Reports of Cases

OPINION OF ADVOCATE GENERAL
ĆAPETA
delivered on 11 December 2025[1]

Case C-488/24

D.V.
v
'Kigas' MB,
joined party:
Valstybinė vartotojų teisių apsaugos tarnyba

(Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Supreme Court of Lithuania))

(Reference for a preliminary ruling – Consumer protection – Consumer contracts – Service providing for the international carriage of goods – Directive 2011/83/EU – Consumer Rights Directive – Article 5 – Pre-contractual obligation on traders to provide consumers with information – Scope of that obligation – Information as to the main characteristics of a contract – Information as to the total price of a service – Information in respect of customs duties – Directive 2005/29/EC – Unfair Commercial Practices Directive – Convention on the Contract for the International Carriage of Goods by Road (CMR) – Article 7)

I. Introduction

1. The present reference for a preliminary ruling concerns a contract for the international carriage of goods between a consumer and a trader. That agreement involved the transport of a number of that consumer's personal belongings from Norway to Lithuania.

2. Upon entering the European Union while transporting the goods, an employee of the trader was stopped by Swedish customs authorities and informed that customs duties were payable on the goods being transported. Once paid, the trader requested reimbursement from the consumer. However, the consumer refused to pay the amount owed for the duties on the ground that the trader had infringed its pre-contractual obligation to provide information by failing to inform him of the relevant customs procedures applicable to the carriage of goods.

[1] Original language: English.

3. Directive 2011/83/EU ('the Consumers Rights Directive')[2] lays down the requirements regarding the information that traders must provide to consumers prior to the conclusion of a contract, with the aim of striking the right balance between a high level of consumer protection and the competitiveness of enterprises.[3] However, the scope of that information obligation is not explicitly defined therein, and, more precisely, the lengths to which traders – that provide a service for the international transport of goods – must go in order to fulfil that obligation is not readily clear from the wording of that provision.

4. On account of that ambiguity, the Lietuvos Aukščiausiasis Teismas (Supreme Court of Lithuania), which is the referring court in the present case, asks the Court to interpret whether Article 5(1) of the Consumer Rights Directive should be understood as meaning that a trader that provides an international carriage service to a consumer is under an obligation to inform that consumer of the customs procedures applicable to the carriage.

II. The facts in the main proceedings, the questions referred for a preliminary ruling and the procedure before the Court

5. The applicant in the main proceedings, D.V. (the sender of the goods and the consumer), entered into an oral agreement over the phone with 'Kigas' MB ('Kigas'), the defendant, for the transport of goods.

6. Under that contract, Kigas, a small partnership, agreed to transport two motorcycles, a quadricycle, two washing machines and two dryers, all belonging to the applicant, from Norway to Lithuania for the price of EUR 450. The parties did not sign a written contract of carriage, nor did they prepare a consignment note outlining the details of transport.

7. The applicant handed the goods over to the defendant in Norway on 16 June 2020. According to a witness statement, when handing the goods over, an employee of the defendant asked the applicant whether it was necessary to stop at customs, but the applicant explained that the goods were being carried for himself.

8. On 17 June 2020, an employee of the defendant was stopped, while performing the carriage, at the border between Norway and Sweden, where, upon inspection from customs officials, it was decided that the goods had to be declared to customs upon entering the European Union. The same day a customs declaration was drawn up, imposing customs duties of 40 899 kroner (SEK) (EUR 3 890.59) on the goods being transported, which the defendant paid.

9. On 18 June 2020, the defendant invoiced the applicant for the amount of EUR 4 340.59 (EUR 450 for the transport service and EUR 3 890.59 in respect of the duties imposed on the goods by the Swedish customs authorities).

10. The carrier delivered all the goods, with the exception of one of the applicant's motorcycles, at the agreed location in Lithuania on 20 June 2020. The defendant subsequently informed the applicant that the seized motorcycle would be handed over once the invoice had been paid.

[2] Directive of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ 2011 L 304, p. 64).

[3] See recital 4 of the Consumer Rights Directive.

11. Following that, the applicant brought an action against the defendant before the Kauno apylinkės teismas (District Court, Kaunas, Lithuania), claiming that that court should (i) declare that the invoice of 18 June 2020 issued by the defendant is unfounded, acknowledging that the applicant is not liable to pay the duties stated therein, and order the defendant to issue a new invoice indicating only a service charge of EUR 450; and (ii) order the defendant to return immediately the seized motorcycle to the applicant.

12. The defendant made a counterclaim before that court, requesting that the court (i) order the applicant to pay EUR 450 in respect of the carriage of the goods; and (ii) award damages in the amount of EUR 3 876.76.

13. Before that court, the applicant maintained that the defendant failed in his obligation under Article 5 of the Consumer Rights Directive to provide him with the necessary information prior to concluding the contract.

