Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

30 March 2023 *

(Reference for a preliminary ruling – Approximation of laws – Insurance against civil liability in respect of the use of motor vehicles – Directive 2009/103/EC – Article 3 – Compulsory insurance of vehicles – Article 18 – Direct right of action – Scope – Determination of the amount of compensation – Hypothetical costs – Possibility of making the payment of compensation subject to certain conditions – Sale of the vehicle)

In Case C-618/21,

REQUEST for a preliminary ruling under Article 267 TFEU from the Sąd Rejonowy dla m.st. Warszawy w Warszawie (District Court for the Capital City of Warsaw, Poland), made by decision of 30 August 2021, received at the Court on 30 September 2021, in the proceedings

AR

v

PK S.A.,

CR,

and

BF

v

SI S.A.,

and

ZN

v

MB S.A.,

and

* Language of the case: Polish.

NK sp. z o.o. s.k.

v

PK S.A.,

and

KP

v

SI S.A.,

and

RD sp. z o.o.

v

EZ S.A.,

THE COURT (Fifth Chamber),

composed of E. Regan, President of the Chamber, D. Gratsias (Rapporteur), M. Ilešič, I. Jarukaitis and Z. Csehi, Judges,

Advocate General: J. Richard de la Tour,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– AR, by R. Lewandowski, radca prawny,

– KP, by L. Nawrocki, radca prawny,

– RD sp. z o.o., by G. Stasiak, radca prawny,

– SI S.A., by M. Nycz, radca prawny,

– the Polish Government, by B. Majczyna, acting as Agent,

– the Czech Government, by M. Smolek and J. Vláčil, acting as Agents,

– the German Government, by J. Möller, P. Busche and M. Hellmann, acting as Agents,

– the European Commission, by U. Małecka, B. Sasinowska and H. Tserepa–Lacombe, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 15 December 2022,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 18 of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (OJ 2009 L 263, p. 11), read in conjunction with Article 3 of that directive.

2 The request has been made in the context of six proceedings between, respectively, AR and PK S.A. and CR, BF and SI S.A., ZN and MB S.A., NK sp. z o.o. s.k. and PK S.A., KP and SI, and RD sp. z o.o. and EZ S.A., motor vehicle owners and the undertakings insuring the civil liability of the persons responsible for the damage caused to those vehicles, regarding a claim for compensation for that damage.

Legal context

European Union law

3 Recital 30 of Directive 2009/103 states:

‘The right to invoke the insurance contract and to claim against the insurance undertaking directly is of great importance for the protection of victims of motor vehicle accidents. In order to facilitate an efficient and speedy settlement of claims and to avoid as far as possible costly legal proceedings, a right of direct action against the insurance undertaking covering the person responsible against civil liability should be provided for victims of any motor vehicle accident.’

4 Article 3 of that directive, entitled ‘Compulsory insurance of vehicles’, provides:

‘Each Member State shall, subject to Article 5, take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance.

The extent of the liability covered and the terms and conditions of the cover shall be determined on the basis of the measures referred to in the first paragraph.

…

The insurance referred to in the first paragraph shall cover compulsorily both damage to property and personal injuries.’

5 Under Article 5 of that directive, each Member State may derogate from Article 3 of that directive in respect of certain natural or legal persons, public or private, or in respect of certain types of vehicle or certain vehicles having a special plate.

6 Article 9 of that directive, entitled 'Minimum amounts', provides, in paragraph 1:

'Without prejudice to any higher guarantees which Member States may prescribe, each Member State shall require the insurance referred to in Article 3 to be compulsory at least in respect of the following amounts:

(a) in the case of personal injury, a minimum amount of cover of EUR 1 000 000 per victim or EUR 5 000 000 per claim, whatever the number of victims;

(b) in the case of damage to property, EUR 1 000 000 per claim, whatever the number of victims.

…'

7 Article 18 of Directive 2009/103, entitled 'Direct right of action', reads as follows:

'Member States shall ensure that any party injured as a result of an accident caused by a vehicle covered by insurance as referred to in Article 3 enjoys a direct right of action against the insurance undertaking covering the person responsible against civil liability.'

