JUDGMENT OF THE COURT (sitting as a full Court)

12 October 2004 *

In Case C-222/02,

REFERENCE for a preliminary ruling under Article 234 EC,

from the Bundesgerichtshof (Germany), made by decision of 16 May 2002, received at the Court on 17 June 2002, in the proceedings

Peter Paul,

Cornelia Sonnen-Lütte,

Christel Mörkens

v

Bundesrepublik Deutschland,

* Language of the case: German.

THE COURT (sitting as a full Court),

composed of: V. Skouris, President, P. Jann, C.W.A. Timmermans, A. Rosas, Presidents of Chambers, C. Gulmann (Rapporteur), J.-P. Puissochet, R. Schintgen, F. Macken, N. Colneric, S. von Bahr and J.N. Cunha Rodrigues, Judges,

Advocate General: C. Stix-Hackl,
Registrar: M.-F. Contet, Principal Administrator,

having regard to the written procedure and further to the hearing on 30 September 2003,

after considering the observations submitted on behalf of:

— Mr Paul, Ms Sonnen-Lütte and Ms Mörkens, by K. Hasse, Rechtsanwalt,

— the German Government, by W.-D. Plessing and A. Tiemann, acting as Agents,

— the Spanish Government, by E. Braquehais Conesa, acting as Agent,

— the Irish Government, by D.J. O'Hagan, acting as Agent, and A.M. Collins BL,

— the Italian Government, by I.M. Braguglia, acting as Agent, and P. Palmieri, avvocatessa dello Stato,

— the Portuguese Government, by L.I. Fernandes and L. Máximo dos Santos, acting as Agents,

— the United Kingdom Government, by K. Manji, acting as Agent, and M. Hoskins, Barrister,

— the Commission of the European Communities, by G. Zavvos, acting as Agent, and B. Wägenbaur, Rechtsanwalt,

after hearing the Opinion of the Advocate General at the sitting on 25 November 2003,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Articles 3 and 7 of Directive 94/19/EC of the European Parliament and of the Council of 30 May

1994 on deposit-guarantee schemes (OJ 1994 L 135, p. 5) and of a number of provisions of First Council Directive 77/780/EEC of 12 December 1977 on the coordination of the laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (OJ 1977 L 322, p. 30), of Council Directive 89/299/EEC of 17 April 1989 on the own funds of credit institutions (OJ 1989 L 124, p. 16) and of Second Council Directive 89/646/EEC of 15 December 1989 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions and amending Directive 77/780 (OJ 1989 L 386, p. 1).

2 The reference was made in the course of proceedings between Mr Paul, Ms Sonnen-Lütte and Ms Mörkens ('Paul and others'), on the one hand, and the Bundesrepublik Deutschland, on the other, from which they claim compensation for the belated transposition of Directive 94/19 and for defective supervision of a bank by the Bundesaufsichtsamt für das Kreditwesen (Federal office for the supervision of credit institutions, 'the Bundesaufsichtsamt').

Legal background

Community legislation

3 The 24th recital in the preamble to Directive 94/19 states:

'... this directive may not result in the Member States' or their competent authorities' being made liable in respect of depositors if they have ensured that one or more schemes guaranteeing deposits or credit institutions themselves and

ensuring the compensation or protection of depositors under the conditions prescribed in this directive have been introduced and officially recognised'.

4 Article 3 of Directive 94/19 provides:

'1. Each Member State shall ensure that within its territory one or more deposit-guarantee schemes are introduced and officially recognised. ...

...

2. If a credit institution does not comply with the obligations incumbent on it as a member of a deposit-guarantee scheme, the competent authorities which issued its authorisation shall be notified and, in collaboration with the guarantee scheme, shall take all appropriate measures including the imposition of sanctions to ensure that the credit institution complies with its obligations.

3. If those measures fail to secure compliance on the part of the credit institution, the scheme may, where national law permits the exclusion of a member, with the express consent of the competent authorities, give not less than 12 months' notice of its intention of excluding the credit institution from membership of the scheme. Deposits made before the expiry of the notice period shall continue to be fully covered by the scheme. If, on the expiry of the notice period, the credit institution has not complied with its obligations, the guarantee scheme may, again having obtained the express consent of the competent authorities, proceed to exclusion.

