

the First Directive (Directive 72/166/EEC), <sup>(1)</sup> Article 2(1) of the Second Directive (84/5/EEC) <sup>(2)</sup> and Article 1 of the Third Directive (90/232/EEC), <sup>(3)</sup> as those provisions have been interpreted by the Court of Justice of the European Communities, for it to be possible to apportion liability for risk (Article 506(1) and (2) of the Código Civil (Portuguese Civil Code)) with a direct impact on the amount of compensation to be awarded to the injured party for the material and non-material loss resulting from the personal injuries suffered (since that apportionment of liability for risk will entail a commensurate reduction in the amount of compensation)?

<sup>(1)</sup> 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).

<sup>(2)</sup> 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).

<sup>(3)</sup> 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).

**Reference for a preliminary ruling from the Tribunal da Relação de Guimarães (Portugal) lodged on 17 June 2010 — Vítor Hugo Marques Almeida v Companhia de Seguros Fidelidade-Mundial SA, Jorge Manuel da Cunha Carvalheira, Paulo Manuel Carvalheira, Fundo de Garantia Automóvel**

(Case C-300/10)

(2010/C 234/42)

*Language of the case: Portuguese*

#### Referring court

Tribunal da Relação de Guimarães

#### Parties to the main proceedings

*Applicant:* Vítor Hugo Marques Almeida

*Defendants:* Companhia de Seguros Fidelidade-Mundial SA, Jorge Manuel da Cunha Carvalheira, Paulo Manuel Carvalheira, Fundo de Garantia Automóvel

#### Questions referred

(a) Must Articles 3(1) of the First Directive (72/166/EEC), <sup>(1)</sup> 2(1) of the Second Directive (84/5/EEC) <sup>(2)</sup> and 1 and 1a of the Third Directive (90/232/EEC) <sup>(3)</sup> be interpreted to the effect that they preclude national civil law, in particular through the rules laid down in Articles 503(1), 504, 505

and 570 of the Civil Code, from providing that if, when two vehicles collide, the event is not attributable to the fault of either driver, and it gives rise to personal injury to the passenger in one of the vehicles (the injured person seeking compensation), the compensation to which the latter is entitled is to be refused or limited, on the ground that that passenger has contributed to the occurrence of the injury, for he was travelling in the vehicle, in the front passenger seat, without fastening his seat-belt as required by national legislation?

(b) having regard to the fact that it has been established that when the two vehicles involved collided, because of that collision and because he had not fastened his seat-belt, that passenger struck his head with force against the wind-screen, breaking it, which resulted in deep cuts to his head and face?

(c) and having regard to the fact that, one of the vehicles involved not being covered by valid and effective insurance with any insurer at the date of the accident, the defendants and respondents in the proceedings include, in addition to the insurer of the other vehicle involved, the owner of the uninsured vehicle, its driver and the Fundo de Garantia Automóvel, who and which may, in so far as strict liability is concerned, be jointly and severally liable to pay such compensation?

<sup>(1)</sup> 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).

<sup>(2)</sup> 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).

<sup>(3)</sup> 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).

**Action brought on 25 June 2010 — European Commission v Grand Duchy of Luxembourg**

(Case C-305/10)

(2010/C 234/43)

*Language of the case: French*

#### Parties

*Applicant:* European Commission (represented by: V. Peere and M. van Beek, Agents)