Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

10 June 2021 *

(Reference for a preliminary ruling – Compulsory insurance against civil liability in respect of the use of motor vehicles – Directive 2009/103/EC – Article 1, points 1 and 2 – Article 3, first, second and final paragraphs – Concept of 'vehicle' – Obligation to cover damage to property – Scope – Traffic accident involving an articulated vehicle the parts of which are covered by separate compulsory insurance – Damage caused to the semi-trailer by the tractor vehicle to which it was coupled when the accident occurred – Interpretation of national legislation excluding cover for that damage by the compulsory insurance against civil liability in respect of the use of that road tractor)

In Case C-923/19,

REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Supremo (Supreme Court, Spain), made by decision of 28 November 2019, received at the Court on 17 December 2019, in the proceedings

Van Ameyde España SA

v

GES, Seguros y Reaseguros SA,

THE COURT (Fifth Chamber),

composed of E. Regan, President of the Chamber, M. Ilešič, E. Juhász, C. Lycourgos and I. Jarukaitis (Rapporteur), Judges,

Advocate General: M. Bobek,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Van Ameyde España SA, by I. Castizo Reyes, procuradora, and V. Muñoz Mundina, abogado,

– GES, Seguros y Reaseguros SA, by A.M. Álvarez-Buylla Ballesteros, procurador, and J.A. Moreno Martínez de Azcoytia, abogado,

* Language of the case: Spanish.

– the Spanish Government, by M.J. Ruiz Sánchez, acting as Agent,

– the European Commission, by H. Tserepa-Lacombe and J. Rius, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 23 February 2021,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of the final sub-paragraph of Article 3 of 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 (OJ 2009 L 263, p. 11), read in conjunction with Article 1 of that directive.

2 The request has been made in proceedings between Van Ameyde España SA ('Van Ameyde') and GES, Seguros y Reaseguros SA ('GES Seguros') concerning a claim for compensation for damage to property caused to a semi-trailer in a road traffic accident involving an articulated vehicle.

Legal context

EU law

3 Directive 2009/103 states the following in recitals 1 to 3 and 20:

'(1) 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)], 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)], 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)] and Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (Fourth motor insurance Directive) [(OJ 2000 L 181, p. 65)] have been substantially amended several times …. In the interests of clarity and rationality those four Directives should be codified, as well as Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 amending Council Directives [72/166], [84/5], 88/357/EEC and [90/232], and Directive [2000/26] 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)].

(2) Insurance against civil liability in respect of the use of motor vehicles (motor insurance) is of special importance for European citizens, whether they are policyholders or victims of an accident. It is also a major concern for insurance undertakings as it constitutes an important part of non-life insurance business in the [European Union]. Motor insurance also has an impact on the free movement of persons and vehicles. …

(3) Each Member State must take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance. The extent of the liability covered and the terms and conditions of the insurance cover are to be determined on the basis of those measures.

…

(20) Motor vehicle accident victims should be guaranteed comparable treatment irrespective of where in [the European Union] accidents occur.'

4 Article 1 of that directive contains the following definitions:

'For the purposes of this Directive:

(1) "vehicle" means any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled;

(2) "injured party" means any person entitled to compensation in respect of any loss or injury caused by vehicles;

…'

5 Article 3 of that directive, entitled 'Compulsory insurance of vehicles', provides:

'Each Member State shall, subject to Article 5, take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance.

The extent of the liability covered and the terms and conditions of the cover shall be determined on the basis of the measures referred to in the first paragraph.

…

The insurance referred to in the first paragraph shall cover compulsorily both damage to property and personal injuries.'

6 Article 5 of that directive, entitled 'Derogation from the obligation in respect of compulsory insurance of vehicles', provides:

'1. A Member State may derogate from Article 3 in respect of certain natural or legal persons, public or private; a list of such persons shall be drawn up by the State concerned and communicated to the other Member States and to the [European] Commission.

…

2. A Member State may derogate from Article 3 in respect of certain types of vehicle or certain vehicles having a special plate; the list of such types or of such vehicles shall be drawn up by the State concerned and communicated to the other Member States and to the Commission.