14. That provision outlines the obligation to provide information in relation to contracts *other than* distance or off-premises contracts. Although the contract at issue in the main proceedings was concluded by phone, and therefore could be regarded as a distance or off-premises contract pursuant to Article 6 of the Consumer Rights Directive, the referring court confirmed, in its response to a request for information made by the Court of Justice, that the contract at issue in the main proceedings is to be considered a contract other than a distance or off-premises contract, and therefore governed by Article 5 of the Consumer Rights Directive rather than Article 6 thereof.

15. Article 5(1)(a) and (c) of the Consumer Rights Directive provides:

‘1. Before the consumer is bound by a contract other than a distance or an off-premises contract, or any corresponding offer, the trader shall provide the consumer with the following information in a clear and comprehensible manner, if that information is not already apparent from the context:

(a) the main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;

…

(c) the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable’.

16. On the basis of those provisions, the applicant claimed that, by failing to provide him with the relevant information on customs duties, the defendant was in breach of its obligation under Article 5 of the Consumer Rights Directive. As a result of said breach, the applicant maintained that he was not liable to pay the customs duties.

17. For its part, the defendant argued that it did not have an obligation under Article 5 of the Consumer Rights Directive to provide information to the applicant as regards customs duties or the documents necessary for customs procedures. Alternatively, the defendant argued that,

pursuant to Article 11 of the CMR Convention,[4] it was in fact the duty of the applicant in his capacity as the sender to provide the carrier with the relevant information regarding customs.

18. Article 11(1) and (2) of the CMR Convention provides:

'1. For the purposes of the Customs or other formalities which have to be completed before delivery of the goods, the sender shall attach the necessary documents to the consignment note or place them at the disposal of the carrier and shall furnish him with all the information which he requires.

2. The carrier shall not be under any duty to inquire into either the accuracy or the adequacy of such documents and information. The sender shall be liable to the carrier for any damage caused by the absence, inadequacy or irregularity of such documents and information, except in the case of some wrongful act or neglect on the part of the carrier.'

19. By judgment of 17 May 2023, the Kauno apylinkės teismas (District Court, Kaunas) upheld the applicant's claim in part and upheld the defendant's counterclaim in its entirety, ordering the defendant to return the motorcycle to the applicant, while at the same time ordering the applicant to pay to the defendant the amount of EUR 450 for the carriage of the goods, as well as EUR 3 876.76 in damages.

20. That decision was then appealed before the Kauno apygardos teismas (Regional Court, Kaunas, Lithuania), which upheld the decision of the lower court by decision of 16 November 2023.

21. Those courts took the view that both the provisions of the Lietuvos Respublikos civilinis kodeksas (Civil Code of the Republic of Lithuania) governing consumer contracts and the provisions of the CMR Convention are applicable in the present case. Further observing that in the event that there is a conflict between the national legislation governing consumer relations and the rule laid down in Article 11 of the CMR Convention, it is the latter that should prevail. Based on that reasoning, and agreeing with the defendant, those courts held that the applicant, as the sender of the goods, had failed in his obligation to provide the defendant with the necessary information and documentation required to complete the customs formalities and that the applicant was therefore liable to reimburse the defendant the costs incurred in respect of the customs duties.

22. Following the decision of the Kauno apygardos teismas (Regional Court, Kaunas), the applicant lodged an appeal against that decision before the referring court in the present case.

23. That court questions whether Article 5(1)(a) of the Consumer Rights Directive should be interpreted as meaning that a trader who provides an international carriage service to a consumer is under an obligation to inform that consumer of the customs procedures applicable to the carriage.

24. In the event that such an obligation exists, the referring court seeks to clarify the extent and scope of that obligation. More precisely, that court wonders whether that duty to provide information requires the trader (i) to identify to the consumer the specific documents to be

[4] The Convention on the Contract for the International Carriage of Goods by Road, signed in Geneva on 19 May 1956 ('the CMR Convention').

presented to the customs authorities, and (ii) to calculate and inform the consumer of the specific amounts of the applicable customs duties, or whether it is sufficient to merely inform the consumer of the possibility that customs duties *may* be imposed.

25. Although the defendant is a professional in the area of the international transport of goods, the referring court nonetheless harbours doubt as to whether it would be proportionate to place on the professional the burden to inquire into the specificities of each of the goods to be handed over to it for carriage, as well as the relevant requirements for each carriage, for the purpose of calculating the applicable customs duties.

26. The referring court notes that the answer to the question as to the extent and scope of the obligation on a trader to provide information to a consumer in relation to the customs procedures applicable over the course of an international carriage, pursuant to Article 5 of the Consumer Rights Directive, will enable it to establish which party to the main proceedings should bear the adverse consequences for the unsatisfactory fulfilment of the customs procedures, and, in turn, to determine which of the parties is to bear the costs of the customs duties paid by the defendant during the carriage.