4. Where national law permits, and with the express consent of the competent authorities which issued its authorisation, a credit institution excluded from a deposit-guarantee scheme may continue to take deposits if, before its exclusion, it has made alternative guarantee arrangements which ensure that depositors will enjoy a level and scope of protection at least equivalent to that offered by the officially recognised scheme.

5. If a credit institution the exclusion of which is proposed under paragraph 3 is unable to make alternative arrangements which comply with the conditions prescribed in paragraph 4, then the competent authorities which issued its authorisation shall revoke it forthwith.'

5 Under Article 7 of Directive 94/19:

'1. Deposit-guarantee schemes shall stipulate that the aggregate deposits of each depositor must be covered up to ECU 20 000 in the event of deposits' being unavailable.

...

3. This article shall not preclude the retention or adoption of provisions which offer a higher or more comprehensive cover for deposits. In particular, deposit-guarantee schemes may, on social considerations, cover certain kinds of deposits in full.

...

6. Member States shall ensure that the depositor's rights to compensation may be the subject of an action by the depositor against the deposit-guarantee scheme.'

6 Article 14(1) of Directive 94/19 provides that '[t]he Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this directive by 1 July 1995'.

National legislation

7 Paragraph 6(3) and (4) of the Gesetz über das Kreditwesen (Law on Credit Institutions, 'the KWG'), in the version applicable to the main proceedings (resulting from the amendment of 9 September 1998, BGBl. 1998 I, p. 2776), provides:

'3. The Bundesaufsichtsamt may, in the context of the functions assigned to it, issue to an institution and its managers orders which are appropriate and necessary in order to prevent or remedy defects within the institution which could jeopardise the security of the assets entrusted to it or affect the proper performance of banking transactions or financial services.

4. The Bundesaufsichtsamt shall exercise the functions assigned to it under this Law and other Laws only in the public interest.'

8 The current legislation corresponding to the latter provision is Paragraph 4(4) of the Gesetz über die Bundesanstalt für Finanzdienstleitungsaufsicht (Law on the Federal Institution for the Supervision of Financial Services) of 22 April 2002 (BGBl. 2002 I, p. 1310).

9 Paragraph 839(1), first sentence, of the Bürgerliches Gesetzbuch (German Civil Code, 'the BGB') states:

'If an official wilfully or negligently commits a breach of official duty incumbent upon him as against a third party, he shall compensate the third party for any damage arising therefrom.'

10 Article 34, first sentence, of the Grundgesetz (Basic Law, 'the GG') provides:

'If a person infringes, in the exercise of a public office entrusted to him, the obligations incumbent upon him as against a third party, liability therefor shall attach in principle to the State or to the body in whose service he is engaged.'

The main proceedings and the questions referred for a preliminary ruling

11 Paul and others were customers of the BVH Bank für Vermögensanlagen und Handel AG ('the BVH Bank'). In 1987, that bank had received authorisation from the

Bundesaufsichtsamt to engage in banking transactions, but it was not a member of a deposit-guarantee scheme. From 1987 to 1992, the bank applied unsuccessfully for admission to the deposit-guarantee fund of the Bundesverband deutscher Banken eV, but it withdrew from the admission process since it did not fulfil the necessary conditions.

12 In 1991, 1995 and 1997, BVH Bank's difficult financial situation prompted the Bundesaufsichtsamt to carry out examinations of its affairs. Following the third such examination, on 14 November 1997 the Bundesaufsichtsamt filed a bankruptcy petition and revoked the bank's authorisation to engage in banking transactions.

13 Paul and others had opened term deposit accounts with the BVH Bank on 7 June 1995, 28 February 1994 and 17 June 1993. In the context of the bankruptcy proceedings opened in December 1997, they declared claims in the sums of DEM 131 455.80, DEM 101 662.51 and DEM 66 976.20.

