Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

24 October 2013 *

(Compulsory insurance against civil liability in respect of the use of motor vehicles — Directive 72/166/EEC — Article 3(1) — Directive 90/232/EEC — Article 1 — Road traffic accident — Death of the parents of the applicant, who is a minor — Right to compensation of the child — Non-material damage — Compensation — Cover by compulsory insurance)

In Case C-277/12,

REQUEST for a preliminary ruling under Article 267 TFEU from the Augstākās tiesas Senāts (Latvia), made by decision of 16 May 2012, received at the Court on 1 June 2012, in the proceedings

Vitālijs Drozdovs

v

Baltikums AAS,

THE COURT (Second Chamber),

composed of R. Silva de Lapuerta, President of the Chamber, J. L. da Cruz Vilaça, G. Arestis, J.-C. Bonichot and A. Arabadjiev (Rapporteur), Judges,

Advocate General: N. Jääskinen,

Registrar: M. Aleksejev, Administrator,

having regard to the written procedure and further to the hearing on 20 March 2013,

after considering the observations submitted on behalf of:

— Vitālijs Drozdovs, represented by N. Frīdmane, advokāte,

— Baltikums AAS, by G. Radiloveca, advokāte,

— the Latvian Government, by A. Nikolajeva and I. Kalniņš, acting as Agents,

— the German Government, by F. Wannek and T. Henze, acting as Agents,

— the Lithuanian Government, by R. Janeckaitė, A. Svinkūnaitė and D. Kriaučiūnas, acting as Agents,

— the European Commission, by A. Sauka and K.-P. Wojcik, acting as Agents,

* Language of the case: Latvian.

after hearing the Opinion of the Advocate General at the sitting on 11 July 2013,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 3(1) of Council Directive 72/166/EEC of 24 April 1972 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 to the enforcement of the obligation to insure against such liability (OJ, English Special Edition 1972 (II), p. 360) ('the First Directive'), and of Article 1(1) and (2) of 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) ('the Second Directive').

2 The request has been made in proceedings between Vitālijs Drozdovs, represented by Valentīna Balakireva, and Baltikums AAS ('Baltikums'), an insurance company, concerning payment of compensation by the latter, arising from civil liability in respect of the use of motor vehicles for the non-material damage suffered by Vitālijs Drozdovs resulting from the death of his parents in a road traffic accident.

Legal context

European Union law

3 Article 1 of the First Directive states:

'For the purposes of this Directive:

…

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

…'

4 Article 3(1) of the First Directive provides:

'Each Member State shall … 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 these measures.'

5 Article 1(1) and (2) of the Second Directive provides:

'1. The insurance referred to in Article 3(1) of [the First Directive] shall cover compulsorily both damage to property and personal injuries.

2. Without prejudice to any higher guarantees which Member States may lay down, each Member State shall require that the amounts for which such insurance is compulsory are at least:

— in the case of personal injury, [EUR] 350 000 … where there is only one victim; where more than one victim is involved in a single claim, this amount shall be multiplied by the number of victims;

— in the case of damage to property [EUR] 100 000 … per claim, whatever the number of victims.

Member States may, in place of the above minimum amounts, provide for a minimum amount of [EUR] 500 000 … for personal injury where more than one victim is involved in a single claim or, in the case of personal injury and damage to property, a minimum overall amount of [EUR] 600 000 … per claim whatever the number of victims or the nature of the damage.'

6 Article 1(1) of Third Council Directive 90/232/EEC of 14 May 1990 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (OJ 1990 L 129, p. 33) ('the Third Directive') provides that 'the insurance referred to in Article 3(1) of [the First Directive] shall cover liability for personal injuries to all passengers, other than the driver, arising out of the use of a vehicle'.