27. In those circumstances, the Lietuvos Aukščiausiasis Teismas (Supreme Court of Lithuania) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Must Article 5(1)(a) of [the Consumer Rights Directive], which requires the trader to provide the consumer with information on the characteristics of the services, be interpreted as meaning that the trader that provides an international carriage service to the consumer is under an obligation to inform the consumer of the customs procedures applicable to the carriage? If Article 5(1)(a) of [the Consumer Rights Directive] must be interpreted as imposing an obligation on the trader to inform the consumer of the customs procedures applicable to international carriage, is it sufficient for the trader to state that the sender (the consumer) must take charge of the documents necessary for the customs procedures and pay the customs duties, or must the trader provide detailed information (a list) on the specific documents to be presented to the customs authorities and the applicable rates (amounts) of the customs duties?

(2) Does the obligation on the trader, laid down in Article 5(1)(c) of [the Consumer Rights Directive], to provide the consumer with information on the price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postage charges or, where those charges cannot reasonably be calculated in advance, the fact that such charges may be payable, entail an obligation on the trader that provides the international carriage service to inform the consumer of the customs duties (the rates and amounts of the duties) applicable to the specific carriage?'

28. Witten observations were submitted to the Court by the Czech and Lithuanian Governments and the European Commission.

29. The Court decided to give a ruling without a hearing, pursuant to Article 76(2) of its Rules of Procedure.

III. Analysis

A. Preliminary remarks on the questions referred

30. The two questions of the referring court should be treated together. By its questions, that court seeks, in essence, to ascertain whether the obligation imposed on traders under Article 5(1) of the Consumer Rights Directive to inform consumers of the main characteristics of the goods or service provided (Article 5(1)(a)) and the total price of the goods or service (Article 5(1)(c)) must be interpreted as encompassing an obligation on traders to provide information relating to the customs procedures to which those goods or that service may be subject and, if so, how detailed that information must be.

31. Before beginning my analysis of those questions, I think it useful to provide some context, first, concerning the application of customs duties on goods entering the territory of the European Union from Norway (Part B), and, second, regarding the relevance of Article 11 of the CMR Convention for the present case (Part C).

32. My analysis of the questions referred will then consist of two steps.

33. First, I will consider whether customs procedures can reasonably be regarded as one of the 'main characteristics', within the meaning of Article 5(1)(a) of the Consumer Rights Directive, of a service providing for the international transport of goods. Based on that analysis, I will conclude that the concept of 'main characteristics', in the context of a contract for the international transport of goods, must be interpreted as encompassing customs procedures, and thus of imposing on a trader providing such a service an obligation to inform the consumer prior to the conclusion of the contract that the goods being carried *may* be subject to customs duties (Part D).

34. Second, I will analyse the scope of that obligation. More precisely, I will consider whether that obligation requires a trader to provide the consumer with detailed information as to the specific documents to be presented for customs procedures as well as the specific rates and amounts of customs duties for the purpose of calculating the total amount of duties for each carriage (Part E).

B. Context of the customs procedures in the present case

35. Although Norway is a member of the European Economic Area (EEA), it is not a member of the EU customs union. The Agreement on the European Economic Area ('the EEA Agreement') extends the EU's internal market to Norway by ensuring the free movement of goods that comply with EU product regulations; however, it does not eliminate customs borders or customs formalities between Norway and the European Union. [5]

36. Consequently, all goods transported from Norway into the customs territory of the European Union must be presented to customs at the point of entry and are subject to import procedures and duties, unless a specific exemption or preferential treatment applies.

[5] See, to that effect, the EEA Agreement, Part II, Chapter 3, entitled 'Cooperation in customs-related matters and trade facilitation', Article 21.

37. Under the EEA Agreement, goods that originate in Norway and are accompanied by the necessary documentation proving preferential origin may qualify for duty-free entry into the European Union.

38. However, goods that do not originate in Norway, or goods for which preferential origin cannot be demonstrated, remain subject to the EU Common Customs Tariff and applicable import VAT or excise duties, irrespective of whether the goods being carried are for personal use or as part of a commercial transaction. [6]

39. It is worth noting at this point that it is not clear from the order for reference whether the goods being transported for the applicant originated from the EU or Norway or from a third country, and thus whether the goods might have been exempted from the duties imposed.

40. In any case, as noted, in order for a person to avail of such an exemption, the goods would have had to have been accompanied by the requisite documentation proving origin when presented to the customs authorities in Sweden. It has not, however, been disputed by the parties to the main proceedings that the applicant (the sender/consumer) did not provide the defendant (the carrier/trader) with the documents and information relating to such procedures. Nor is it in dispute in present case that the defendant did not provide the applicant with detailed information on the customs procedures and the applicable exemptions and their requirements.

C. Applicability of Article 11 of the CMR Convention in the present case

41. Before examining the substance and scope of a trader's pre-contractual information obligation in relation to customs duties, I will briefly address the arguments advanced by the defendant, and supported by the Czech Government in its written observations, in relation to Article 11 of the CMR Convention.