Polish law

8 Article 363(1) of the ustawa – Kodeks cywilny (Law on the Civil Code) of 23 April 1964 (Dz. U. of 1964, No 16, position 93), in the version applicable to the dispute in the main proceedings ('the Civil Code'), provides:

'Compensation for the damage should be effected, as the injured party chooses, either by restoration to the previous state or by payment of a corresponding sum of money. However, if restoration to the previous state is impossible or would involve excessive difficulty or costs for the party liable, the injured party's right of action shall be limited to a monetary payment.'

9 Article 822(1) to (4) of the Civil Code states:

'1. By a civil liability insurance contract, the insurer undertakes to pay compensation, as specified in the policy, for damage caused to third parties in respect of whom the policyholder or insured person bears liability.

…

4. A person entitled to compensation for a contingency covered by a civil liability insurance policy may bring an action directly against the insurer.'

The disputes in the main proceedings and the questions referred for a preliminary ruling

10 Six cases are pending before the referring court, the Sąd Rejonowy dla m.st. Warszawy w Warszawie (District Court for the Capital City of Warsaw, Poland). The applicants in five of those disputes are, respectively, BF, ZN, NK, KP and RD, who each seek compensation for the damage caused to their vehicle as a result of a road traffic accident. In the sixth dispute, AR seeks compensation for the damage caused to their vehicle by a falling garage door.

11 The applicants in the main proceedings assessed their loss on the basis of repair costs corresponding to the estimated market value of the original parts and labour required to repair the damaged vehicle. In so far as the vehicles concerned have not yet been repaired, the referring court classifies those repair costs as 'hypothetical'. For their part, the defendants in the main proceedings, namely the insurance undertakings which cover the civil liability of the persons required to compensate the applicants in the main proceedings, argue that that compensation cannot exceed the amount of the damage actually suffered, calculated according to a 'differential' method. According to that method, that amount must correspond to the difference between what would have been the value of the damaged vehicle if the accident had not occurred and the current value of the vehicle, in its damaged state. According to those insurance undertakings, the repair costs can be taken into account only if it is demonstrated that those costs were actually incurred.

12 The referring court states that, under national law, compensation for damage is intended to award the injured party a sum corresponding to the difference between the value of the damaged property and its value if the damage had not occurred, while not allowing that party to enrich itself.

13 It states that, according to Polish case-law, the compensation to be paid to the owner of a damaged vehicle must be calculated on the basis of the hypothetical costs of repairing that vehicle, irrespective of whether its owner has actually had it repaired or intends to have it repaired. Compensation which takes into account such hypothetical repair costs, which far exceed the amount of the damage suffered determined on the basis of the differential method, is granted even to injured parties who have already sold their damaged vehicle and who, therefore, do not use that compensation to have the vehicle repaired. According to the referring court, that practice results in the unjustified enrichment of those persons, to the detriment of all other policyholders, to whom insurance undertakings pass on the cost of that excessive compensation, by requiring them to pay ever higher premiums.

14 According to the referring court, that case-law, which is open to criticism in that it allows the injured party to enrich himself or herself in certain cases, could be justified by the special protection of victims of road traffic accidents under EU law. It therefore considers that clarification is necessary as to the scope of the injured party's rights arising from the direct right of action against the insurance undertaking, provided for in Article 18 of Directive 2009/103.

15 In particular, the referring court raises the question of the scope of that right, in view of the fact that, in accordance with Polish law, an action brought against the person responsible may seek, at the choice of the injured party, either the payment of monetary compensation, or the repair of the damaged vehicle, namely a benefit in kind, whereas Article 822(1) of the Civil Code provides that an insurance undertaking may be liable only for compensation of a monetary nature.

16 The referring court therefore seeks to ascertain whether EU law precludes provisions of national law which have the effect of depriving an injured party who wishes to bring a direct action against the insurance undertaking of one of the means of redress for damage provided for by national law. For its part, the referring court is inclined to consider that EU law must be interpreted in such a way as to answer that question in the affirmative.

