



Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

21 December 2021 *

(Reference for a preliminary ruling – Compulsory insurance against civil liability in respect of the use of motor vehicles – Second Directive 84/5/EEC – Article 1(2) – Directive 2005/14/EC – Directive 2009/103/EC – Article 9(1) – Obligation to increase the minimum amounts covered by compulsory insurance – Transitional period – New rule applicable immediately to the future effects of a situation which arose under the old rule – Situation arising prior to the entry into force of a substantive rule of EU law – National rules excluding insurance contracts concluded before 11 December 2009 from the obligation to increase the minimum amounts covered by compulsory insurance)

In Case C-428/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Sąd Apelacyjny w Warszawie (Court of Appeal, Warsaw, Poland), made by decision of 28 August 2020, received at the Court on 11 September 2020, in the proceedings

A.K.

v

Skarb Państwa,

THE COURT (Second Chamber),

composed of A. Arabadjiev (Rapporteur), President of the First Chamber, acting as President of the Second Chamber, I. Ziemele, T. von Danwitz, P.G. Xuereb and A. Kumin, 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:

- A.K., by I. Kwiecień, адвокат,
- Skarb Państwa, by J. Zasada and L. Jurek,

* Language of the case: Polish.

- the Polish Government, by B. Majczyna, acting as Agent,
- the German Government, by J. Möller, M. Hellmann and E. Lankenau, acting as Agents,
- the European Commission, by H. Tserepa-Lacombe, B. Sasinowska and S.L. Kaléda, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,
gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 1(2) 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), as amended by Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 (OJ 2005 L 149, p. 14) ('Second Directive 84/5').
- 2 The request has been made in proceedings between A.K. and Skarb Państwa (State Treasury, Poland) concerning a claim for compensation in respect of damage allegedly caused by the incorrect transposition of Directive 2005/14 into Polish law.

Legal context

European Union law

Second Directive 84/5

- 3 Article 1(1) and (2) of Second Directive 84/5 provided:

'1. The insurance referred to in 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)] shall cover compulsorily both damage to property and personal injuries.

2. Without prejudice to any higher guarantees which Member States may lay down, each Member State shall require insurance 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.'

If necessary, Member States may establish a transitional period of up to five years from the date of implementation of Directive [2005/14], within which to adapt their minimum amounts of cover to the amounts provided for in this paragraph.

Member States establishing such a transitional period shall inform the Commission thereof and indicate the duration of the transitional period.

Within 30 months of the date of implementation of Directive [2005/14] Member States shall increase guarantees to at least a half of the levels provided for in this paragraph.'

Directive 2005/14

4 Recitals 1 and 10 of Directive 2005/14 stated:

'(1) Insurance against civil liability in respect of the use of motor vehicles (motor insurance) is of special importance for European citizens, whether they are policyholders or victims of an accident. It is also a major concern for insurance undertakings as it constitutes an important part of non-life insurance business in the Community. Motor insurance also has an impact on the free movement of persons and vehicles. It should therefore be a key objective of Community action in the field of financial services to reinforce and consolidate the single insurance market in motor insurance.

...

(10) Member States' obligations to guarantee insurance cover at least in respect of certain minimum amounts constitute an important element in ensuring the protection of victims. The minimum amounts provided for in Directive 84/5/EEC should not only be updated to take account of inflation, but also increased in real terms, to improve the protection of victims. The minimum amount of cover for personal injury should be calculated so as to compensate fully and fairly all victims who have suffered very serious injuries, whilst taking into account the low frequency of accidents involving several victims and the small number of accidents in which several victims suffer very serious injuries in the course of one and the same event. A minimum amount of cover of EUR 1 000 000 per victim or EUR 5 000 000 per claim, regardless of the number of victims, is a reasonable and adequate amount. With a view to facilitating the introduction of these minimum amounts, a transitional period of five years from the date of implementation of this Directive should be established. Member States should increase their amounts to at least a half of those levels within 30 months of the date of implementation.'

