

Operative part of the judgment

1. Article 39 EC must be interpreted as meaning that the knowledge to be taken as a reference point for the purposes of assessing the equivalence of training following an application for direct admission to a legal traineeship for the legal professions, without taking the exams he would otherwise have to sit, is that attested by the qualification required in the Member State in which the candidate seeks to be admitted to serve such a legal traineeship.
2. Article 39 EC must be interpreted as meaning that, where the competent authorities of a Member State consider an application of a national of another Member State to be admitted to serve a practical training period, such as a legal traineeship for the legal professions in Germany, with a view to exercising a regulated legal profession at a later date, that article does not of itself oblige those authorities to require from the candidate, in the examination of equivalence required by Community law, merely a level of legal knowledge which is lower than that attested by the qualification required in that Member State for access to such a period of practical training. However, Article 39 EC does not preclude a degree of flexibility as regards the qualification required. Moreover it is important that, in practice, the possibility of partial recognition of the knowledge attested by qualifications which the person concerned has obtained should be more than merely notional. That is a matter for the national court to determine.

⁽¹⁾ OJ C 260, 11.10.2008.

Judgment of the Court (Grand Chamber) of 2 December 2009 (Reference for a preliminary ruling from the House of Lords, United Kingdom) — Aventis Pasteur SA v OB

(Case C-358/08) ⁽¹⁾

(Directive 85/374/EEC — Liability for defective products — Articles 3 and 11 — Mistake in the classification of ‘producer’ — Judicial proceedings — Application for substitution of the producer for the original defendant — Expiry of the limitation period)

(2010/C 24/17)

Language of the case: English

Referring court

House of Lords

Parties to the main proceedings

Applicant: Aventis Pasteur SA

Defendant: OB

Re:

Reference for a preliminary ruling — House of Lords — Interpretation of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ 1985 L 210, p. 29) — Action brought against a company wrongly considered to be the producer of the allegedly defective product — Whether another party may be substituted for the defendant after the ten-year limitation period laid down in Article 11 of the Directive — Person designated as defendant in the proceedings brought during the ten-year period not a ‘producer’ as defined in Article 3 of the Directive

Operative part of the judgment

Article 11 of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products must be interpreted as precluding national legislation, which allows the substitution of one defendant for another during proceedings, from being applied in a way which permits a ‘producer’, within the meaning of Article 3 of that directive, to be sued, after the expiry of the period prescribed by that article, as defendant in proceedings brought within that period against another person.

However, first, Article 11 must be interpreted as not precluding a national court from holding that, in the proceedings instituted within the period prescribed by that article against the wholly-owned subsidiary of the ‘producer’, within the meaning of Article 3(1) of Directive 85/374, that producer can be substituted for that subsidiary if that court finds that the putting into circulation of the product in question was, in fact, determined by that producer.

Second, Article 3(3) of Directive 85/374 must be interpreted as meaning that, where the person injured by an allegedly defective product was not reasonably able to identify the producer of that product before exercising his rights against the supplier of that product, that supplier must be treated as a ‘producer’ for the purposes, in particular, of the application of Article 11 of that directive, if it did not inform the injured person, on its own initiative and promptly, of the identity of the producer or its own supplier. That is for the national court to determine in the light of the circumstances of the case.

⁽¹⁾ OJ C 260, 11.10.2008.