17 However, the referring court also raises the question of the purpose of a direct action brought by the injured person against an insurer, by which that person seeks the repair of his or her vehicle. It is possible either to disregard the rule laid down in Article 822(1) of the Civil Code that the benefit provided by the insurer can only be of a monetary nature and thus enable the injured party to

require the insurer to arrange the repair of his or her damaged vehicle, or to recognise that the injured party has the right to require the insurer, instead of arranging the repair, to pay the funds necessary for that purpose.

18 The referring court is inclined to favour the second option. Nevertheless, it also asks whether EU law precludes the application of rules of national law which allow the payment to the injured party of the funds necessary for the repair of his or her vehicle to be accompanied by conditions intended to prevent that person from being able to use those funds for purposes other than that repair and from benefiting from a situation in which his or her assets would increase as a result of the accident. In addition, the referring court has doubts as to whether the right to require the insurer to pay the funds necessary to repair a damaged vehicle must also be allowed to the owner of such a vehicle who has already sold it, with the result that it is materially impossible for him or her to have it repaired.

19 Finally, the referring court is of the opinion that the answers to the questions referred for a preliminary ruling are also relevant to the resolution of the dispute in which AR is the applicant in the main proceedings, even though damage caused to a vehicle by a falling garage door does not fall within the scope of Directive 2009/103. It seems reasonable to that court, in the light of the 'principle of equality before the law', to apply to such a dispute the same principles as those applicable to the other disputes in the main proceedings.

20 In those circumstances the Sąd Rejonowy dla m.st. Warszawy w Warszawie (District Court for the Capital City of Warsaw) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1) Must Article 18 of [Directive 2009/103], in conjunction with Article 3 thereof, be interpreted as precluding national legislation under which an injured party who exercises a direct right of action for repair of the damage to his or her vehicle in connection with the use of motor vehicles against an insurance undertaking covering the person responsible for the accident, as regards civil liability, can obtain from the insurance undertaking only compensation for the real and actual loss to his or her property, [that] is to say, the difference between the value of the vehicle in its state before the accident and the value of the damaged vehicle, plus the reasonable costs actually incurred in repairing the vehicle and any other reasonable costs actually incurred as a result of the accident, whereas if he or she sought a remedy directly from the person responsible, he or she could opt to require the latter to restore the vehicle to its state before the damage occurred (repair of the damage by the person responsible or by a garage paid by that person), instead of claiming compensation?

(2) If the answer to the previous question is in the affirmative, must Article 18 of [Directive 2009/103], in conjunction with Article 3 thereof, be interpreted as precluding national legislation under which an injured party who exercises a direct right of action for repair of the damage to his or her vehicle in connection with the use of motor vehicles against an insurance undertaking covering the person responsible for the accident, as regards civil liability, can obtain from the insurance undertaking, instead of compensation for the real and actual loss to his or her property, [that] is to say, the difference between the value of the vehicle in its state before the accident and the value of the damaged vehicle, plus the reasonable costs actually incurred of repairing the vehicle and any other reasonable costs actually incurred as a result of the accident, only an amount corresponding to the costs of restoring the vehicle to its state before the damage, whereas if he or she sought a remedy

directly from the person responsible, he or she could opt to require the latter to restore the vehicle to its state before the damage occurred (and not merely provide funds for that purpose), instead of claiming compensation?

(3) If the answer to the first question is in the affirmative and the answer to the second question is in the negative, must Article 18 of [Directive 2009/103], in conjunction with Article 3 thereof, be interpreted as precluding national legislation under which an insurance undertaking, to which the owner of a car damaged in connection with the use of motor vehicles applied for payment of hypothetical costs which he or she has not incurred but would have had to incur if he or she had decided to restore the vehicle to its state before the accident, can:
   (a) make that payment conditional on the injured party proving that he or she genuinely intends to have the vehicle repaired in a specific way, by a specific mechanic, at a specific price for parts and services, and to transfer the funds for that repair directly to that mechanic (or to the seller of the parts necessary for the repair), subject to reimbursement, if the purpose for which the funds were paid should not be fulfilled, and if not,
   (b) make that payment conditional on the consumer undertaking to show, within an agreed period, that he or she has used the funds paid to repair the vehicle or to reimburse them to the insurance undertaking, and if not,
   (c) after the payment of those funds and indication of the purpose of the payment (the manner in which they are used) and expiry of the necessary period during which the injured party was able to have the car repaired), require him or her to show that those funds have been spent on the repair or refunded

   so as to rule out the possibility of the injured party enriching himself or herself as a result of the damage?