Latvian law

7 Article 15 of the Law on compulsory insurance against civil liability of road vehicle owners (Sauszemes transportlīdzekļu īpašnieku civiltiesiskās atbildības obligātās apdrošināšanas likums, *Latvijas Vēstnesis*, 2004, No 65 (3013), in the version applicable at the time of the facts in the main proceedings ('the OCTA'), entitled 'The insurer's liability limit', provided:

'(1) When an insured event occurs, the insurer with whom the owner of the vehicle which caused the damage effected civil liability insurance or the Motor Vehicle Insurance Office (if it is the Guarantee Fund which has to pay the compensation), shall cover the losses in an amount not exceeding the insurer's liability limit determined as follows:

1. in respect of compensation for personal injury: up to 250 000 lati [LVL] for each victim;

2. in respect of compensation for financial damage: up to [LVL] 70 000, regardless of the number of third-party victims;

(2) Third parties shall be entitled to compensation for damage not qualifying for compensation under the present law or which exceeds the insurer's liability limit.'

8 Article 19 of the OCTA, entitled 'Damage suffered by persons', stated:

'(1) Material damage to victims of road traffic accidents consists of:

1. medical treatment;

2. temporary incapacity for work;

3. invalidity preventing work;

4. death.

(2) Damage causing the victim pain and psychological suffering deriving from the following is to be regarded as non-material damage:

1. physical trauma affecting the victim;

2. mutilation or invalidity of the victim;

3. death of the family's economic provider, a dependant or a spouse;

4. group 1 invalidity of the economic provider of the family, a dependant or a spouse.

(3) The Council of Ministers shall determine the amount of the insurance compensation and the detailed arrangements for calculating it in the case of material and non-material damage.'

9 Article 23 of the OCTA, entitled 'Damage related to the victim's death', provided:

(1) The following are entitled to insurance compensation in the event of the death of the person on whom they are dependant:

1. children, including adopted children:

a. until they reach the age of majority,

…'

10 Article 5 of the Civil Code (Civilikums, *Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1993, No 1), as applicable at the time of the facts in the main proceedings provided:

'Where a case is decided on an equitable basis or in strict accordance with the law, the court shall give its ruling in accordance with the general principles of law.'

11 Article 1635 of the Civil Code stated:

'The victim of any unlawful harm, that is to say any unlawful action, shall be entitled to compensation from the perpetrator, so long as it is attributable to the latter.'

12 Article 2347 of the Civil Code provided:

'If a person causes, by an action which is attributable to him and which is unlawful, physical injury to another person, he must provide compensation to the latter to cover his medical expenses and, at the court's discretion, any loss of income.

Anyone who carries out an activity which presents a particular danger to those in his surroundings regarded as being particularly dangerous as a result of its environment (transport, industry, construction, dangerous substances, etc.) shall be required to compensate damage resulting from that danger if it cannot be shown that the damage was caused as a result of *force majeure*, fault on the part of the victim or gross negligence. If, through no fault of his own, the owner, holder or user loses control over the source of that danger as a result of the unlawful conduct of another person, that person shall be liable for compensating the damage suffered. If the holder (owner, possessor, user) has also acted in an unjustified manner, it shall be possible to challenge the liability for the damage caused of both the person who used the object, which is at the source of an increased danger, and its holder, in accordance with the degree of fault of each of them.'

13 Under Article 22 of the Code of Criminal Procedure (Kriminālprocesa likums, *Latvijas Vēstnesis*, 2005, No 74 (3232), entitled 'Right to compensation for damage suffered':

'The right to seek and obtain compensation for non-material and material damage before the courts shall be guaranteed to any person who has suffered damage as a result of an unlawful act, including non-material harm, physical injuries and damage to property.'

14 Articles 7 and 10 of Decree No 331 of the Council of Ministers on the amount and method of calculating insurance compensation for non-material damage caused to persons (Noteikumi par apdrošināšanas atlīdzības apmēru un aprēķināšanas kārtību par personai nodarītajiem nemateriālajiem zaudējumiem), of 17 May 2005 (*Latvijas Vēstnesis*, 2005, No 80 (3238) ('the decree')), implementing Article 19(3) of the OCTA, state:

'Article 7

The amount of insurance compensation for pain and psychological suffering caused by the death of the family's economic provider, a dependant or a spouse is to be [LVL] 100 for each applicant within the group of persons mentioned in Article 23(1) of the Law on compulsory insurance against civil liability for owners of road vehicles.

…

Article 10

The total amount of insurance compensation shall not exceed [LVL] 1 000 for each road traffic accident victim, where compensation has been paid for all the damage mentioned in paragraphs 3, 6, 7 and 8 of the decree.'