14 Paul and others brought proceedings before the Landgericht Bonn (Regional Court, Bonn) (Germany) against the Bundesrepublik Deutschland for compensation in respect of the losses of their deposits. They claimed that they would not have lost those deposits if Directive 94/19 had been transposed within the period prescribed in Article 14(1) thereof, that is before 1 July 1995. The Bundesaufsichtsamt would then have taken supervisory measures vis-à-vis the BVH Bank before the applicants made payments to that bank.

15 Instead, however, Directive 94/19 was transposed into German law only by the Law transposing the EC Deposit-Guarantee Schemes Directive and the EC Investor-Compensation Schemes Directive, of 16 July 1998 (BGBl. 1998 I, p. 1842), which entered into force on 1 August 1998.

16 At first instance, the Landgericht Bonn held that the belated transposition of Directive 94/19 constituted a serious breach of Community law by the Bundesrepublik Deutschland and ordered the defendant to pay to each of the applicants the sum of DEM 39 450, the equivalent of EUR 20 000, that is the amount prescribed in Article 7(1) of Directive 94/19, plus interest.

17 In respect of the pecuniary loss exceeding that amount, the claims of Paul and others were rejected by the Landgericht Bonn and by the Oberlandesgericht Köln (Higher Regional Court, Cologne) (Germany). According to those two courts, liability for breach of official duty is incurred under Paragraph 839 of the BGB in conjunction with Article 34 of the GG in the event of a breach of 'official duty ... as against a third party', that is a duty which exists in any case as against the injured party. They held that that was precluded in the case of the Bundesaufsichtsamt, which exercises the functions assigned to it only in the public interest, pursuant to Paragraph 6(4) of the KWG.

18 Paul and others thus brought an appeal on a point of law ('Revision') before the Bundesgerichtshof (Federal Court of Justice) and sought an order against the Bundesrepublik Deutschland for payment of damages for breach of Community law.

19 The Bundesgerichtshof observes, first, that Paul and others have not stated in detail what supervisory measures would have been necessary but were not taken by the Bundesaufsichtsamt. Second, it notes that the Bundesrepublik Deutschland has not expressly disputed the accusation of misconduct on the part of the Bundesaufsichtsamt, but has simply denied liability on the ground that that authority exercises its functions only in the public interest. In those circumstances the Bundesgerichtshof finds that, for the purposes of examining the appeal, it must presume that the Bundesaufsichtsamt failed to take the required supervisory measures or took them

belatedly and that Paul and others thereby incurred loss in excess of the amounts already awarded to them at first instance.

20 The Bundesgerichtshof finds that the decisive issue for the legal assessment in the proceedings pending before it is whether a rule such as that in Paragraph 6(4) of the KWG can, in an unobjectionable manner, limit the liability for breach of official duty of the Bundesaufsichtsamt by imposing on it official obligations only in the public interest — in which case the lower courts have correctly found that the Bundesrepublik Deutschland is not liable under Paragraph 839 of the BGB in conjunction with Article 34 of the GG —, or whether that provision must be disregarded on account of the primacy of Community law.

21 The Bundesgerichtshof explains that, if the Court were to hold that Directive 94/19 or other directives in the field of credit institutions confer on depositors the right to have the competent authorities take supervisory measures in their interest, Paragraph 6(4) of the KWG would be contrary to Community law.

22 As regards the various coordinating banking directives to which it refers, the Bundesgerichtshof states that, in the context of their appeal, Paul and others submitted that it followed from all those directives that the purpose of banking supervisory measures was to protect depositors. Although those directives, which are relevant from the point of view of banking supervision law, do not contain any express reference to the protection of depositors, they form part of an overall scheme of banking supervision rules which, according to Paul and others, would be denied practical effectiveness if the Bundesaufsichtsamt were to exercise its functions only in the public interest, pursuant to Paragraph 6(4) of the KWG.

23 In those circumstances, the Bundesgerichtshof decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1) (a) Do the provisions of Articles 3 and 7 of Directive 94/19 ... confer on the depositor, in addition to the right to be compensated by a deposit-guarantee scheme up to the amount specified in Article 7(1) in the event of his deposit being unavailable, the more far-reaching right to require that the competent authorities avail themselves of the measures mentioned in Article 3(2) to (5) and, if necessary, revoke the credit institution's authorisation?