(4) If the answer to the first question is in the affirmative and the answer to the second question is in the negative, must Article 18 of [Directive 2009/103], in conjunction with Article 3 thereof, be interpreted as precluding national legislation under which the injured party, who is no longer the owner of the damaged car because he or she has sold it and received money in return, and thus can no longer have it repaired, cannot therefore claim from the insurance undertaking covering the person responsible for the accident, as regards civil liability, payment of the costs of the repair which would have been necessary to restore the damaged vehicle to the state before the damage, and [the injured party's] right of action is limited to claiming from the insurance undertaking compensation for the real and actual loss to his or her property, [that] is to say, the difference between the value of the vehicle in its state before the accident and the amount obtained from the sale of the vehicle, plus the reasonable costs of repairing the vehicle actually incurred and any other reasonable costs actually incurred as a result of the accident?'

Admissibility of the request for a preliminary ruling

21 In its observations submitted to the Court, RD submits that the request for a preliminary ruling is inadmissible, since the questions referred seek, in reality, to call into question the detailed rules for the settlement, in respect of civil liability insurance, of claims arising from the use of motor vehicles, as provided for in Polish law. For its part, the Polish Government states that the actions giving rise to the disputes in the main proceedings seek not the repair of the vehicles of the

applicants in the main proceedings, but the payment to the applicants of financial compensation, with the result that the first two questions should be regarded as hypothetical and, therefore, inadmissible.

22 In that regard, it is true that it follows from the case-law of the Court that, as EU law currently stands, in relation to their civil liability insurance schemes, the Member States remain, in principle, free to determine, in particular, which damage caused by motor vehicles must be compensated, the extent of such compensation and the persons who are entitled to it (judgment of 20 May 2021, *K.S. (Costs of towing a damaged vehicle)*, C-707/19, EU:C:2021:405, paragraph 25 and the case-law cited).

23 However, in the present case, the questions referred for a preliminary ruling do not relate to the matters mentioned in the preceding paragraph. By its questions, the referring court seeks, in essence, to ascertain whether Article 18 of Directive 2009/103 must be interpreted as precluding legislation of a Member State which lays down certain detailed rules concerning the exercise, by persons who have suffered damage as a result of a road traffic accident, of their right to bring a direct action against the insurer of the person responsible for that damage, recognised by that article.

24 Furthermore, the Polish Government's argument that the actions that gave rise to the disputes in the main proceedings concern not the repair of the relevant damaged vehicles, but the payment of monetary compensation, is not sufficient to demonstrate that the referring court's first two questions are hypothetical.

25 It is apparent from the information provided by that court, summarised in paragraphs 13 to 17 of the present judgment, that it is well aware of the fact that the actions that gave rise to the disputes in the main proceedings concern the payment of monetary compensation. It wishes, however, to ascertain, in particular, whether Article 18 of Directive 2009/103 must be interpreted as meaning that, where the legislation of a Member State provides that the injured party may demand from the person responsible for the damage, at the injured party's choice, either the payment of monetary compensation or the repair of the damaged vehicle, that injured party may, by exercising his or her direct right of action against the insurer covering the civil liability of the person responsible for the damage, claim from that insurer financial compensation calculated not on the basis of the 'differential' method but on the basis of the costs necessary to restore that vehicle to its original condition.

26 It follows that the referring court's questions concern the interpretation of EU law and are not hypothetical.

27 It should nevertheless be noted that, according to the information provided by the referring court, the dispute in the main proceedings between, on the one hand, AR and, on the other, PK and CR, concerns compensation for damage caused to a vehicle by a falling garage door.

28 Directive 2009/103 seeks to ensure the protection of victims of accidents caused by motor vehicles, an objective which has consistently been pursued and reinforced by the EU legislature (see, to that effect, judgment of 20 May 2021, *K.S. (Costs of towing a damaged vehicle)*, C-707/19, EU:C:2021:405, paragraph 27 and the case-law cited).