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

15 On 14 February 2006, the parents of Vitālijs Drozdovs died in a road traffic accident in Riga (Latvia). Vitālijs Drozdovs, who was born on 25 August 1995, was consequently placed under the supervision of his grandmother, Valentīna Balakireva, who was also made his legal guardian ('the guardian').

16 That accident was caused by a car driver insured by Baltikums. The driver responsible for the accident, who was under the influence of alcohol, was driving above the speed limit in a vehicle which was in a poor state from a technical point of view. At the time of the accident, the driver performed a dangerous overtaking manoeuvre. As a result, he was sentenced, in criminal proceedings, to six years' imprisonment and was banned from driving a motor vehicle for five years.

17 On 13 December 2006, the guardian informed Baltikums of the accident and requested compensation as provided for, including for non-material damage, which was estimated at LVL 200 000. On 29 January 2007, pursuant to Article 7 of the decree, Baltikums paid compensation of LVL 200 in respect of the psychological suffering endured by Vitālijs Drozdovs, and compensation of LVL 4 497,47 in respect of damage to property, which is not contested.

18 On 13 September 2007, the guardian brought an action against Baltikums claiming payment of compensation of LVL 200 000 for the non-material damage suffered by her grandson owing to the psychological suffering he endured following the loss of his parents at his young age, based on Article 15(1)(1), Article 19(2)(3) and Article 39(1) and (6) of the OCTA and Article 1(2) of the Second Directive.

19 Since that action and the appeal brought by the guardian were dismissed, in particular on the basis of Article 7 of the decree, she lodged an appeal on a point of law before the referring court, seeking that the appeal judgment be set aside and that the case be referred back to the appeal court for re-examination.

20 By that appeal, the guardian submits, inter alia, that the appeal court misapplied Article 15(1)(1) of the OCTA, since that provision should have been interpreted in accordance with the First and Second Directives, inter alia. However, under that European Union legislation, a Member State cannot lay

down limitations on the compensation payable which are lower than the minimum amounts provided for in Article 1 of the Second Directive. Accordingly, she submits that Article 7 of the decree is contrary to the limits laid down in Article 15(1)(1) of the OCTA and in the abovementioned directives.

21 The referring court states that Article 1 of the Second Directive lays down a compulsory amount to be guaranteed for personal injuries and damage to property, but does not directly address non-material damage suffered by persons. Moreover, it states that the Court of Justice has recognised the fact that the aim of the First and Second Directives is not to harmonise the rules of the Member States governing civil liability, with the result that they are free to determine the rules of civil liability applicable to road traffic accidents. The referring court argues that it could be inferred from this that the First and Second Directives do not concern the amount of compensation for non-material damage suffered by persons.

22 However, the referring court considers that it is also possible to conclude that those directives preclude legislation of the Member States which lays down a maximum amount to be paid under an insurance scheme against civil liability in respect of the use of motor vehicles. The aim of compulsory insurance against civil liability, it considers, is to compensate, at least in part, victims of road traffic accidents for damage which can be evaluated objectively, such as damage to property and personal injury, which includes non-material damage.

23 Moreover, it states that the Court of Justice has held that the First and Second Directives make it unlawful to deny or significantly reduce compensation for injuries suffered by road traffic accident victims and to limit the maximum amounts of compensation to be guaranteed at levels lower than those laid down in Article 1(2) of the Second Directive.

24 The referring court also notes that an effective insurance scheme against civil liability must seek to reconcile the various interests of the victims of road traffic accidents, motor vehicle owners and their insurers. Placing clear limits on compensation would ensure that victims receive the compensation laid down for the damage suffered, limit insurance premiums to reasonable sums and enable insurers to make a profit.

25 The referring court states that the national legislature has limited compensation from compulsory insurance against civil liability in respect of road traffic accidents by capping such compensation and delegated the task to the government of determining the rules governing the amount and method of calculation of compensation payable by insurers for non-material damage suffered by persons. However, in its view, those rules disproportionately limit the right to compensation under such insurance, in particular by the allocation of a 'derisory' sum of compensation in the amount of LVL 100 which is laid down for psychological suffering caused as a result of the death of a person on whom the person concerned is dependent.