(b) In so far as such a right is conferred on the depositor, does that also include the right to claim compensation for damage resulting from the misconduct of the competent authorities, beyond the amount specified in Article 7(1) of [Directive 94/19]?

(2) (a) Do the provisions, as listed below, of directives harmonising the law on the prudential supervision of banks — either individually or in combination and, if so, from what date onwards — confer on the saver and investor rights to the effect that the competent authorities of the Member States must take prudential supervisory measures, with which they are charged by those directives, in the interests of that category of persons and must incur liability for any misconduct,

or does Directive [94/19] on deposit-guarantee schemes contain an exhaustive set of special provisions for all cases of unavailability of deposits?

— First Council Directive 77/780 ...: Article 6(1), 4th and 12th recitals in the preamble;

— Second ... Directive 89/646 ...: Articles 3, 4 to 7, 10 to 17, 11th recital in the preamble;

— ... Directive 89/299: Article 7 in conjunction with Articles 2 to 6;

— European Parliament and Council Directive 95/26/EC of 29 June 1995 [amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision] (OJ 1995 L 168, p. 7): recital 15 in the preamble.

(b) Do Council Directives

— 92/30/EEC of 6 April 1992 on the supervision of credit institutions on a consolidated basis (OJ 1992 L 110, p. 52): 11th recital in the preamble;

— 93/6/EEC of 15 March 1993 on the capital adequacy of investment firms and credit institutions (OJ 1993 L 141, p. 1): eighth recital in the preamble;

— 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ 1993 L 141, p. 27): 2nd, 5th, 29th, 32nd, 41st and 42nd recitals;

provide assistance with interpretation for the purpose of answering the above question, regardless of whether they otherwise contain law applicable in the present case?

(3) Should the Court find that all or any one of the directives cited above confer(s) on savers or investors the right to require the competent authorities to avail themselves of prudential supervisory measures in their interest, the following further questions are submitted:

(a) Does a right for a saver or investor to have prudential supervisory measures taken in his interest have direct effect in proceedings brought against the Member State concerned in the sense that the national rules which preclude such a right must be disregarded,

or

(b) does a Member State which has failed to respect that right of savers or investors when transposing directives incur liability only in accordance with the principles governing claims for damages against the State under Community law?

(c) In the latter case, has the Member State committed a sufficiently serious breach of Community law where it has failed to recognise that a right to have prudential supervisory measures taken is conferred?'

On the questions referred for a preliminary ruling

24 Although doubts have been raised in a number of the observations submitted to the Court as to the admissibility of the questions referred, the Court finds that, by its developed statement of grounds referred to in paragraphs 19 to 22 above, the Bundesgerichtshof has demonstrated why the interpretation of the Community legislation in question seems to it necessary to enable it to give judgment in the main proceedings. Furthermore, it has set out the legal and factual background sufficiently to enable the Court to give it an effective answer and to give the parties to the main proceedings, the Member States and the Commission, in particular, the opportunity to submit observations in accordance with Article 23 of the Statute of the Court of Justice.

On the first question

25 By its first question, the Bundesgerichtshof seeks essentially to ascertain whether Directive 94/19, insofar as it refers in Article 3(2) to (5) thereof to the adoption of supervisory measures and an obligation to revoke a credit institution's authorisation, precludes a national rule to the effect that the functions of the national authority responsible for supervising credit institutions are to be fulfilled only in the public interest, which under national law precludes individuals from claiming compensation for damage resulting from defective supervision on the part of that authority.

26 In that regard, it should be borne in mind that Directive 94/19 seeks to introduce cover for depositors, wherever deposits are located in the Community, in the event of the unavailability of deposits made with a credit institution which is a member of a deposit guarantee-scheme.

27 The depositor's right to compensation in such a situation is governed by Article 7(1) and (6) of that directive. Article 7(1) determines the maximum amount of compensation which a depositor may claim on the basis of the directive, whilst Article 7(3) specifies that Member States may under their national law provide for rules offering depositors a higher or more comprehensive cover for deposits. Article 7(6) of Directive 94/19 requires Member States to ensure that the depositor's rights to compensation, as defined in particular in Article 7(1) and (3), may be the subject of an action by the depositor against the deposit-guarantee scheme.

