroSciences Iberica SA, Dow AgroSciences s.r.o., Dow AgroSciences Danmark A/S, Dow AgroSciences GmbH v European Commission

(Case C-584/11 P) (¹)

(Appeal — Plant protection products — Active substance trifluralin — Non-inclusion in Annex I to Directive 91/414/EEC — Decision 1999/468/EC — Article 5)

(2013/C 225/72)

Language of the case: English

Parties

Appellants: Dow AgroSciences Ltd, Dow AgroSciences LLC, Dow AgroSciences SAS, Dow AgroSciences Export SAS, Dow AgroSciences BV, Dow AgroSciences Hungary kft, Dow AgroSciences Italia srl, Dow AgroSciences Polska sp. z o.o., Dow AgroSciences Iberica SA, Dow AgroSciences s.r.o., Dow AgroSciences Danmark A/S, Dow AgroSciences GmbH (represented by: K. Van Maldegem and C. Mereu, avocats)

Other party to the proceedings: European Commission (represented by: G. von Rintelen and P. Ondrůšek, acting as Agents, and by J. Stuyck, advocaat)

Re:

Appeal brought against the judgment of the General Court (Third Chamber) of 9 September 2011 in Case T-475/07 *Dow AgroSciences and Others v Commission* dismissing an action for annulment of Commission Decision 2007/629/EC of 20 September 2007 concerning the non-inclusion of trifluralin in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant-protection products containing that substance (notified under document number C(2007) 4282) (OJ 2007 L 255, p. 42)