5 Article 6 of Directive 2005/14, entitled 'Implementation', provided in its paragraph 1:

'Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 11 June 2007 at the latest. They shall forthwith inform the Commission thereof.

...'

Directive 2009/103/EC

- 6 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) codified the earlier directives relating to compulsory insurance against civil liability in respect of the use of motor vehicles ('motor insurance'), including Second Directive 84/5, and consequently repealed those earlier directives with effect from 27 October 2009. According to the correlation table in Annex II to Directive 2009/103, paragraphs 1 and 2 of Article 1 of Second Directive 84/5 correspond to Article 3, fourth paragraph, and Article 9(1) of Directive 2009/103 respectively.

Polish law

- 7 Article 5 of the Ustawa z dnia 24 maja 2007 r. o zmianie ustawy o ubezpieczeniach obowiązkowych, Ubezpieczeniowym Funduszu Gwarancyjnym i Polskim Biurze Ubezpieczycieli Komunikacyjnych oraz ustawy o działalności ubezpieczeniowej (Law of 24 May 2007 amending the Law on compulsory insurance, the Insurance Guarantee Fund and the Polish Motor Vehicle Insurers' Office and the Law on insurance) (Dz. U. No 102, heading 691; 'the Law of 24 May 2007') provides:

'In the case of [motor insurance] contracts and farmers' liability insurance contracts, the minimum guarantee shall be the equivalent in Polish złotys to the following amounts:

- (1) in respect of contracts concluded in the period up to and including 10 December 2009:
 - (a) in the case of personal injury, EUR 1 500 000 per claim incident causing damage covered by the insurance, whatever the number of victims,
 - (b) in the case of damage to property, EUR 300 000 per claim incident causing damage covered by the insurance, whatever the number of victims,

– determined by applying the average exchange rate announced by the National Bank of Poland on the day of the claim incident.
- (2) in respect of contracts concluded between 11 December 2009 and 10 June 2012:
 - (a) in the case of personal injury, EUR 2 500 000 per claim incident causing damage covered by the insurance, whatever the number of victims,
 - (b) in the case of damage to property, EUR 500 000 per claim incident causing damage covered by the insurance, whatever the number of victims,

– determined by applying the average exchange rate announced by the National Bank of Poland on the day of the claim incident.'

The dispute in the main proceedings and the question referred for a preliminary ruling

- 8 On 12 October 2010, a road accident occurred in Poland which resulted in the death of 16 people, including G.M. and the driver responsible for the accident. The latter had taken out motor insurance under a contract covering the period from 8 December 2009 to 7 December 2010.

