Question referred

Do Articles 9 and 13 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 ([1]) preclude the interpretation of domestic law or settled domestic case-law such that it enables the victim to seek compensation for damage to an item of property intended for professional use and employed for that use, where that victim simply proves damage, the defect in the product and the causal link between that defect and the damage?

([1]) OJ 1985 L 210, p. 29.

Reference for a preliminary ruling from the Tribunale ordinario di Milano (Italy) lodged on 30 June 2008 — Crocefissa Savia and Others v Ministero dell'Istruzione, dell'Università e della Ricerca and Others

(Case C-287/08)

(2008/C 236/13)

Language of the case: Italian

Referring court

Tribunale ordinario di Milano (Italy)

Parties to the main proceedings

Applicants: Crocefissa Savia, Monica Maria Porcu, Ignazia Randazzo, Daniela Genovese and Mariangela Campanella

Defendants: Ministero dell'Istruzione, dell'Università e della Ricerca, Direzione Didattica II Circolo — Limbiate, Ufficio Scolastico Regionale per la Lombardia, Direzione Didattica III Circolo — Rozzano, Direzione Didattica IV Circolo — Rho, Istituto Comprensivo — Castano Primo, Istituto Comprensivo A. Manzoni — Rescaldina

Questions referred

1. Is it permissible for the legislature of a Member State of the European Union to adopt a rule which purports to provide an authentic interpretation but which in reality introduces substantive innovation and, in particular, attributes to the legislation purportedly interpreted effects other than those previously attributed to it in the majority of judicial decisions concerning the substance and by the consolidated case-law of the supreme courts?

2. Can the answer to Question 1 be affected by the possibility that the rule referred to may be classed as genuinely interpretative — rather than as introducing innovation with retroactive effect — in that it reflects the way in which the original legislation was construed in a minority series of judicial decisions concerning the substance even though that has repeatedly been contradicted by the supreme courts?

3. If the answer is affirmative, what — for the purposes of appraising the compatibility of such a rule with Community law and, in particular, with the principles governing the 'fairness' of judicial proceedings — are the implications in either case of the fact that the Member State itself is a party to the proceedings and application of the rule *de facto* in force requires the court seised to dismiss the forms of order sought against that State?

4. What guidance can be given as regards the '*overriding reasons of public interest*' capable of justifying — as the case may be, even in derogation from the answer which should in principle be given to Questions 1, 2 and 3 — recognition of the retroactive effects of a statutory provision concerning civil law matters as well as private law relationships, albeit established with a body governed by public law?

5. Could those reasons include organisational considerations analogous to those referred to by the Italian Court of Cassation in Judgments Nos 618/2008, 677/2008 and 11922/2008 in order to justify — on grounds, in particular, of the need to '*regulate a wide-ranging organisational restructuring operation*' — adoption of the rule intended to regulate, six years after it had taken place, the transfer to the State of the ATAs employed by the local authorities?

6. In any event, is it for the national courts to identify, where the national law is silent on the point, the '*overriding reasons of public interest*' which — in the case of proceedings pending and in derogation from the principle of equality of arms — could justify the adoption of a retroactive rule capable of reversing the outcome of the proceedings, or must the national courts confine themselves to assessing the compatibility with Community law of the reasons expressly invoked by the legislature of the State as a basis for its choices?

Reference for a preliminary ruling from the Cour de cassation (Luxembourg) lodged on 7 July 2008 — Irène Bogiatzi, married name Ventouras v Deutscher Luftpool, Luxair SA, European Communities, State of the Grand Duchy of Luxembourg, Foyer Assurances SA

(Case C-301/08)

(2008/C 236/14)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Irène Bogiatzi, married name Ventouras

Defendants: Deutscher Luftpool, Luxair SA (a Luxembourg airline company), European Communities, State of the Grand Duchy of Luxembourg, Foyer Assurances SA

Questions referred

1. Does the Convention for the Unification of Certain Rules Relating to International Carriage by Air, Signed at Warsaw on 12 October 1929, as amended at The Hague on 28 September 1955, to which Regulation (EC) No 2027/97 ([1]) refers, form part of the rules of the Community legal order which the Court of Justice has jurisdiction to interpret under Article 234 EC?

2. Must Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents, in the version applicable at the time of the accident, namely 21 December 1998, be interpreted as meaning that, with regard to issues for which no express provision is made, the provisions of the Warsaw Convention, in this case Article 29, continue to apply to a flight between Member States of the Community?

3. If the answer to the first and second questions is in the affirmative, is Article 29 of the Warsaw Convention, in conjunction with Regulation (EC) No 2027/97, to be interpreted as meaning that the period of two years laid down in that article can be suspended or interrupted or that the carrier or its insurer can waive that time-limit, by an act deemed by the national court to constitute recognition of liability?

([1]) Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents (OJ 1997 L 285, p. 1).

Reference for a preliminary ruling from the Giudice di Pace di Ischia (Italy) lodged on 15 July 2008 — Rosalba Alassini v Telecom Italia SpA

(Case C-317/08)

(2008/C 236/15)

Language of the case: Italian

Referring court

Giudice di Pace di Ischia

Parties to the main proceedings

Applicant: Rosalba Alassini

Defendant: Telecom Italia SpA

Question referred

Do the Community rules in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Directive 2002/22/EC ([1]), Directive 1999/44/EC ([2]), Commission Recommendation 2001/310/EC ([3]) and Directive 1998/257/EC ([4]) have direct effect and must they be interpreted as meaning that disputes '*in the area of electronic communications between end-users and operators concerning non-compliance with the rules on universal service and on the rights of end-users, as laid down in legislation, decisions of the Regulatory Authority, contractual terms and service charters*' (the disputes contemplated by Article 2 of Decision No 173/07/CONS of the Regulatory Authority) must not be made subject to a mandatory attempt at conciliation without which proceedings in that regard may not be brought before the courts, thus taking precedence over the rule laid down in Article 3(1) of Decision No 173/07/CONS?

([1]) OJ L 108, p. 51.
([2]) OJ L 171, p. 12.
([3]) Commission Recommendation.
([4]) Commission Recommendation.

Reference for a preliminary ruling from the Giudice di Pace di Ischia (Italy) lodged on 15 July 2008 — Filomena Califano v Wind SpA

(Case C-318/08)

(2008/C 236/16)

Language of the case: Italian

Referring court

Giudice di Pace di Ischia

Parties to the main proceedings

Applicant: Filomena Califano

Defendant: Wind SpA