42. Arguing in favour of a strict interpretation of a trader's obligation to provide information, the Czech Government maintains that a contract for the international carriage of goods, which does not include a customs brokerage service (as seems to be the case in the present proceedings), [7] only engages a trader to transport the goods and therefore does not impose on that trader an obligation to inform the consumer of the relevant customs duties, as such a service would not form part of the contract agreed.

43. In support of that argument, the Czech Government relies on Article 11 of the CMR Convention, which imposes an obligation on the sender of goods (who is also the consumer in the present proceedings) to furnish traders with the necessary documents and any other information which the trader requires for the purpose of completing customs procedures. Before assessing whether such an obligation on a consumer should impact the pre-contractual information obligation of a trader, it will first be necessary to consider the applicability of that convention to the facts of the present case.

[6] See, to that effect, the EEA Agreement, Part II, Chapter 1, entitled 'Basic principles', Articles 8(2) to 10.

[7] Such a service would involve the trader acting as customs broker or agent for the consumer and being contracted to make sure the customs declaration is correct, duties and taxes are provided accurately, and payment is received so that goods can transit across borders smoothly. From the order for reference, it does not appear to be in dispute between the parties that such a contract was not concluded.

44. The CMR Convention constitutes the governing legal instrument for determining carrier liability in the international carriage of goods by road. That convention, pursuant to Article 1 thereof, applies to every contract for the carriage of goods by road in vehicles for reward when the place designated for handing over the goods and the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a contracting state to the Convention.

45. In the present case, the dispute concerns a contract for the carriage of goods by road indicating an address in Norway as the place of hand-over and an address in Lithuania as the place of delivery. Since both Norway and Lithuania are parties to the CMR Convention,[8] the conditions for the Convention's applicability, as laid down in Article 1 thereof, are fully satisfied.[9]

46. The CMR Convention primarily governs the duties and limited liability of the carrier in international road transport, and requires the sender to provide the documents and information necessary for the completion of customs formalities.

47. However, it should be noted from the outset, as stated by the Lithuanian Government in its written observations, that the CMR Convention does not 'by any means cover all the questions of private law which arise from a contract for the carriage of goods by road', nor does it govern questions relating to consumer protection (including those relating to the obligation on traders to provide information) when a contract between a consumer and a trader is concluded.[10]

48. Furthermore, the consumer's duty to supply a trader with the information and documents required for customs formalities, pursuant to Article 11 of the CMR Convention, arises only *after* the contract for the international carriage of goods has been concluded.

49. Hence, that post-contractual obligation cannot be understood to exclude a pre-contractual duty on the trader to inform the consumer of the customs procedures that will apply and of the documents the consumer may have to provide to the carrier. To conclude otherwise would, in my view, run contrary to the overarching aim of the Consumer Rights Directive to ensure a high level of consumer protection.

50. Therefore, the obligation on a sender to provide such documents only arises once a contract has been agreed and thus should not affect a trader's pre-contractual obligation to provide information.

D. Must customs duties be regarded as one of the main characteristics of a contract for the international carriage of goods?

51. Article 5(1)(a) of the Consumer Rights Directive clearly provides that, prior to concluding a contract for a good or service, a trader must provide to the consumer all relevant information relating to the main characteristics of that good or service.

[8] See *United Nations Treaty Series*, Vol. 1208, p. 427, available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-B-11-a&chapter= 11&clang=_en.

[9] See, by analogy, judgment of 4 May 2010, *TNT Express Nederland* (C-533/08, EU:C:2010:243, paragraphs 34 and 35 and the case-law cited).

[10] See, to that effect, United Nations, *Commentary on the Convention of 19 May 1956 on the Contract for the International Carriage of Goods by Road (CMR)*, 1975, p. 4, paragraphs 9, available at: https://unece.org/fileadmin/DAM/trans/doc/2006/sc1cmr/commentary.pdf.

52. In the context of contracts for the international carriage of goods, the referring court notes that the concept of 'main characteristics' may be interpreted either strictly, that is to say, as covering only information on the legal relationship of carriage (such as the place where the goods are picked up, the place of delivery, the route and the price) but not information on customs procedures and the documents required for those procedures, or broadly, that is to say, as including within the concept of main characteristics information on the customs procedures applicable to the carriage.

53. The obligation to provide information must be understood within the broader context of the objectives being pursued by the legislature through that directive.

54. With that in mind, on account of the objectives outlined in Article 1 of the Consumer Rights Directive, that is to contribute to the proper functioning of the internal market and to ensure a high level of consumer protection, a broad interpretation must be given to the scope of that directive [11] and, accordingly, to the concept of 'information' within the meaning of Article 5 thereof.