…'

7 Article 12 of Directive 2009/103, entitled 'Special categories of victim' provides:

'1. Without prejudice to the second subparagraph of Article 13(1), the insurance referred to in Article 3 shall cover liability for personal injuries to all passengers, other than the driver, arising out of the use of a vehicle.

2. The members of the family of the policyholder, driver or any other person who is liable under civil law in the event of an accident, and whose liability is covered by the insurance referred to in Article 3, shall not be excluded from insurance in respect of their personal injuries by virtue of that relationship.

3. The insurance referred to in Article 3 shall cover personal injuries and damage to property suffered by pedestrians, cyclists and other non-motorised users of the roads who, as a consequence of an accident in which a motor vehicle is involved, are entitled to compensation in accordance with national civil law.

This Article shall be without prejudice either to civil liability or to the quantum of damages.'

National law

8 The texto refundido de la Ley sobre responsabilidad civil y seguro en la circulación de vehículos a motor (consolidated text of the Law on civil liability and insurance for the use of motor vehicles), approved by Real Decreto Legislativo 8/2004 (Royal Legislative Decree 8/2004) of 29 October 2004 (BOE No 267 of 5 November 2004, p. 36662), in the version applicable to the dispute in the main proceedings ('the Law on motor vehicle insurance'), provides, in paragraph 1 of Article 1, entitled 'Civil liability':

'In view of the risk posed by the use of motor vehicles, drivers of motor vehicles are liable for loss or injury to persons or damage to property by such use.

…

The driver shall be liable to third parties for damage to property if he or she bears civil liability under the provisions of Article 1902 et seq. of the Código Civil [Civil Code], Article 109 et seq. of the Código Penal [Criminal Code] or the provisions of this Law.

…

Vehicle owners who were not driving and are related to the driver in one of the ways set out in Article 1903 of the [Civil Code] and Article 120(5) of the [Criminal Code] shall be liable for any physical injury or damage to property caused by the driver. The owners shall cease to have any such liability if they demonstrate that they exercised all the care expected of a prudent person to prevent the loss or injury.

…'

9 Article 2 of the Law on motor vehicle insurance, entitled 'Requirement to have insurance', provides, in the first subparagraph of paragraph 1, the following:

'Owners of motor vehicles that are normally based in Spain shall be required to take out and maintain in force a contract of insurance, for each vehicle which they own, covering the civil liability referred to in Article 1 up to the limits established for compulsory insurance. However, the owner is exempt from that obligation where an insurance contract has been concluded by any other person who has an interest in that insurance and has indicated the basis on which he or she concluded that contract.'

10 Article 5 of that law, entitled 'Material scope and exclusions', provides in paragraph 2:

'The compulsory insurance shall not cover material damage to the insured vehicle, to the goods transported in it or to goods owned by the policyholder, the insured, the owner or the driver [of the vehicle], or by the spouse or relatives of said persons up to the third degree of consanguinity or affinity.'

11 The Reglamento del seguro obligatorio de responsabilidad civil en la circulación de vehículos a motor (Regulation on compulsory insurance against civil liability for the use of motor vehicles), approved by Real Decreto 1507/2008 (Royal Decree 1507/2008) of 12 September 2008 (BOE No 222 of 13 September 2008, p. 37487) ('the compulsory motor insurance regulation'), provides in Article 1(1):

'For the purposes of civil liability for the use of motor vehicles and the requirement for insurance, "motor vehicle" means any vehicle intended for travel on land and powered by an engine, including mopeds, special-purpose vehicles, trailers and semi-trailers … Trailers, semi-trailers and special towed machinery with a maximum authorised mass not exceeding 750 kilograms are exempt from the requirement for insurance …'

12 Article 19 of the compulsory motor insurance regulation, entitled 'Multiple losses, injuries or damage and multiple persons responsible', provides in paragraph 2:

'If, as a result of the same incident involving two or more vehicles covered by their respective compulsory insurance, damage is caused to third parties, each insurer of the vehicles responsible is to contribute to complying with the legal obligations, taking into account the liability of each of the vehicles involved where it can be established, or otherwise in accordance with what has been agreed in the agreements between insurance companies; failing this, each insurer is to contribute in proportion to the engine power of the vehicles concerned.

