

Judgment of the Court (Second Chamber) of 17 March 2011 (reference for a preliminary ruling from the Tribunal da Relação do Porto (Portugal)) — Manuel Carvalho Ferreira Santos v Companhia Europeia de Seguros SA

(Case C-484/09) ⁽¹⁾

(Reference for a preliminary ruling — Directive 72/166/EEC — Article 3(1) — Directive 84/5/EEC — Article 2(1) — Directive 90/232/EEC — Article 1 — Right to compensation by means of compulsory insurance against civil liability in respect of the use of motor vehicles — Limitation criteria — Contribution to the damage — Lack of driver fault — Liability for risk)

(2011/C 139/10)

Language of the case: Portuguese

Referring court

Tribunal da Relação do Porto

Parties to the main proceedings

Applicant: Manuel Carvalho Ferreira Santos

Defendant: Companhia Europeia de Seguros SA

Re:

Reference for a preliminary ruling — Tribunal da Relação do Porto — Interpretation of Article 3(1) of Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of 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), of Article 2(1) 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) and of Article 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) — Determination of the type of civil liability applicable to road-traffic accidents — Conditions for limiting the right to compensation paid by compulsory motor vehicle insurance based on the contribution to the damage of one of the drivers responsible for the accident — Neither driver at fault — Liability for risk

Operative part of the judgment

Article 3(1) of Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of 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, Article 2(1) 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, and Article 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, must be interpreted as not precluding national provisions which, in the case of a collision between two motor vehicles which has caused damage, where neither driver is at fault, apportions the liability for that damage in accordance with the extent of the contribution of each of those vehicles to the occurrence of the damage and, in the event of doubt in that regard, fixes the contributions at parity.

⁽¹⁾ OJ C 37, 13.2.2010.

Judgment of the Court (Eighth Chamber) of 10 March 2011 (reference for a preliminary ruling from the Oberster Gerichtshof — Austria) — Tanja Borger v Tiroler Gebietskrankenkasse

(Case C-516/09) ⁽¹⁾

*(Social security for workers — Regulation (EEC) No 1408/71 — Scope *ratione personae* — Interpretation of the term ‘employed person’ — Benefits for a dependent child — Extension of unpaid leave)*

(2011/C 139/11)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Claimant: Tanja Borger

Defendant: Tiroler Gebietskrankenkasse

Re:

Reference for a preliminary ruling — Oberster Gerichtshof — Interpretation of Article 1(a) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ, English Special Edition 1971(II), p. 416) — Childcare allowance — Scope *ratione personae* — Interpretation of the term ‘employed person’ — Person residing in Switzerland and agreeing with her employer, established in a Member State, a suspension of their employment relationship by reason of the birth of her child (‘Karenz’) for a period exceeding the two-year period provided for by the law of that Member State