55. While there is little case-law from the Court which addresses the scope of the information obligation under Article 5 of the Consumer Rights Directive, I believe some useful guidance on how the Court should interpret the scope of that obligation can be drawn from its interpretation of what may constitute a misleading omission with regards the material information that a trader must provide to a consumer prior to the conclusion of a contract pursuant to Article 7 of the Unfair Commercial Practices Directive. [12]

56. The Court has already held that the notions laid down in the Consumer Rights Directive and the Unfair Commercial Practices Directive should, in so far as possible, be interpreted in the same way, as both directives are based on Article 114 TFEU and aim to ensure a high level of consumer protection in the legislative, regulatory and administrative framework which they cover. [13]

57. The Court can therefore use the Unfair Commercial Practices Directive and the case-law developed thereunder as guidance for interpreting the Consumer Rights Directive and, more precisely, as a basis for determining whether or not the EU legislature intended for the obligation to provide information established under Article 5 of the second directive to encompass an obligation to provide information on customs procedures in the context of contracts for the international carriage of goods.

[11] See judgment of 24 February 2022, *Tiketa* (C-536/20, EU:C:2022:112, paragraph 30).

[12] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (OJ 2005 L 149, p. 22; 'the Unfair Commercial Practices Directive').

[13] See, in relation to the term 'trader' used by both directives, judgment of 24 February 2022, *Tiketa* (C-536/20, EU:C:2022:112, paragraph 29). That interpretation and application of the Consumer Rights Directive is also consistent with the Commission's guidelines for the implementation of that directive, which notes that the EU legislature drew on the case-law developed under the Unfair Commercial Practices Directive when drafting the Consumer Rights Directive. See, to that effect, Commission notice – Guidance on the interpretation and application of Directive 2011/83/EU of the European Parliament and of the Council on consumer rights (OJ 2021 C 525, p. 1; 'the Commission notice'), at point 1.1, entitled 'The notions of "trader" and "consumer"'.

58. It follows from Article 7(4) of the Unfair Commercial Practices Directive, and reiterated in the case-law developed thereunder,[14] that the information that a trader is required to provide to a consumer prior to concluding a contract constitutes all *material information* which the average consumer, taking into account the context of that contract, needs in order to make an informed transactional decision, and where the omission of such information causes or is likely to cause the average consumer to take a transactional decision that he or she would not have taken otherwise.[15]

59. Thus, where a trader fails to provide a consumer with information that would likely have resulted in that consumer making a different transactional decision had he or she been given such information, that failure constitutes an infringement of the trader's obligation under Article 5 of the Consumer Rights Directive.

60. It seems to me that the test in the present case, for determining whether Article 5(1)(a) of the Consumer Rights Directive must be interpreted as meaning that a trader that provides an international carriage service to a consumer is under an obligation to inform that consumer of the applicable customs procedures, is whether or not the consumer – having been informed of the relevant customs procedures – would likely make a different transactional decision.

61. Taking account of the fact that customs duties have the potential to significantly increase the overall cost of an international carriage, as they did in the present case,[16] I believe that customs duties could be said to have a dissuasive effect on consumers and, consequently, are likely to deter them from concluding international carriage contracts.

62. In addition, what constitutes the 'main characteristics' of a contract under Article 5(1)(a) of the Consumer Rights Directive, for the purpose of deciding what pre-contractual information a trader must provide to a consumer, will inevitably depend on the specific context in which the agreement occurs.[17] Taking account of the cross-border nature of contracts for the international carriage of goods, and the fact that those goods are habitually subject to customs duties, one can reasonably conclude that those customs duties constitute one of the main characteristics of those types of contracts.

63. Moreover, the fact that the CMR Convention, which governs contracts for the international carriage of goods, contains specific provisions regarding obligations in relation to customs procedures provides further support in favour of the argument that those procedures form part of the 'main characteristics' of those types of contracts, within the meaning of Article 5(1)(a) of the Consumer Rights Directive.

[14] In its guidelines for the implementation of the Consumer Rights Directive, the Commission notes that when choosing the main characteristics to be communicated to the consumer, traders should apply the same approach as for the purposes of Article 7(4) of the Unfair Consumer Practices Directive, i.e., to inform the consumer about those characteristics that he or she will need to make an informed transactional decision. See the Commission notice at point 3.2, entitled 'Common requirements for on-premises and distance/off-premises contracts'.

[15] See, by analogy, judgment of 23 January 2025, *NEW Niederrhein Energie und Wasser* (C-518/23, '*NEW Niederrhein Energie*', EU:C:2025:35, paragraph 32).

[16] In the present case, the customs duties resulted in total costs equating to almost 10 times the price of the service being provided (EUR 4 340.59 total as opposed to EUR 450 for the carriage service).

[17] See, by analogy and in relation to Article 6(1)(c) of the Consumer Rights Directive, judgment of 10 July 2019, *Amazon EU* (C-649/17, EU:C:2019:576, paragraph 37).