26 In those circumstances, the Augstākās tiesas Senāts decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'1. Is compensation for non-material damage included in the amount of compulsory protection for personal injuries laid down in Article 3 of [the First Directive] and in Article 1(2) of [the Second Directive]?

2. If the first question is answered in the affirmative, must Article 3 of [the First Directive] and Article 1(2) of [the Second Directive] be interpreted as meaning that those provisions preclude legislation of a Member State whereby civil liability applicable in that State – the maximum amount of compensation for non-material damage – is limited by the establishment of a limit that is substantially lower than the limit laid down for the insurer's liability in the directives and in national law?'

Consideration of the questions referred

The first question

27 By its first question, the referring court asks, in essence, whether Article 3(1) of the First Directive and Article 1(2) of the Second Directive must be interpreted as meaning that compulsory insurance against civil liability in respect of the use of motor vehicles must cover compensation for non-material damage suffered by the next of kin of deceased victims of a road traffic accident.

28 It should be noted that the preambles to the First and Second Directives show that their aim is, first, to ensure the free movement of vehicles normally based in European Union territory and of persons travelling in those vehicles and, second, to guarantee that the victims of accidents caused by those vehicles receive comparable treatment irrespective of where in the European Union the accident occurred (Case C-300/10 *Marques Almeida* [2012] ECR, paragraph 26 and the case-law cited).

29 The First Directive, as amplified and supplemented by the Second and Third Directives, 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 (*Marques Almeida*, paragraph 27 and the case-law cited).

30 It should however be noted that the obligation to provide insurance cover against civil liability for damage caused to third parties by motor vehicles is 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 European Union legislation, the latter is, essentially, governed by national law (*Marques Almeida*, paragraph 28 and the case-law cited).

31 In that regard, the Court has already held that it is apparent from the aim of the First, Second and Third Directives, and from their wording, that they do not seek to harmonise the rules of the Member States governing civil liability and that, as European Union law now stands, the Member States are free to determine the rules of civil liability applicable to road accidents (*Marques Almeida*, paragraph 29 and the case-law cited).

32 Consequently, and regard being had inter alia to Article 1(2) of the First Directive, as European Union law currently stands, in relation to their civil liability insurance schemes, in principle the Member States remain free to determine, in particular, which damage caused by motor vehicles is to be compensated, the extent of such compensation and the persons who are entitled to it.

33 However, the Court of Justice has stated that the Member States must exercise their powers in that field in compliance with European Union law and that national provisions which govern compensation for road traffic accidents may not deprive the First, Second and Third Directives of their effectiveness (*Marques Almeida*, paragraph 31 and the case-law cited).

34 In so far as concerns the cover by compulsory insurance of damage caused by motor vehicles which must be compensated under national civil liability law, the second sentence of Article 3(1) of the First Directive indeed left it, as submitted by the German Government, to the Member States to determine the damage covered and the terms and conditions of compulsory insurance (see, to that effect, Case C-129/94 *Ruiz Bernáldez* [1996] ECR I-1829, paragraph 15).

35 However, it is in order to reduce the disparities which continued to exist between the laws of the Member States with respect to the extent of the obligation of insurance cover that Article 1 of the Second Directive required compulsory cover against civil liability, for both damage to property and personal injuries, up to specified sums. Article 1 of the Third Directive extended that obligation to cover personal injuries to passengers other than the driver (*Ruiz Bernáldez*, paragraph 16).

36 Thus, the Member States are required to ensure that the civil liability resulting from the use of motor vehicles arising under their domestic law is covered by insurance which complies with the provisions of the First, Second and Third Directives (*Marques Almeida*, paragraph 30 and the case-law cited).

37 Consequently, the freedom enjoyed by the Member States to determine the damage covered and the terms and conditions of compulsory insurance has been restricted by the Second and Third Directives, in that they rendered the cover of certain types of damage mandatory, specifying fixed minimum amounts of cover. Personal injuries, as set out in Article 1(1) of the Second Directive, feature among the types of damage in respect of which cover is mandatory.