Where the two vehicles involved are a tractor unit and the trailer or semi-trailer that is coupled to it, or two trailers or semi-trailers, and it is not possible to determine the extent of their respective liability, each insurer shall contribute to the said obligations in accordance with the provisions established in the agreements between insurance companies; failing that, the insurers' contributions shall be proportional to the amount of the annual insurance premium for each vehicle listed in the insurance policy taken out.'

The dispute in the main proceedings and the question referred for a preliminary ruling

13 On 3 April 2014, a road traffic accident involving an articulated vehicle composed of a road tractor ('the road tractor') and a semi-trailer ('the semi-trailer') occurred, during which the semi-trailer was damaged. It has been established that it was the negligence of the driver of the road tractor which caused that accident and that the damage caused to the semi-trailer was solely attributable to the driver.

14 The road tractor was the property of Doctrans Transportes Rodoviarios de Mercadería Lda, a company incorporated under Portuguese law, and it was insured for compulsory civil liability in respect of its use by Açoreana, also incorporated under Portuguese law, represented in Spain by Van Ameyde. The semi-trailer belonged to Caixarenting SAU, which had leased it under a finance lease to Primafrío SL. Primafrío SL had taken out an insurance policy for material damage to the semi-trailer with GES Seguros, and the compulsory insurance against civil liability in respect of the use of the semi-trailer was taken out with Seguros Bilbao SA, which is not party to the proceedings before the referring court.

15 GES Seguros paid Primafrío the sum of EUR 34 977.33 as compensation for the damage caused to the semi-trailer, and on 13 March 2015, it brought an action before the Juzgado de Primera Instancia No 1 de La Palma del Condado (Court of First Instance No 1, La Palma del Condado, Spain) seeking an order that Van Ameyde pay that sum as compensation, together with interest at the statutory rate. In support of that action, GES Seguros claimed inter alia that, in accordance with the legislation in force at the material time, the road tractor and the semi-trailer were separate vehicles belonging to different owners, and each was covered by compulsory insurance against civil liability in respect of their use, so that the semi-trailer could not be regarded as the load of the tractor or as being goods transported by the tractor for the purposes of Article 5(2) of the Law on motor vehicle insurance. Consequently, according to GES Seguros, the exclusion from compulsory insurance cover against civil liability in respect of the use of motor vehicles, provided for in that provision, was not applicable. Van Ameyde contested that action.

16 The action was dismissed by judgment of 14 July 2016 on the ground that the semi-trailer had to be regarded as a load or as goods transported by the road tractor, and GES Seguros brought an appeal before the Audiencia Provincial de Huelva (Provincial Court, Huelva, Spain), which upheld the appeal by judgment of 22 December 2016.

17 That court held that the exclusion of the compulsory insurance cover under Article 5(2) of the Law on motor vehicle insurance in respect of material damage to goods transported in the insured vehicle did not apply and that, consequently, damage to the semi-trailer was indeed covered by compulsory insurance against civil liability in respect of the use of the road tractor. According to that court, the semi-trailer could not be regarded as the load of the road tractor since, in particular, the exclusion concerned refers to the damage caused not to goods transported 'by' the insured vehicle but to goods transported 'in' the insured vehicle.

18 Van Ameyde brought an appeal on a point of law against that judgment of 22 December 2016 before the Tribunal Supremo (Supreme Court, Spain), the referring court, claiming that, under Article 5(2), damage caused to the semi-trailer is excluded from compulsory insurance cover against civil liability in respect of the use of the road tractor. In that regard, Van Ameyde submits in particular that, when the accident occurred, the road tractor and the semi-trailer formed a 'functional unit'.