64. Thus, taking into account the specific nature of contracts for the international carriage of goods, as well as the aims pursued by the Consumer Rights Directive, I believe that Article 5(1)(a) of that directive must be interpreted as meaning that a trader that provides an international carriage service to a consumer is under an obligation to inform the consumer that the goods being transported *may* be subject to customs duties.

E. But how detailed must that information be?

65. Having established that Article 5(1) of the Consumer Rights Directive must be interpreted as imposing a general obligation on traders to inform a consumer of the potential of customs procedures during a cross-border carriage of goods, it is now necessary to examine the scope of that specific information obligation and, in particular, to consider whether that obligation requires a trader to provide (i) detailed information as to the specific documents required (Article 5(1)(a)) and (ii) detailed information on the rates and amounts of the customs duties applicable to the carriage, for the purposes of calculating the overall price of the service being provided (Article 5(1)(c)), or whether it suffices for the information to be of a more general nature.

66. In relation to the scope of a trader's information obligation, the referring court asks, in essence, whether, in fulfilling its obligation to inform the consumer that customs duties may be applicable to the goods being transported, it is sufficient for a trader to state that the sender (the consumer) must take charge of the documents necessary for the customs procedures or whether the trader must provide detailed information (such as a list) on the specific documents to be presented to the customs authorities.

67. It seems to me that the answer to that question will ultimately depend on the specific service being offered by the trader and, more precisely, on whether or not the contract includes a customs brokerage service, wherein the trader agrees to act on the consumer's behalf for the purposes of completing the customs procedures.

68. It should be noted at this point that, in line with its pre-contractual obligation to provide a consumer with all the relevant information in relation to the main characteristics of a service, a trader that provides a service for the international carriage of goods must inform the consumer whether or not such a brokerage service is being offered as part of the contract being concluded and, accordingly, who will be responsible for taking charge of the documentation required to complete the customs formalities, i.e., the trader (if the contract includes a brokerage service) or the consumer (if the contract does not include a brokerage service).

69. To my mind, it is only on receipt of such information that a consumer will be able to make an informed transactional decision, as such information will enable the consumer to decide whether he or she would prefer either to handle the customs formalities himself or herself, or to contract a trader that provides such a service.

1. Scope of the information obligation on traders that offer a customs brokerage service

70. Traders that provide a service for the international carriage of goods may, as part of that contract, offer a customs brokerage service, whereby the trader would be contracted to act as the consumer's customs representative before the customs authorities.

71. Such a contract would involve the trader acting on behalf of the consumer in dealing with customs authorities, carrying out the acts and formalities required under customs legislation, and ensuring that the procedures are fulfilled and payment is received so that goods can cross the border smoothly. [18]

72. In the event that a contract for the international carriage of goods includes a customs brokerage service, the trader would, in my view, be obliged to provide the consumer with detailed information about the specific documents necessary for the completion of the customs formalities. Such information necessarily forms part of the service being provided, and therefore falls within the scope of the trader's pre-contractual information obligation under Article 5(1)(a) of the Consumer Rights Directive.

73. Article 5(1)(c) of that directive places a considerable burden on traders when it comes to informing a prospective consumer of the total price of the service being provided. That provision not only requires the trader to inform the consumer, where possible, of the total price of the goods inclusive of taxes, as well as any additional charges, but it further stipulates that, where it is not possible for the trader to make such a calculation of the total price in advance of the contract being concluded, the trader must nonetheless inform the consumer of the manner in which the total price is to be calculated.

74. Where a trader agrees, as part of its international carriage service, to act on behalf of the consumer as his or her customs representative, that trader must include the price of that service when informing the consumer of the overall price of the contract, so that that consumer can make an informed transactional decision.

75. In the context of contracts for the international carriage of goods, however, it will not always be possible for a trader to calculate the overall cost of the service including customs duties, considering the exact cost of customs duties themselves cannot always reasonably be calculated in advance and will likely depend on a number of different factors. [19]

76. Nonetheless, information as to the rates and amounts applicable to customs duties, as well as the application of those different factors, falls within the 'manner in which the price is to be calculated' within the meaning of Article 5(1)(c) of the Consumer Rights Directive and, as such, constitutes material information which the average consumer needs in order to make an informed transactional decision. [20]

77. Consequently, the obligation on a trader – that provides a customs brokerage service as part of a contract for the international carriage of goods – to provide information on the total price of a service inclusive of taxes and any additional charges, within the meaning of Article 5(1)(c), may be fulfilled by that trader by informing the consumer, prior to the conclusion of the contract, that the customs duties will be payable, as well as by providing detailed information as to the rates and amounts of the duties applicable to the specific carriage, including information on the general

[18] See, in relation to customs representatives, Article 5(6) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1; 'the UCC'), as well as Article 18 thereof.