38 As the Advocate General has stated in points 68 to 73 of his Opinion, and as has been held by the EFTA Court in its judgment of 20 June 2008 in Case E-8/07 *Celina Nguyen* v *The Norwegian State* (*EFTA Court Report*, p. 224, paragraphs 26 and 27), it must be considered that, in the light of the different language versions of Article 1(1) of the Second Directive, Article 1(1) of the Third Directive and the protective aim of the three directives referred to above, the notion of 'personal injuries' covers any type of damage, in so far as compensation for such damage is provided for, as part of the civil liability of the insured, under the national law applicable in the dispute, resulting from an injury to physical integrity, which includes both physical and psychological suffering.

39 According to settled case-law, provisions of European Union law must be interpreted and applied uniformly in the light of the versions existing in all the languages of the European Union. Where there is a divergence between the various language versions of a European Union text, the provision in question must thus be interpreted by reference to the general scheme and the purpose of the rules of which it forms part (see, inter alia, Case C-280/04 *Jyske Finans* [2005] ECR I-10683, paragraph 31 and the case-law cited).

40 Thus, since the various language versions of Article 1(1) of the Second Directive use, in essence, a variation of the notion of 'personal injury', reference must be made to the general scheme and purpose of that provision and of the directive. In that regard, it must be noted, first, that that notion complements that of 'damage to property' and, second, that that provision and the directive seek, in particular, to strengthen the protection afforded to victims. In those circumstances, it is necessary to adopt the broad interpretation of that notion provided in paragraph 38 above.

41 Consequently, non-material damage, compensation for which is provided for as part of the civil liability of the insured person, under the national law applicable in the dispute, features among the types of damage in respect of which compensation must be provided in accordance with the First, Second and Third Directives.

42 In so far as concerns the issue as to who is entitled to compensation for such non-material damage, the Court of Justice notes, first, that it is apparent from Article 1(2) of the First Directive, read in conjunction with the first sentence of Article 3(1) thereof, that the protection which must be assured under that directive extends to anyone who is entitled, under national civil liability law, to compensation for damage caused by motor vehicles.

43 Second, as noted by the Advocate General in point 78 of his Opinion, and contrary to what the German Government submits, the Third Directive has not reduced the circle of protected persons, but, on the contrary, has made mandatory cover for damage suffered by certain persons considered to be particularly vulnerable.

44 Moreover, since the notion of 'loss or injury' in Article 1(2) of the First Directive is not further defined, there is nothing to suggest, contrary to what the Latvian and Lithuanian Governments claim, that certain types of damage, such as non-material damage, should be excluded from that notion, since compensation must be provided for such damage under the applicable national civil liability law.

45 It cannot be concluded from any part of the First, Second and Third Directives that the European legislature wished to restrict the protection ensured by those directives exclusively to persons directly involved in an event causing harm.

46 Consequently, the Member States are required to ensure that compensation payable, under their national civil liability law, for non-material harm suffered by the next of kin of victims of road traffic accidents are covered by compulsory insurance of at least the minimum amounts laid down in Article 1(2) of the Second Directive.

47 That should be so in this instance since, according to the information provided by the referring court, persons in the situation of Vitālijs Drozdovs are entitled, under Latvian civil liability law, to compensation for non-material damage suffered as a result of the death of their parents.

48 In the light of all of the foregoing considerations, the answer to the first question is that Article 3(1) of the First Directive and Article 1(1) and (2) of the Second Directive must be interpreted as meaning that compulsory insurance against civil liability in respect of the use of motor vehicles must cover compensation for non-material damage suffered by the next of kin of the deceased victims of a road traffic accident, in so far as such compensation is provided for as part of the civil liability of the insured party under the national law applicable in the dispute in the main proceedings.

The second question

49 By its second question the referring court asks, in essence, whether Article 3(1) of the First Directive and Article 1(2) of the Second Directive must be interpreted as precluding national provisions, pursuant to which compulsory insurance against civil liability in respect of the use of motor vehicles covers compensation under national civil law for non-material damage resulting from the death of a person's next of kin in a road traffic accident – payable in accordance with national civil liability law – only to a maximum amount which is lower than the minimum amounts laid down in Article 1(2) of the Second Directive.