28 Article 3(2) to (5) of the directive provides for an obligation for the competent authorities which have issued authorisations to credit institutions to ensure, in cooperation with the deposit-guarantee scheme, that those institutions comply with their obligations as members of that scheme and to adopt, where appropriate, in the conditions specified in Article 3(5), a decision revoking the authorisation of the institution in question.

29 The purpose of Article 3(2) to (5) of Directive 94/19 is to guarantee to depositors that the credit institution in which they make their deposits belongs to a deposit-guarantee scheme, in order to ensure protection of their right to compensation in the event that their deposits are unavailable, in accordance with the rules laid down in that directive and more specifically in Article 7 thereof. Those provisions thus relate only to the introduction and proper functioning of the deposit-guarantee scheme as provided for by Directive 94/19.

30 Under those conditions, as pointed out by the governments which submitted observations to the Court and by the Commission, if the compensation of depositors is ensured in the event that their deposits are unavailable, as prescribed by Directive 94/19, Article 3(2) to (5) thereof does not confer on depositors a right to have the competent authorities take supervisory measures in their interest.

31 That interpretation of Directive 94/19 is supported by the 24th recital in the preamble thereto, which states that the directive may not result in the Member States' or their competent authorities' being made liable in respect of depositors if they have ensured the compensation or protection of depositors under the conditions prescribed in the directive.

32 The answer to the first question must therefore be that, if the compensation of depositors prescribed by Directive 94/19 is ensured, Article 3(2) to (5) thereof cannot be interpreted as precluding a national rule to the effect that the functions of the national authority responsible for supervising credit institutions are to be fulfilled only in the public interest, which under national law precludes individuals from claiming compensation for damage resulting from defective supervision on the part of that authority.

On the second question

33 By its second question, the Bundesgerichtshof essentially seeks to ascertain whether Directives 77/780, 89/299 and 89/646, insofar as they contain rules on the supervision of credit institutions, preclude a national rule to the effect that the functions of the national authority responsible for supervising credit institutions are to be fulfilled only in the public interest, which under national law precludes individuals from claiming compensation for damage resulting from defective supervision on the part of that authority.

34 In that regard, it should first be observed that Directives 77/780, 89/299 and 89/646 were combined in Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions (OJ 2000 L 126, p. 1), the Community legislature having codified them because they had been frequently and substantially amended.

35 Those three directives were adopted under Article 57(2) of the EC Treaty (now, after amendment, Article 47(2) EC), under which, in order to make it easier for persons to take up and pursue activities as self-employed persons, the Council is to issue directives for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking up and pursuit of those activities.

36 It is clear from the first recital in the preamble to Directive 89/646, as recalled in the fourth recital in the preamble to Directive 2000/12, that the harmonisation which it introduces constitutes the essential instrument for the achievement of the internal market, from the point of view of both freedom of establishment and freedom to provide financial services, in the field of credit institutions.

37 It is clear from the fourth recital in the preamble to Directive 89/646, as recalled in the seventh recital in the preamble to Directive 2000/12, that the approach adopted by the legislature in the field of credit institutions is to achieve only the essential harmonisation necessary and sufficient to secure the mutual recognition of authorisations and of prudential supervision systems, making possible the granting of a single licence recognised throughout the Community and the application of the principle of home Member State prudential supervision.

38 In a number of the recitals in the preambles to the directives referred to in the second question, parts (a) and (b), it is stated in a general manner that one of the objectives of the planned harmonisation is to protect depositors.

39 Furthermore, Directives 77/780, 89/299 and 89/646 impose on the national authorities a number of supervisory obligations vis-à-vis credit institutions.

40 However, contrary to the claims of Paul and others, it does not necessarily follow either from the existence of such obligations or from the fact that the objectives pursued by those directives also include the protection of depositors that those directives seek to confer rights on depositors in the event that their deposits are unavailable as a result of defective supervision on the part of the competent national authorities.

