

New EU case ruling means vehicles no longer on the road may require insurance



The recent Court of Justice of the European Union (ECJ) decision in the case of *Fundo de Garantia Automovel v Juliana*¹ indicates that a vehicle which has not formally been taken out of use and can still be driven should be covered by insurance even if the owner does not drive it or has parked it on private land.

The case²

Defendant Ms Juliana owned a vehicle which she no longer drove for medical reasons. Roadworthy, but unused, she left the vehicle in her yard. Her son stole the vehicle and as a result was involved in a collision which killed him and his two passengers. The Portuguese compensation body (MIB) paid out compensation before starting legal proceedings to recover the money from Ms Juliana with the claim that the vehicle should have been insured. The Supreme Court of Portugal referred the case to the ECJ asking whether Ms Juliana was required to have insurance and if she was not directly responsible for the deaths, was she indirectly responsible?³

The MIB's argument was that all vehicles impose an inherent risk and therefore need to be insured until they are formally de-registered and withdrawn from use. The UK equivalent of this would be Statutory Off Road Notification (SORN) or declaring the vehicle as off road to the DVLA. Unless this has been done then the vehicle is subject to Continuous Insurance Enforcement Legislation (CIE).

What does this mean for off-road vehicles?

The Court of Justice of the European Union held article 3(1) of Council Directive 72/166/EEC, as amended by Directive (EC) 2005/14, interpreting it as the need for insurance to be in place for motor vehicles which have been withdrawn from use if they capable of being driven. This extends off-road and onto private property. The ruling indicates that if an off-road vehicle is involved in an accident then the national compensation body can bring action against the person who was responsible for securing insurance – even if they are not personally liable for the incident⁴.

This does differ slightly from the scope of SORN, meaning that the UK may now need to create an amendment to the scheme to comply with this Directive.



A recent ruling from the UK Court of Appeal in the case of UK Insurance v Holden reaffirms this⁵, as it was ruled that a vehicle under repair or restoration is still in operation as it is capable of being driven and therefore requires insurance.

Another case which reaffirms this is Damijan Vnuk v Zavarovalnica Triglav (C-162/13)⁶ which ruled that vehicles on private land require liability insurance after Mr Vnuk was knocked off a ladder by a tractor trailer on the farmland where he worked.

This could have a considerable unexpected effect on a number of industries, including the Motorsports industry whom may have to start insuring their racing cars and also for owners of classic cars or specialists in car restoration. Those in the agriculture industry will also need to insure their vehicular equipment, such as tractors even if they're on their own farmland. For regular road users it may mean that we have to return to Green Cards when driving in the EU to show insurance is in place.

Find out more

At Gallagher we can help to make sure that you have the correct insurance for your vehicle, whether it's currently on or off-road. We are specialists in insuring classic cars, agricultural vehicles, restorers and repairers and motorsports vehicles and can help you protect both your business and your vehicles. Our specialist risk management packages can help you stay on top of regulation. To find out more, please get in touch with your usual Gallagher representative.

Sources:

- ¹ www.blmlaw.com/news/juliana-v-fundo-de-garantia-automovel-motor-insurance-and-vehicles-not-intended-to-be-driven
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GST-297076753



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