19 The referring court observes that, although the road tractor and the semi-trailer constitute independent vehicles, each subject, as such, to the insurance obligation, Directive 2009/103 does not contain any express provision relating to the manner in which liability is to be determined, whether as against third parties or each other, in the event of an accident involving an articulated vehicle made up of those two components. It states, however, that, according to its own case-law, liability for the various components of an articulated vehicle is joint and several vis-à-vis injured third parties and that Article 19(2) of the compulsory motor insurance regulation governs the internal allocation of liability. That provision does not, however, determine how the insurers of the various vehicles which make up an articulated vehicle must apportion liability where, as in the case before it, the damage suffered by one of them is attributable exclusively to the other. Therefore, that provision does not resolve the issue whether the material damage caused to the semi-trailer must be covered by the compulsory insurance against civil liability for the tractor vehicle.

20 In that regard, the referring court cites Article 5(2) of the Law on motor vehicle insurance and states that the conflicting interpretations of that provision, adopted in the present case at first instance and on appeal, are also to be found in the case-law of the Audiencias Provinciales (Provincial Courts). Faced with that conflict, it asks whether the interpretation of that provision to the effect that it excludes from cover by compulsory insurance against civil liability in respect of the use of a road tractor damage caused to the semi-trailer which is coupled to it, in circumstances such as those pending before that court, on the ground that that semi-trailer can be equated with the load of that road tractor or to goods transported by it, or on the ground that the road tractor and the semi-trailer form a single vehicle and their respective compulsory insurance policies cover only damage to property of third parties other than the owners of each of those vehicles, vitiates or reduces the cover for damage to property in the compulsory motor vehicle insurance provided for in the final paragraph of Article 3 of Directive 2009/103, read in conjunction with Article 1 of that directive.

21 In those circumstances, the Tribunal Supremo (Supreme Court) decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

‘Does the final paragraph of Article 3 of [Directive 2009/103], read in conjunction with Article 1 of that directive, preclude an interpretation of national law (Article 5(2) of the [Law on motor vehicle insurance]) which, in cases such as that in the main proceedings, treats damage to the semi-trailer as being excluded from the cover provided by the compulsory insurance for the [road tractor to which it is coupled], on the grounds that the semi-trailer is equated with items being transported in that [road tractor], or even that, for the purposes of damage to property, the semi-trailer forms a single vehicle with that [road tractor]?’

Consideration of the question referred

22 By its question, the referring court asks, in essence, whether the final paragraph of Article 3 of Directive 2009/103, read in conjunction with Article 1, points 1 and 2, of that directive, must be interpreted as precluding an interpretation of national legislation which excludes from cover, and therefore from compensation, by compulsory insurance against civil liability in respect of the use of a road tractor, material damage caused by that tractor to the semi-trailer which was coupled to it when the accident occurred, on the ground that, in order for the benefit of their compensation to be granted, that semi-trailer is treated as goods transported by that road tractor or as forming a single vehicle with it.

23 As a preliminary point, it should be noted that Directive 2009/103, as is apparent from recital 1 of that directive, codified the earlier directives 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 the enforcement of the obligation to insure against such liability, without amending their substance. Accordingly, the case-law relating to those earlier directives can be applied to the interpretation of the equivalent provisions of Directive 2009/103 (judgment of 29 April 2021, *Ubezpieczeniowy Fundusz Gwarancyjny*, C-383/19, EU:C:2021:337, paragraph 35).

24 The first paragraph of Article 3 of Directive 2009/103 provides that each Member State is, subject to Article 5 of that directive, to take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance. The second paragraph of Article 3 provides that the extent of the liability covered and the terms and conditions of the cover are to be determined on the basis of the measures referred to in the first paragraph of Article 3. The final paragraph of Article 3 of that directive stipulates that the insurance referred to in the first paragraph is to cover compulsorily both damage to property and personal injuries. Article 5(2) provides inter alia that, under the conditions laid down in that provision, each Member State may derogate from Article 3 in respect of certain types of vehicles.

25 In that regard, it should be recalled, in the first place, that, as the Court has already held, the first paragraph of Article 3 of Directive 2009/103, worded in very general terms, requires Member States to establish, in their domestic legal systems, a general obligation to insure vehicles (judgment of 4 September 2018, *Juliana*, C-80/17, EU:C:2018:661, paragraph 36 and the case-law cited).