- 9 Following the death of G.M., on 2 March 2011 her daughter, A.K., filed a claim for compensation with the insurance company of the driver responsible for the accident, seeking from it compensation for the non-material and material damage which she alleged that she had suffered as a result of her mother's death. In the context of the settlement of the claim, A.K. ultimately received from that company the amount of 47 000 Polish złotys (PLN) (approximately EUR 10 175) as compensation for non-material damage and PLN 5 000 (approximately EUR 1 000) as a result of the significant deterioration in her circumstances. The insurance company notified A.K. that the maximum amount of cover under the motor insurance policy taken out by the driver responsible for the accident had been exhausted.
- 10 A.K. brought an action before the Sąd Okręgowy w Warszawie (Regional Court, Warsaw, Poland) against the State Treasury seeking payment of an amount of PLN 78 000 (approximately EUR 17 000) plus default interest, as compensation for the damage caused by the incomplete transposition of Directive 2005/14 into Polish law.
- 11 She argued that, if that directive had been correctly transposed into Polish law, the insurance company would have had to increase the minimum guarantee provided for in the motor insurance contract at issue and, consequently, to pay her an additional PLN 78 000 by way of compensation for the damage suffered as a result of the death of G.M. The incorrect transposition of that directive by the Republic of Poland; in her view, therefore deprived her of the possibility of obtaining that sum, with the result that she suffered material damage in the amount of that sum and for which the State Treasury is liable.
- 12 According to A.K., the Republic of Poland was required to transpose Directive 2005/14 in such a way that, as from 11 December 2009, the amount of cover under all motor insurance contracts would, in the case of personal injury, amount to a minimum of EUR 2 500 000 per claim. However, in the Law of 24 May 2007, the national legislature varied the extent of the protection afforded to victims of road traffic accidents occurring between 11 December 2009 and December 2010 on the basis of the date on which the insurance contract had been concluded. During that period, contracts concluded both before and after 11 December 2009 were in operation, the latter contracts providing for a minimum amount of cover of EUR 2 500 000, while for the former contracts that minimum amount was only EUR 1 500 000.
- 13 The State Treasury argued that Directive 2005/14 had been correctly transposed into Polish law and that that difference in treatment was inherent in the principle of non-retroactivity of the law. It also pointed out that the European Commission had initiated infringement proceedings against the Republic of Poland in connection with the transposition of Directive 2005/14 but had decided, on 28 April 2016, to discontinue those proceedings. In the State Treasury's view, the Commission thereby acknowledged that there had been no infringement of EU law.
- 14 By judgment of 20 March 2019, the Sąd Okręgowy (Regional Court) dismissed A.K.'s action, ruling that, in establishing transitional periods authorised by Second Directive 84/5 in order progressively to increase the minimum guarantees, initially, to a half of the amounts referred to in Article 1(2) of that directive and, subsequently, to the full amounts, the national legislature had correctly transposed that directive. That court also held that the obligation imposed on Member States to increase the minimum guarantees provided for in Directive 2005/14 applied only to contracts concluded after the expiry of those transitional periods and that EU law imposed no requirement to increase the minimum guarantee provided for in motor insurance contracts

concluded before the expiry of those transitional periods, even in relation to contracts expiring after the expiry of those transitional periods. In that court's view, that position is consistent with the principles of legal certainty, non-retroactivity of the law and freedom of contract.

- 15 A.K. appealed against that judgment to the referring court, the Sąd Apelacyjny w Warszawie (Court of Appeal, Warsaw, Poland), arguing, inter alia, that the Sąd Okręgowy (Regional Court) had erred in finding that the Republic of Poland had correctly transposed Directive 2005/14 into its legal order.
- 16 According to the referring court, it follows from the judgment of 24 October 2013, *Haasová* (C-22/12, EU:C:2013:692), that motor insurance must cover compensation for non-material damage suffered by the next of kin of the deceased victims of a road traffic accident, in so far as such compensation is provided for as part of the civil liability of the insured party under the applicable national law. Polish law provides for such compensation and it is covered by motor insurance.
- 17 That court considers that the fact that A.K. was not fully compensated for her loss by the insurance company, on the basis that the contractual guarantee limit had been reached, resulted in a loss to her corresponding to the difference between the amount paid and the amount to which she would, in principle, have been entitled if that maximum limit had been increased in the light of the minimum guarantees introduced into Second Directive 84/5 by Directive 2005/14. Accordingly, under Polish law, the State Treasury should be liable to provide compensation for that loss if it were to be established that the Republic of Poland had incorrectly transposed Directive 2005/14 into its legal order.
- 18 In that regard, it is apparent from recital 10 of Directive 2005/14 that the latter aims to ensure the protection of victims of road traffic accidents. It contains no provision which limits the obligation to increase the minimum guarantee solely to insurance contracts concluded as from 11 December 2009, by excluding modification to the same effect, as from that date, of motor insurance contracts concluded prior to 11 December 2009 date but remaining in force after that date.
- 19 The referring court takes the view that that difference, based on the date of conclusion of the insurance contract, in the treatment of those two categories of persons who have suffered, in the same period, damage resulting from a road traffic accident is not justified.
- 20 The principle of non-retroactivity of the law does not, in the view of the referring court, prevent the contractual relationship existing on 11 December 2009 from being modified as from that date. Moreover, observance of the principle of legal certainty was ensured by the long period granted to the Member States for transposing Directive 2005/14 and by the possibility for them to establish transitional periods. Insurance companies were thus in a position to modify the level of the insurance premium to the new minimum guarantees.
- 21 According to the referring court, if it is established that the Republic of Poland transposed Directive 2005/14 incompletely and therefore incorrectly, the first condition necessary for that Member State to incur liability, as set out in the judgment of 19 November 1991, *Francovich and Others* (C-6/90 and C-9/90, EU:C:1991:428), is satisfied. It would then be for that court to examine subsequently whether and, if so, to what extent A.K. suffered damage with a causal link to the failure of the Republic of Poland to fulfil its obligation.

