

issue an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right', to order a hosting service provider to introduce, for all its customers, in abstracto and as a preventive measure, at its own cost and for an unlimited period, a system for filtering most of the information which is stored on its servers in order to identify on its servers electronic files containing musical, cinematographic or audio-visual work in respect of which SABAM claims to hold rights, and subsequently to block the exchange of such files?

<sup>(1)</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10).

<sup>(2)</sup> Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the Enforcement of Intellectual Property Rights (OJ 2004 L 157, p. 45).

<sup>(3)</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31).

<sup>(4)</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ 2000 L 178, p. 1).

<sup>(5)</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ 2002 L 201, p. 37).

**Reference for a preliminary ruling from the Tribunal Judicial de Póvoa de Lanhoso (Portugal) lodged on 21 July 2010 — Maria de Jesus Barbosa Rodrigues v Companhia de Seguros Zurich SA**

(Case C-363/10)

(2010/C 288/31)

*Language of the case: Portuguese*

#### Referring court

Tribunal Judicial de Póvoa de Lanhoso

#### Parties to the main proceedings

*Applicant:* Maria de Jesus Barbosa Rodrigues

*Defendant:* Companhia de Seguros Zurich SA

#### Question referred

In a motor-vehicle collision in which none of the drivers is liable for the accident on the basis of fault, and which has resulted in the death of one them, is it contrary to Community law, in particular Article 3(1) of 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) with a direct impact on the amount of compensation to be awarded to the persons having a right to compensation — the victim's parents — (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).

**Action brought on 22 July 2010 — European Commission v Republic of Slovenia**

(Case C-365/10)

(2010/C 288/32)

*Language of the case: Slovene*

#### Parties

*Applicant:* European Commission (represented by: A. Alcover San Pedro and D. Kukovec, Agents)

*Defendant:* Republic of Slovenia

#### Form of order sought

— A declaration that, because for several years running the limit values for annual and daily concentrations of PM10 in ambient air have been exceeded, the Republic of Slovenia has failed to fulfil its obligations under Article 5(1) of

Council Directive 1999/30/EC <sup>(1)</sup> of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air, which have since 11 June 2010 been laid down in Article 13(1) of Directive 2008/50/EC <sup>(2)</sup> of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe;

— order the Republic of Slovenia to pay the costs.

### Pleas in law and main arguments

It is apparent from the annual report produced by the Republic of Slovenia on observance of the binding daily and annual limit values for PM10 that, in the Republic of Slovenia in the years 2005, 2006 and 2007, in zones S11, S12 and S14 and in agglomerations SIL and SIM, the limit values for annual and daily concentrations of PM 10 in ambient air were exceeded. The European Commission has received no official notification concerning exemption from the obligation to apply the limit values in accordance with Article 22(2) of Directive 2008/50/EC.

<sup>(1)</sup> OJ 1999 L 163, p. 41.

<sup>(2)</sup> OJ 2008 L 152, p. 1.

**Appeal brought on 22 July 2010 by EMC Development AB against the judgment of the General Court (Fifth Chamber) delivered on 12 May 2010 in Case T-432/05: EMC Development AB v European Commission**

(Case C-367/10 P)

(2010/C 288/33)

*Language of the case: English*

### Parties

*Appellant:* EMC Development AB (represented by: W.-N. Schelp, avocat)

*Other party to the proceedings:* European Commission

### Form of order sought

The appellant claims that the Court should:

(i) annul the Commission's Decision dated 28.09.05;

(ii) in the alternative to (i), set aside the Judgment under appeal in whole or in part and refer the case back to the General Court for an adjudication on the substance, in the light of the guidance which this Court may provide to it;

(iii) in any event, Order the Commission to pay the costs of the Applicant incurred before the General Court and the Court of Justice.

### Pleas in law and main arguments

The applicant submits that the General Court, in adopting the Commission's positions vis à vis the Guidelines, required the appellant to prove matters of fact and placed an unassailable burden upon the appellant. In so doing it has sought to require proof of the Standard's effects without considering the wider and more fundamental issues of its nature. The applicant considers that this constitutes an error of law and that the order of procedure of the tests as between the nature and the effects of the Standard have been reversed.

**Reference for a preliminary ruling from the Naczelny Sąd Administracyjny, Izba Finansowa, Wydział II (Republic of Poland), lodged on 26 July 2010 — Pak-Holdco Sp zoo v Dyrektor Izby Skarbowej w Poznaniu**

(Case C-372/10)

(2010/C 288/34)

*Language of the case: Polish*

### Referring court

Naczelny Sąd Administracyjny, Izba Finansowa, Wydział II

### Parties to the main proceedings

*Appellant:* Pak-Holdco Sp zoo

*Respondent:* Dyrektor Izby Skarbowej w Poznaniu

### Questions referred

1. In interpreting Article 7(1) of Directive 69/335/EEC, <sup>(1)</sup> must a national court take account of the provisions of amending directives, in particular Directives 73/79/EEC <sup>(2)</sup> and 73/80/EEC, <sup>(3)</sup> even though those directives were no longer in force when the Republic of Poland acceded to the European Union?