[19] In relation to customs duties, there are three general factors which are taken into account when calculating the duties to be paid when importing goods: the value of the goods, the tariff classification of the goods and the origin of the goods. See, for general information on the factors that influence the price of duties, the Commission website on the calculation of customs duties, available at: https://taxation-customs.ec.europa.eu/customs/calculation-customs-duties_en.

[20] See, by analogy, *NEW Niederrhein Energie*, paragraph 31.

factors that may influence the overall cost of those duties (such as the value or origin of the goods being transported) or any other variable factors that are beyond the control of the trader. [21]

78. In the light of those considerations, Article 5(1)(a) and (c) of the Consumer Rights Directive must be interpreted as meaning that a trader that provides a customs brokerage service to a consumer, as part of a service for the international carriage of goods, is obliged to inform the consumer of the customs procedures applicable to international carriage. That obligation entails a duty to provide detailed information on the specific documents necessary for customs formalities, as well as detailed information on the specific rates and amounts of customs duties, including information on the general factors that may influence the overall price of the service being provided.

2. Scope of the information obligation on traders that do not offer a customs brokerage service

79. In view of the above, it may be disproportionate to expect a trader that does not offer such brokerage services to provide a consumer with that same level of detail with regards customs procedures.

80. While I agree that placing such an obligation on those traders may be disproportionate, that does not diminish the substantial duty of traders to provide consumers with sufficient information as to the main characteristics of the service being provided, in order to allow the consumer to make an informed transactional decision.

81. In examining the extent of that obligation, it is important to strike the right balance between a high level of consumer protection and the competitiveness of enterprises. [22] Bearing that in mind, the obligation on a trader to provide information on customs duties, on the one hand, cannot be so broad as to place a disproportionate burden on the trader and its resources, nor, on the other hand, should it be interpreted so strictly as to deprive the consumer of the high level of protection guaranteed by Article 1 of the Consumer Rights Directive.

82. With those considerations in mind, I agree with the referring court that it would be disproportionate to place on a carrier, that does not offer a brokerage service, the burden of inquiring into the specificities of each of the goods to be handed over to it for international carriage, as well as the specific documentary requirements applicable to the carriage of those goods in various countries. That is especially true in the economic context of the functioning of certain undertakings – such as small ones, as in the present case – which may not have the resources to make such inquiries. [23]

83. However, consumer protection legislation, such as the Consumer Rights Directive, is nonetheless grounded in the premiss that consumers are in a comparatively weak position vis-à-vis the seller or supplier, both in terms of bargaining power and level of knowledge. [24] Thus, the trader must provide sufficient information so as to remedy this imbalance and allow consumers to make an informed transactional decision.

[21] See, by analogy, *NEW Niederrhein Energie*, paragraphs 38 and 41. However, that does not imply that the degree of information as to the manner in which the price is calculated must enable the consumer, on the basis of that information, to calculate that price himself or herself and thus reach a final numerical result (paragraph 39 of that judgment).

[22] See, to that effect, recital 4 of the Consumer Rights Directive.

[23] See, by analogy, judgment of 10 July 2019, *Amazon EU* (C-649/17, EU:C:2019:576, paragraph 48).

[24] See, by analogy, judgment of 11 April 2024, *Air Europa Líneas Aéreas* (C-173/23, EU:C:2024:295, paragraph 27 and the case-law cited).

84. But what level of information would be sufficient to remedy that imbalance?

85. In order to answer that question, it is necessary to consider the types of documents that may be required for the purposes of customs duties.

86. The procedural framework for applying customs duties is harmonised throughout the European Union [25] and, in addition to the mandatory customs declaration, [26] the general documentary requirements for customs procedures are set out in Commission Implementing Regulation (EU) 2015/2447. [27] These include supporting documents regarding customs value [28] and the origin [29] of the goods being transported. Thus, although Member States are free to prescribe the particular forms of documentation that meet the specific requirements, [30] the underlying evidentiary requirements remain the same throughout the Union.

87. Taking that into account, given that traders that provide an international carriage service will have specialised knowledge of the general rules regarding customs procedures, including the documentation needed for those procedures, such as proof of value or origin of the goods, it follows that the trader should reasonably be expected to provide the consumer with such general information as to the types of evidentiary documents that he or she may be under an obligation to furnish to the trader for the purpose of completing customs procedures, regardless of whether that trader offers a customs brokerage service or not, so as to allow that consumer to make an informed transactional decision.

88. For those reasons, I do not believe that Article 5(1)(a) of the Consumer Rights Directive can be interpreted as imposing an obligation on traders that do not provide a customs brokerage service, in the context of contracts for the international carriage of goods, to provide detailed information (such as a list) concerning the specific documents to be presented to the customs authorities at a given border for each of the goods being carried. Rather, in my view, that provision simply requires traders to inform consumers about the types of evidentiary documents that the consumer will need to furnish, i.e., that the consumer will need to furnish documents which prove the origin or value of the goods being transported, without, however, stating the specific documents necessary for that purpose.