- 22 In those circumstances, the Sąd Apelacyjny w Warszawie (Court of Appeal, Warsaw) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

‘Under Article 2 of Directive 2005/14, is a Member State which has established a transitional period within which to adapt minimum guarantees under an obligation to increase guarantees to at least a half of the amounts provided for in Article 1(2) of [Second Directive 84/5] within 30 months of the expiry of the period for implementing that directive:

- in respect of all motor insurance contracts in force after the expiry of those 30 months, including contracts concluded before 11 December 2009 but still in force after that date – in cases of damage occurring after 11 December 2009,
- or only in respect of new motor insurance contracts concluded after 11 December 2009?’

The question referred for a preliminary ruling

- 23 By its question, the referring court is asking, in essence, whether Article 1(2) of Second Directive 84/5 must be interpreted as meaning that Member States which exercised the option, under that provision, of introducing a transitional period were under an obligation to require that, as from 11 December 2009, the minimum amounts of guarantees provided for in motor insurance contracts concluded before 11 December 2009 but still in force on that date were compliant with the rule laid down in the fourth subparagraph of that Article 1(2).
- 24 In the context of the procedure established by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to determine the case before it. The Court has a duty to interpret all provisions of EU law which national courts require in order to decide the actions pending before them, even if those provisions are not expressly indicated in the questions referred to the Court by those courts (see, to that effect, judgment of 12 December 2019, *Instituto Nacional de la Seguridad Social (Pension supplement for mothers)*, C-450/18, EU:C:2019:1075, paragraph 25).
- 25 In that regard, it follows from the second subparagraph of Article 1(2) of Second Directive 84/5 that the Member States could establish a transitional period of up to five years from the date of implementation of Directive 2005/14 in their domestic legal system, that is to say, as is apparent from Article 6(1) of the latter directive, 11 June 2007, within which to adapt their minimum amounts of motor insurance cover to the amounts provided for in the first subparagraph of Article 1(2) of Second Directive 84/5.
- 26 However, in accordance with the fourth subparagraph of Article 1(2) of that directive, Member States were under an obligation to increase those minimum amounts to at least a half of the levels provided for in the first subparagraph of Article 1(2) of that directive within 30 months of that date, that is to say, by 11 December 2009 at the latest.
- 27 However, Directive 2009/103 codified and repealed Second Directive 84/5 with effect from 27 October 2009, that is to say, before 11 December 2009, and Article 9(1) of Directive 2009/103 corresponds, as can be seen from the correlation table in Annex II thereto, to Article 1(2) of Second Directive 84/5.