50 It has been found in paragraph 46 above that the Member States are required to ensure that compensation payable, under their national civil liability law, for non-material harm suffered by the next of kin of victims of road traffic accidents is covered by compulsory insurance of at least the minimum amounts laid down in Article 1(2) of the Second Directive.

51 It should also be noted that the Court of Justice has ruled that Article 1(2) of the Second Directive precludes national laws laying down maximum amounts of compensation that are lower than the minimum amounts of cover laid down by that provision (see, to that effect, Case C-348/98 *Mendes Ferreira and Delgado Correia Ferreira* [2000] ECR I-6711, paragraph 40, and the order in Case C-166/02 *Messejana Viegas* [2003] ECR I-7871, paragraph 20).

52 In so far as Baltikums submits that the national legislature is free to provide, for specific categories of damage, maximum amounts to be guaranteed which are lower than the minimum amounts guaranteed under Article 1(2) of the Second Directive where it is ensured that, for damage taken as a whole, the minimum amounts to be guaranteed under that article are respected, the Court points out, first, that Article 1(2) of the Second Directive neither provides for nor makes a distinction between the damage covered, other than the distinction made between personal injuries and damage to property.

53 Second, the Court points out that it has been noted in paragraph 33 above that the Member States must exercise their powers in that field in accordance with European Union law and that the national provisions which govern compensation for road traffic accidents may not deprive the First, Second and Third Directives of their effectiveness.

54 However, if the national legislatures were free to lay down, say in national legislation, maximum amounts, for each of the specific categories of damage identified, to be guaranteed which are lower than the minimum amounts laid down in Article 1(2) of the Second Directive, the minimum amounts laid down in the directive and, consequently, Article 2(1) itself would be deprived of their effectiveness.

55 Moreover, it is apparent from the file before the Court of Justice that, in contrast to the circumstances which gave rise to the judgment in *Marques Almeida*, the national legislation at issue in the main proceedings does not seek to determine the right of the victim to compensation arising from the civil liability of the insured person any more than the possible extent of that right. Rather, it seeks to limit the compulsory insurance cover of the insured person against civil liability.

56 The guardian made the point, which was confirmed by the Latvian Government at the hearing before the Court of Justice, that, under Latvian law, the civil liability of the insured person for non-material damage, inter alia, suffered by persons as a result of a road traffic accident may exceed the amounts covered, under the national legislation in dispute, by compulsory insurance.

57 In those circumstances, it must be held that the national legislation at issue in the main proceedings affects the guarantee, provided under European Union law, that civil liability in respect of the use of motor vehicles, determined according to the applicable national law, will be covered by insurance in accordance with the First, Second and Third Directives (see, to that effect, *Marques Almeida*, paragraph 38 and the case-law cited).

58 It follows that the answer to the second question is that Article 3(1) of the First Directive and Article 1(1) and (2) of the Second Directive must be interpreted as precluding national provisions, pursuant to which compulsory insurance against civil liability in respect of the use of motor vehicles covers compensation for non-material damage resulting from the death of a person's next of kin in a road traffic accident – payable in accordance with national civil liability law – only to a maximum amount which is lower than the minimum amounts laid down in Article 1(2) of the Second Directive.

Costs

59 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 (Second Chamber) hereby rules:

1. **Article 3(1) of Council Directive 72/166/EEC of 24 April 1972 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 to the enforcement of the obligation to insure against such liability and Article 1(1) and (2) of 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 must be interpreted as meaning that compulsory insurance against civil liability in respect of the use of motor vehicles must cover compensation for non-material damage suffered by the next of kin of the deceased victims of a road traffic accident, in so far as such compensation is provided for as part of the civil liability of the insured party under the national law applicable in the dispute in the main proceedings.**

2. **Article 3(1) of Directive 72/166 and Article 1(1) and (2) of Second Directive 84/5 must be interpreted as precluding national provisions, pursuant to which compulsory insurance against civil liability in respect of the use of motor vehicles covers compensation for non-material damage resulting from the death of a person's next of kin in a road traffic**

accident – payable in accordance with national civil liability law – only to a maximum amount which is lower than the minimum amounts laid down in Article 1(2) of Second Directive 84/5.

[Signatures]