26 Accordingly, each Member State must ensure, subject to the derogations provided for in Article 5 of that directive, that 'every vehicle' normally based in its territory is covered by a contract concluded with an insurance company in order to cover, up to the limits established by EU law, civil liability arising as a result of the use of that vehicle (judgment of 4 September 2018, *Juliana*, C-80/17, EU:C:2018:661, paragraph 37 and the case-law cited).

27 The concept of 'vehicle' is defined in Article 1, point 1, of Directive 2009/103 as 'any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled'.

28 It is absolutely clear from the wording of those provisions that both a road tractor and a trailer, or a semi-trailer, each taken individually, constitute a 'vehicle' within the meaning of that provision and, consequently, each must, subject to the Member State in which they are normally based exercising the derogation option provided for in Article 5 of that directive, be the subject of a contract concluded with an insurance company in order to cover, up to the limits established by EU law, civil liability in respect of their use.

29 As to whether, when a trailer, or a semi-trailer, is coupled to a road tractor, it loses its classification as a 'vehicle', within the meaning of Article 1, point 1, of Directive 2009/103, or whether, when it is coupled to a road tractor, that tractor and that trailer, or semi-trailer, taken together no longer forms one and the same vehicle, within the meaning of that provision, so that the trailer, or semi-trailer, then also falls outside that classification, it should be pointed out, first, that nothing in the wording of Article 1, point 1, supports such inferences. The stipulation that trailers, 'whether or not coupled', are covered by the concept of 'vehicle', within the meaning of Article 1, point 1, and the use of the conjunction 'and' between the two parts of the definition of that concept clearly indicate that trailers, and semi-trailers, constitute an autonomous category of

'vehicle', within the meaning of that provision, which is distinct from that of 'any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails', of which the classification as such is independent of whether or not it is coupled to another vehicle, within the meaning of that provision.

30 Secondly, taking the view that, when a trailer, or a semi-trailer, is coupled to a tractor vehicle, it constitutes goods transported by that vehicle or forms a single vehicle with that tractor, and thus loses its specific quality of a 'vehicle' within the meaning of Article 1, point 1, of Directive 2009/103, cannot be reconciled with the fact that the definition of the concept of 'vehicle', within the meaning of that provision, is unconnected with the use which is made or may be made of the vehicle concerned and, accordingly, runs counter to that concept being given an objective sense (see, to that effect, judgment of 4 September 2018, *Juliana*, C-80/17, EU:C:2018:661, paragraphs 38 and 39 and the case-law cited). Nor can that be reconciled with the fact that the scope of the obligation to take out insurance against civil liability in respect of the use of motor vehicles must, for reasons of legal certainty, be determined in advance, that is to say before any involvement of the vehicle concerned in an accident (judgment of 4 September 2018, *Juliana*, C-80/17, EU:C:2018:661, paragraph 40).

31 If a trailer, or a semi-trailer, ceased to be a 'vehicle' within the meaning of Article 1, point 1, of Directive 2009/103 when coupled to a tractor vehicle, that would undermine the predictability, stability and continuity of the obligation laid down in the first paragraph of Article 3 of that directive, compliance with which is, however, necessary in order to ensure legal certainty (see, by analogy, judgment of 29 April 2021, *Ubezpieczeniowy Fundusz Gwarancyjny*, C-383/19, EU:C:2021:337, paragraph 52).

32 It follows that the finding that, when a trailer, or a semi-trailer, is coupled to a road tractor, it constitutes goods transported by that road tractor or forms a single vehicle with that tractor, and thus ceases to be a 'vehicle' within the meaning of Article 1, point 1, of Directive 2009/103, cannot be compatible with that provision. Consequently, subject to the Member State in which the trailer, or semi-trailer, concerned is normally based exercising the option granted to it by Article 5 of Directive 2009/103, any trailer, or semi-trailer, falls under the insurance obligation laid down in the first paragraph of Article 3 of Directive 2009/103, whether or not it is coupled to another vehicle.

