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HOW DOES THE COURT OF THE EU UNDERSTAND THE NULLITY OF MOTOR INSURANCE CONTRACT? – "WE HAVE NO JURISDICTION BUT YOU HAVE TO PAY!" [***]

The paper addresses the issue of the nullity of a motor insurance contract due to a breach of the duty of disclosure under certain national laws. The Court of Justice of the EU acknowledges that each Member State independently regulates the conditions for the validity of the contract. However, the Court of Justice of the EU further considers that the aforementioned national rules must not have a restrictive effect on the rights of third (injured) parties (Matmut, Liberty Seguros, Fidelidade-Companhia). The rights of third parties from the motor insurance directives take precedence over national laws. Therefore, third parties should be granted the right to compensation for damage, even if the motor insurance contract is null and void due to a breach of the duty of disclosure, provided that there is no abuse of EU law. The paper analyses the current solutions in the laws of the Republic of Croatia and the Federation of Bosnia and Herzegovina in view of the presented case law of the Court of Justice of the EU.

Keywords*: contract, insurance, motor third party liability, nullity, duty of disclosure, Court of Justice of the EU.*

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