41 In that regard, it should first be observed that Directives 77/780, 89/299 and 89/646 do not contain any express rule granting such rights to depositors.

42 Next, the harmonisation under Directives 77/780, 89/299 and 89/646, since it is based on Article 57(2) of the Treaty, is restricted to that which is essential, necessary and sufficient to secure the mutual recognition of authorisations and of prudential supervision systems, making possible the granting of a single licence recognised throughout the Community and the application of the principle of home Member State prudential supervision.

43 However, the coordination of the national rules on the liability of national authorities in respect of depositors in the event of defective supervision does not appear to be necessary to secure the results described in the preceding paragraph.

44 Moreover, as under German law, it is not possible in a number of Member States for the national authorities responsible for supervising credit institutions to be liable in respect of individuals in the event of defective supervision. It has been submitted in particular that those rules are based on considerations related to the complexity of banking supervision, in the context of which the authorities are under an obligation to protect a plurality of interests, including more specifically the stability of the financial system.

45 Finally, in adopting Directive 94/19 the Community legislature introduced minimal protection of depositors in the event that their deposits are unavailable, which is also guaranteed where the unavailability of the deposits might be the result of defective supervision on the part of the competent authorities.

46 Under those conditions, as pointed out by the Commission and the Member States which submitted observations to the Court, Directives 77/780, 89/299 and 89/646 cannot be interpreted as meaning that they confer rights on depositors in the event that their deposits are unavailable as a result of defective supervision on the part of the competent national authorities.

47 In the light of the foregoing, the answer to the second question must be that Directives 77/780, 89/299 and 89/646 do not preclude a national rule to the effect that the functions of the national authority responsible for supervising credit institutions are to be fulfilled only in the public interest, which under national law precludes individuals from claiming compensation for damage resulting from defective supervision on the part of that authority.

On the third question

48 The third question, which was raised only if the first two questions were answered at least partly in the affirmative, relates to the possibility of a State incurring liability in accordance with the principles of Community law in the event of defective supervision on the part of the competent national authorities.

49 It follows from the case-law that a State incurs liability for breach of a rule of Community law only where, in particular, the rule of law infringed is intended to confer rights on individuals (see Joined Cases C-46/93 and C-48/93 *Brasserie du pêcheur and Factortame* [1996] ECR I-1029, paragraph 51; Joined Cases C-178/94, C-179/94 and C-188/94 to C-190/94 *Dillenkofer and Others* [1996] ECR I-4845, paragraph 21; and Case C-63/01 *Evans* [2003] ECR I-14447, paragraph 83).

50 However, it is clear from the answers given to the first two questions that Directives 94/19, 77/80, 89/299 and 89/646 do not confer rights on depositors in the event that their deposits are unavailable as a result of defective supervision on the part of the competent national authorities, if the compensation of depositors prescribed by Directive 94/19 is ensured.

51 Under those conditions, and for the same reasons as those underlying the answers given above, the directives cannot be regarded as conferring on individuals, in the event that their deposits are unavailable as a result of defective supervision on the part of the competent national authorities, rights capable of giving rise to liability on the part of the State on the basis of Community law.

Costs

52 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 (Full Court) rules as follows:

1. **If the compensation of depositors prescribed by Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes is ensured, Article 3(2) to (5) of that directive cannot be interpreted as precluding a national rule to the effect that the functions of the national authority responsible for supervising credit institutions are to be fulfilled only in the public interest, which under national law precludes individuals from claiming compensation for damage resulting from defective supervision on the part of that authority.**

2. **First Council Directive 77/780/EEC of 12 December 1977 on the coordination of the laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions, Council Directive 89/299/EEC of 17 April 1989 on the own funds of credit institutions and Second Council Directive 89/646/EEC of 15 December 1989 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions and amending Directive 77/780 do not preclude a national rule to the effect that the functions of the national authority responsible for supervising credit institutions are to be fulfilled only in the public interest, which under national law precludes individuals from claiming compensation for damage resulting from defective supervision on the part of that authority.**

Signatures.