33 However, in the present case, it is apparent from the file before the Court that, although the dispute in the main proceedings is linked to the classification given to a semi-trailer when it is coupled to a road tractor, that classification is not related to the insurance obligation laid down in the first paragraph of Article 3 of Directive 2009/103, as transposed into Spanish law. Furthermore, it is common ground that each of the two vehicles at issue in the main proceedings had been covered by compulsory insurance against civil liability in respect of their use. On the other hand, it is also apparent from the court file that the effect of that classification, which stems from the interpretation of the national legislation at issue in the main proceedings, is that the owner or holder of a semi-trailer damaged in circumstances such as those at issue in the main proceedings will not have that damage compensated by the civil liability insurer in respect of the use of the vehicle which was hauling it when the accident occurred. Accordingly, that interpretation, subject to the checks to be carried out by the referring court, concerns the extent of the right of injured parties to obtain compensation on the basis of the civil liability of the insured party.

34 Consequently, it should be noted, in the second place, that the recitals of Directive 2009/103 show that, like the directives relating to insurance against civil liability in respect of the use of motor vehicles which preceded it, the aim of that directive is, on the one hand, to ensure the free movement of vehicles normally based on European Union territory and of persons travelling in those vehicles, and, on the other, to guarantee that the victims of accidents caused by those vehicles will receive comparable treatment irrespective of where in the European Union the accidents occurred (judgments of 24 October 2013, *Drozdovs*, C-277/12, EU:C:2013:685, paragraph 28 and the case-law cited, and of 14 September 2017, *Delgado Mendes*, C-503/16, EU:C:2017:681, paragraph 35).

35 Directive 2009/103 thus requires the Member States to ensure that civil liability in respect of the use of vehicles normally based in their territory is covered by insurance, and specifies, inter alia, the types of damage and the third-party victims to be covered by that insurance (judgments of 24 October 2013, *Drozdovs*, C-277/12, EU:C:2013:685, paragraph 29 and the case-law cited, and of 14 September 2017, *Delgado Mendes*, C-503/16, EU:C:2017:681, paragraph 36).

36 The obligation to provide insurance cover against civil liability for damage caused to third parties by motor vehicles is, however, distinct from the extent of the compensation to be afforded to them on the basis of the civil liability of the insured person. Whereas the former is defined and guaranteed by EU legislation, the latter is, essentially, governed by national law (judgments of 24 October 2013, *Drozdovs*, C-277/12, EU:C:2013:685, paragraph 30 and the case-law cited, and of 14 September 2017, *Delgado Mendes*, C-503/16, EU:C:2017:681, paragraph 46).

37 It is apparent from the aim of Directive 2009/103 and its wording that, like the directives which it codifies, it does not seek to harmonise the rules of the Member States governing civil liability and that, as EU law currently stands, the Member States remain free to determine the rules of civil liability applicable to road accidents (judgments of 24 October 2013, *Drozdovs*, C-277/12, EU:C:2013:685, paragraph 31 and the case-law cited, and of 14 September 2017, *Delgado Mendes*, C-503/16, EU:C:2017:681, paragraph 47).

38 Consequently, and having regard in particular to Article 1, point 2, of Directive 2009/103, as EU law currently stands, in relation to their civil liability insurance schemes, the Member States remain, in principle, free to determine, in particular, which damage caused by motor vehicles must be compensated, the extent of such compensation and the persons who are entitled to it (judgments of 24 October 2013, *Drozdovs*, C-277/12, EU:C:2013:685, paragraph 32, and of 23 January 2014, *Petillo*, C-371/12, paragraph 30).

39 That said, Member States are required to ensure that civil liability in respect of the use of motor vehicles applicable under their national law is covered by insurance which complies with the provisions of Directive 2009/103 (judgments of 23 January 2014, *Petillo*, C-371/12, EU:C:2014:26, paragraph 31 and the case-law cited, and of 7 September 2017, *Neto de Sousa*, C-506/16, EU:C:2017:642, paragraph 30).

40 Moreover, the Member States must exercise their powers in that field in compliance with EU law, and the national provisions which govern compensation for road accidents may not deprive that directive of its effectiveness (judgments of 24 October 2013, *Drozdovs*, C-277/12, EU:C:2013:685, paragraph 33 and the case-law cited, and of 14 September 2017, *Delgado Mendes*, C-503/16, EU:C:2017:681, paragraph 48).