29 It is, however, clear that the civil liability incurred by the person responsible for a garage, following the fall of the garage door onto a motor vehicle, arises not from damage caused by the vehicle concerned, but from damage caused to that vehicle by the fall of part of a building. It follows that, as the referring court itself acknowledges, the facts that gave rise to the dispute in the main proceedings between, on the one hand, AR and, on the other, PK and CR, do not fall within the scope of Directive 2009/103.

30 The referring court states, however, that it seems reasonable, in the light of the 'principle of equality before the law', to apply to that dispute the same rules as those applicable to the other disputes in the main proceedings. In so far as that court thus merely envisages the consequences that are likely to arise from the present judgment under a principle recognised in Polish law, it is sufficient to note that, under the procedure laid down in Article 267 TFEU, the Court has no jurisdiction to interpret national law, nor to apply rules of law to a particular situation, since those tasks are exclusively for the referring court (see, to that effect, orders of 3 September 2020, *Vikingo Fővállalkozó*, C-610/19, EU:C:2020:673, paragraph 68 and the case-law cited, and of 9 January 2023, *A.T.S. 2003*, C-289/22, EU:C:2023:26, paragraph 29). Consequently, those considerations are not sufficient to establish that there is a connection between the purpose of that first dispute and the interpretation of EU law sought.

31 Accordingly, in view of all the foregoing considerations, it must be held that the request for a preliminary ruling is admissible, except in so far as it concerns the dispute between, on the one hand, AR and, on the other, PK and CR, in respect of which it is inadmissible.

Consideration of the questions referred for a preliminary ruling

32 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 18 of Directive 2009/103, read in conjunction with Article 3 of that directive, must be interpreted as precluding national legislation which, in the event of a direct action, by the person whose vehicle has suffered damage as a result of a road traffic accident, against the insurer of the person responsible for that accident, lays down as the sole means of obtaining redress from that insurer the payment of monetary compensation and, where applicable, what obligations arise from those provisions as regards the rules for the calculation of that compensation and the conditions relating to its payment.

33 Article 3 of Directive 2009/103 requires each Member State, subject to the derogations which they may provide under Article 5 of that directive, to take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance.

34 In that regard, it should be noted, as a preliminary point, that, in the absence of any indication to the contrary from the referring court, the five disputes in the main proceedings in respect of which the request for a preliminary ruling has been held to be admissible do not concern persons or vehicles in respect of which the Republic of Poland has made use of the derogation powers offered by Article 5 of Directive 2009/103.

35 As regards injured parties' direct right of action against the insurer, laid down in Article 18 of Directive 2009/103, it must be held that that provision does not preclude national law from providing that that method of obtaining redress may consist only of benefits of a monetary nature.

36 It must be noted that it follows from recital 30 of that directive that that right consists of allowing the injured party to invoke the insurance contract and to claim against the insurance undertaking directly. It follows that the purpose of such an action may relate only to the provision, by the insurer of the person responsible for the damage, directly to the injured party, of the benefit which that insurer would have been required to provide to its insured party, within the limits of the insurance contract.

37 Thus, where the benefit provided by an insurer, as defined in the insurance contract, is exclusively monetary in nature, Article 18 of that directive does not preclude the direct action brought by the injured party against the insurer from being required to concern the payment of monetary compensation.

38 In that regard, as the Advocate General stated, in essence, in point 52 of his Opinion, the fact that, inter alia, Article 9 of Directive 2009/103 lays down the minimum compulsory cover in the form of minimum amounts of compensation confirms such an interpretation.

39 In the present case, that is true of the direct actions brought in the main proceedings, under Article 18 of that directive, since, as is apparent from the information provided to the Court, Article 822(1) of the Civil Code provides that the benefit provided by the insurer can only be of a monetary nature.

40 In that context, the referring court's questions also concern the rules for the calculation of such monetary compensation and those relating to the payment of that compensation, in particular regarding the possibility of making the payment of such compensation by the insurer subject to compliance with conditions intended to ensure that the injured party will actually use that compensation for the repair of his or her vehicle, which would preclude that compensation from corresponding to the costs of restoring his or her damaged vehicle where that has person sold that vehicle in its damaged state.

