

Case C-224/09

**Criminal proceedings
against
Martha Nussbaumer**

(Reference for a preliminary
ruling from the Tribunale di Bolzano)

(Reference for a preliminary ruling — Directive 92/57/EEC — Implementation of minimum safety and health requirements on temporary and mobile construction sites — Article 3 — Requirement to appoint a coordinator for safety and health matters and draw up a safety and health plan)

Judgment of the Court (Fifth Chamber), 7 October 2010 I - 9297

Summary of the Judgment

Social policy — Protection of the safety and health of workers — Directive 92/57 on the implementation of minimum safety and health requirements at temporary or mobile construction sites

(Council Directive 92/57, Art. 3(1) and (2))

Article 3 of Directive 92/57 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391) must be interpreted as follows:

- Article 3(1) precludes national legislation under which, for private works not subject to planning permission on a construction site on which more than one contractor is to be present, it is possible to derogate from the requirement imposed on the client or project supervisor to appoint a coordinator for safety and health matters at the project preparation stage or, in any event, before the works commence;
- Article 3(2) precludes national legislation under which the requirement for the coordinator responsible for the execution stage of the works to draw up a safety and health plan is confined to the situation in which more than one contractor is engaged on a construction site involving private works that are not subject to that obligation and which does not use the particular risks such as those listed in Annex II to the directive as criteria for that requirement.

(see para. 31, operative part)