41 As regards compulsory insurance cover for damage caused by motor vehicles which must be compensated under national civil liability law, it must be stated that although it is true that the second paragraph of Article 3 of Directive 2009/103 leaves Member States free to determine the damage covered and the terms and conditions of the compulsory insurance, that freedom is restricted by that directive in so far as it makes the cover of certain types of damage up to specified minimum amounts compulsory. 'Damage to property' features among the types of damage in respect of which cover is mandatory, as is specified in the final paragraph of Article 3 of Directive 2009/103 (see, by analogy, judgment of 24 October 2013, *Drozdovs*, C-277/12, EU:C:2013:685, paragraphs 34 and 37).

42 However, in order to give a useful answer to the referring court in the present case, it is not necessary to define the scope of the concept of 'damage to property' within the meaning of the final paragraph of Article 3 of Directive 2009/103; rather it suffices to point out that, as regards the issue of who is entitled to compensation for damage to property, first, it follows from a combined reading of Article 1, point 2, and the first paragraph of Article 3 of that directive that the protection which must be guaranteed under that directive extends to anyone who is entitled, under national civil liability law, to compensation for damage caused by motor vehicles (judgment of 24 October 2013, *Drozdovs*, C-277/12, EU:C:2013:685, paragraph 42).

43 Second, although it is true that Directive 2009/103 identifies in Article 12 special categories of victim and makes it compulsory to cover personal injuries to the categories of persons identified in paragraphs 1 and 2 of that article and to cover personal injuries and damage to property of persons identified in paragraph 3 of that article if they are entitled to compensation under national civil law, and although it is true that that directive is not intended to restrict the category of persons protected, but rather it made it compulsory to cover damage suffered by certain persons considered to be particularly vulnerable (see, to that effect, judgment of 24 October 2013, *Drozdovs*, C-277/12, EU:C:2013:685, paragraph 43), it must nevertheless be stated that the owner or holder of a semi-trailer damaged in circumstances such as those at issue in the main proceedings does not feature among those categories of victims for which that directive requires an intervention on the part of the civil liability insurer in respect of the use of the vehicle which caused the damage.

44 Moreover, although it is true that the Court has on a number of occasions taken the view that, in order to ensure the effectiveness of provisions of EU law relating to compulsory insurance against civil liability in respect of the use of motor vehicles, those provisions had to be interpreted as meaning that they precluded national legislation which undermined that effectiveness, in that, by automatically excluding or disproportionately limiting the victim's right to compensation by compulsory insurance against civil liability in respect of the use of motor vehicles, they impeded the achievement of the objective of protecting victims of road traffic accidents, which has continuously been pursued and reinforced by the EU legislature (see, to that effect, judgment of 14 September 2017, *Delgado Mendes*, C-503/16, EU:C:2017:681, paragraphs 38 and 49 and the case-law cited), that is not the case for an interpretation of national legislation such as that at issue in the main proceedings.

45 The owner or holder of a semi-trailer damaged in circumstances such as those at issue in the main proceedings cannot be equated with those persons regarded by the EU legislature as being particularly vulnerable, nor can they even be regarded as being similar to the victims who justified such interpretations of EU law.

46 In the light of all the foregoing considerations, the answer to the question referred is that the first, second and final paragraphs of Article 3 of Directive 2009/103, read in conjunction with Article 1, points 1 and 2 of that directive, must be interpreted as meaning that they do not preclude an interpretation of national legislation which excludes from cover, and therefore from compensation, by compulsory insurance against civil liability in respect of the use of a road tractor, material damage caused by that tractor to the semi-trailer which was coupled to it when the accident occurred.

Costs

47 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

The first, second and final paragraphs of Article 3 of 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, read in conjunction with Article 1, points 1 and 2 of that directive, must be interpreted as meaning that they do not preclude an interpretation of national legislation which excludes from cover, and therefore from compensation, by compulsory insurance against civil liability in respect of the use of a road tractor, material damage caused by that tractor to the semi-trailer which was coupled to it when the accident occurred.

[Signatures]