41 In that regard, it should be noted that the national courts are entitled to ensure that the protection of rights guaranteed by the legal order of the European Union does not result in unjust enrichment of the persons concerned (judgments of 25 March 2021, *Balgarska Narodna Banka*, C-501/18, EU:C:2021:249, paragraph 125, and of 21 March 2023, *Mercedes-Benz Group (Liability of manufacturers of vehicles fitted with defeat devices)*, C-100/21, EU:C:2023:229, paragraph 94).

42 Having said that, it should also be noted that the obligation to provide insurance cover against civil liability for damage caused to third parties by motor vehicles is distinct from the extent of the compensation to be afforded to them on the basis of the civil liability of the insured person. Whereas the former is defined and guaranteed by EU legislation, the latter is, essentially, governed by national law (judgment of 20 May 2021, *K.S. (Costs of towing a damaged vehicle)*, C-707/19, EU:C:2021:405, paragraph 23 and the case-law cited).

43 Thus, EU legislation does not seek to harmonise the rules of the Member States governing civil liability and the Member States are, in principle, free to determine the rules of civil liability applicable to road accidents (judgment of 20 May 2021, *K.S. (Costs of towing a damaged vehicle)*, C-707/19, EU:C:2021:405, paragraph 24 and the case-law cited).

44 Consequently, as stated in paragraph 22 of the present judgment, as EU law currently stands, in relation to their civil liability insurance schemes, the Member States remain, in principle, free to determine, in particular, which damage caused by motor vehicles must be compensated, the extent of such compensation and the persons who are entitled to it.

45 However, the Member States must exercise their powers in that field in compliance with EU law and the national provisions which govern compensation for road traffic accidents may not deprive EU legislation of its effectiveness, in particular by automatically excluding or disproportionately limiting the victim's right to compensation by compulsory insurance against civil liability in respect of the use of motor vehicles (see, to that effect, judgments of 20 May 2021, *K.S. (Costs of towing a damaged vehicle)*, C-707/19, EU:C:2021:405, paragraph 26 and the case-law cited, and of 10 June 2021, *Van Ameyde España*, C-923/19, EU:C:2021:475, paragraph 44 and the case-law cited).

46 In that regard, it must be noted that, in so far as, by exercising his or her direct right of action against the insurer of the civil liability of the person responsible for the damage, the injured party requires the provision, to him or her, of the insurer's benefit provided for in the insurance contract, the payment of that benefit could be made subject only to the conditions expressly laid down in that contract.

47 Consequently, as the Advocate General stated in point 62 of his Opinion, so that they do not undermine the effectiveness of the direct right of action provided for in Article 18 of Directive 2009/103, the conditions set out in paragraph 40 of the present judgment cannot have the effect of excluding or limiting the insurer's obligation, under Article 3 of that directive, to cover in full the compensation which the person responsible for the damage must provide to the injured party in respect of the damage suffered by the latter.

48 In the light of all the foregoing considerations, the answer to the questions referred is that Article 18 of Directive 2009/103, read in conjunction with Article 3 of that directive, must be interpreted as:

– not precluding national legislation which, in the event of a direct action, by the person whose vehicle has suffered damage as a result of a road traffic accident, against the insurer of the person responsible for that accident, provides that the sole means of obtaining redress from that insurer is by way of monetary compensation,

– precluding rules for the calculation of that compensation and conditions relating to its payment, in so far as they would have the effect, in the context of a direct action brought under Article 18, of excluding or limiting the insurer's obligation, under Article 3, to cover all the compensation which the person responsible for the damage must provide to the injured party in respect of the damage suffered by that party.

Costs

49 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

Article 18 of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability, read in conjunction with Article 3 of that directive,

must be interpreted as

– **not precluding national legislation which, in the event of a direct action, by the person whose vehicle has suffered damage as a result of a road traffic accident, against the insurer of the person responsible for that accident, provides that the sole means of obtaining redress from that insurer is by way of monetary compensation,**

– **precluding rules for the calculation of that compensation and conditions relating to its payment, in so far as they would have the effect, in the context of a direct action brought under Article 18, of excluding or limiting the insurer's obligation, under Article 3, to cover all the compensation which the person responsible for the damage must provide to the injured party in respect of the damage suffered by that party.**

[Signatures]