89. Bearing in mind the nature of the service being provided, the obligation on a trader under Article 5(1)(c) of that directive to inform the consumer of the total price of the service being provided should not be interpreted as requiring a trader that provides a service for the international carriage of goods – but not a customs brokerage service – to provide a consumer with detailed information as to the specific rates and amounts of the customs duties. That is because the cost of customs duties cannot reasonably be regarded as forming part of the 'price' of such a service, which only involves transporting the goods and does not include a customs clearance service.

[25] See, to that effect, recital 28 of the UCC.

[26] Article 158 of the UCC.

[27] Commission Implementing Regulation of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ 2015 L 343, p. 558; 'Regulation 2015/2447').

[28] Article 145 of Regulation 2015/2447.

[29] Article 116 of Regulation 2015/2447.

[30] For example, Member States may require documents to be translated. See, to that effect, Article 116 of Regulation 2015/2447.

90. I agree with the Commission that the information obligation laid down in Article 5(1)(c) of the Consumer Rights Directive must be interpreted in the light of the nature of the contract concluded between the trader and the consumer. If the contract does not specify that the carrier will provide customs brokerage services, the carrier is not required to provide the consumer with detailed information on the rates and level of customs duties applicable to the goods in question.

91. That does not, however, in any way negate the obligation on such a trader to inform the consumer that customs duties *may* be payable, pursuant to Article 5(1)(a) of the Consumer Rights Directive.

92. With that in mind, after having provided such information to the consumer, those traders should stipulate that, in the event that customs procedures become payable at the border, either because of the nature of the goods being carried, or as a result of inaccurate or inadequate documentation furnished by the consumer, the trader will pay the duties on the consumer's behalf and the consumer must reimburse the trader once the goods have been delivered. Such information as to the potential of future costs can reasonably be regarded as material information which the consumer needs in order to make an informed transactional decision.

93. In light of the forgoing, I believe that Article 5(1)(a) and (c) of the Consumer Rights Directive must be interpreted as meaning that a trader that provides a service for the international carriage of goods – but not a customs brokerage service – is under an obligation to inform the consumer, prior to the conclusion of the contract, that the goods being transported may be subject to customs duties and that the consumer will be required to reimburse the trader for any duties paid by the trader on the consumer's behalf. The trader may fulfil that obligation by providing the consumer with general information as to the types of evidentiary documents required for the purposes of the customs procedures, but is not required to provide detailed information on either the specific documents required to complete those customs formalities or the rates and amounts of those customs duties.

94. Applying the foregoing conclusions to the facts of the main proceedings, it does not appear to be in dispute in the present case that the contract concluded between the applicant and the defendant did not include a customs brokerage service. Nor is it in dispute that the defendant (the trader) did not provide the applicant (the consumer) with detailed information on the customs procedures and the applicable rates of customs duties.

95. Whether or not the defendant failed to provide the applicant with the relevant information in relation to potential customs procedures and therefore infringed its pre-contractual information obligation under Article 5 of the Consumer Rights Directive, the extent and the consequences of that infringement with regard to the contract at issue, is a matter for the referring court to assess.

IV. Conclusion

96. In the light of the foregoing considerations, I propose that the Court answer the questions referred for a preliminary ruling by the Lietuvos Aukščiausiasis Teismas (Supreme Court of Lithuania) as follows:

Article 5(1)(a) of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council ('the Consumer Rights Directive')

must be interpreted as meaning that, in so far as that provision requires a trader to provide a consumer with information on the main characteristics of the goods or services, the trader that provides an international carriage service to a consumer is under an obligation to inform that consumer, prior to the conclusion of the contract, that the goods being transported *may* be subject to customs duties. That obligation requires traders to inform the consumer whether or not a brokerage service is being offered as part of that contract and, accordingly, whether it is the trader or the consumer who will be responsible for taking charge of the necessary documentation for the purpose of completing the customs formalities.

In the context of contracts for the international carriage of goods which *include* a customs brokerage service, Article 5(1)(a) and (c) of the Consumer Rights Directive

must be interpreted as requiring the trader to provide the consumer with detailed information on the specific documents necessary for customs formalities, as well as detailed information on the specific rates and amounts of customs duties, including information on the general factors that may influence the overall price of the service being provided.

In the context of contracts for the international carriage of goods which *do not include* a customs brokerage service, Article 5(1)(a) and (c) of the Consumer Rights Directive

must be interpreted as requiring the trader to inform the consumer of the requirement to reimburse the trader for any duties paid on the consumer's behalf. That trader should provide the consumer with general information as to the types of evidentiary documents required for the purposes of the customs procedures, but is not required to provide detailed information on either the specific documents required to complete customs formalities or the rates and amounts of those customs duties.