- 28 In those circumstances, it is necessary to provide the referring court with both an interpretation of Article 1(2) of Second Directive 84/5 and an interpretation of Article 9(1) of Directive 2009/103.
- 29 It is apparent from the information provided by the referring court that the Republic of Poland has exercised the option of establishing a transitional period, provided for in the second subparagraph of Article 1(2) of Second Directive 84/5 and the second subparagraph of Article 9(1) of Directive 2009/103. In that context, the Law of 24 May 2007 provides that the obligation to proceed with the increase referred to in paragraph 26 of the present judgment concerns motor insurance contracts concluded between 11 December 2009 and 10 June 2012, thus excluding contracts concluded before 11 December 2009 and still in force after that latter date.
- 30 In that regard, it should be noted that neither Article 1(2) of Second Directive 84/5 nor Article 9(1) of Directive 2009/103 expressly states whether or not the obligation referred to in paragraph 26 of the present judgment concerns the future effects of contracts concluded before 11 December 2009 and still in force on that date.
- 31 In those circumstances, it should be borne in mind that, in principle, a new rule of law applies from the entry into force of the act introducing it. While it does not apply to legal situations that have arisen and become definitive under the old law, it does apply to the future effects of a situation which arose under the old rule and to new legal situations also. The position will be otherwise – subject to the principle of the non-retroactivity of legal acts – only if the new rule is accompanied by special provisions which specifically lay down its conditions of temporal application (see, to that effect, judgments of 7 November 2013, *Gemeinde Altrip and Others*, C-72/12, EU:C:2013:712, paragraph 22 and the case-law cited; of 17 October 2018, *Klohn*, C-167/17, EU:C:2018:833, paragraphs 38 and 39; and of 15 January 2019, *E.B.*, C-258/17, EU:C:2019:17, paragraph 50).
- 32 Accordingly, the measures taken to transpose a directive must apply to the future effects of situations which arose under the old rule, as from the date on which the period for transposing that directive expired, unless that directive provides otherwise (judgment of 17 October 2018, *Klohn*, C-167/17, EU:C:2018:833, paragraph 40).
- 33 Furthermore, in order to ensure observance of the principles of legal certainty and the protection of legitimate expectations, the substantive rules of EU law must be interpreted as applying to situations existing before their entry into force only in so far as it follows clearly from their terms, their objectives or their general scheme that such effect must be given to them (judgment of 6 October 2015, *Commission v Andersen*, C-303/13 P, EU:C:2015:647, paragraph 50 and the case-law cited).
- 34 It follows from the case-law of the Court referred to in paragraphs 31 to 33 of the present judgment that, in order to ascertain the temporal applicability of a new EU rule to a situation which arose under the old rule that the new rule replaces, it is necessary to determine whether the effects of that situation had been exhausted before the entry into force of the new rule, in which case that situation should be regarded as a situation arising prior to the entry into force of that new rule, or whether that situation continues to produce its effects after the entry into force of that rule.
- 35 It is appropriate, therefore, to determine whether the situation in which a motor insurance contract was concluded prior to 11 December 2009, but was still in force on that date, constitutes a situation arising prior to that date, to which the obligation referred to in paragraph 26 of the

present judgment could therefore apply retroactively only if, first, Second Directive 84/5 and Directive 2009/103 provided clearly that this should be the case and, secondly, in practice the principles of legal certainty and the protection of legitimate expectations were respected (see, by analogy, judgment of 9 March 2006, *Beemsterboer Coldstore Services*, C-293/04, EU:C:2006:162, paragraph 24), or whether it concerns, on the contrary, a situation which arose prior to that date but the future effects of which are governed by the fourth subparagraph of Article 1(2) of Second Directive 84/5 and by the fourth subparagraph of Article 9(1) of Directive 2009/103 as from 11 December 2009, in accordance with the principle that new rules apply immediately to current situations.

- 36 In that regard, the Court has already held that the conclusion of a fixed-term contract of employment does not exhaust its legal effects on the date of its signature, but, on the contrary, continues regularly to produce its effects throughout the duration of that contract and that, therefore, the application of a new rule, from the date of its entry into force, to a contract of employment concluded prior to its entry into force, cannot be regarded as affecting a situation arising prior to that date (see, to that effect, judgment of 29 January 2002, *Pokrzepowicz-Meyer*, C-162/00, EU:C:2002:57, paragraph 52).
- 37 The same applies a fortiori to situations in which a motor insurance contract was concluded before 11 December 2009 and was still in force on that date.
- 38 Since insurance contracts are primarily aleatory contracts, characterised by the fact that the performance of one of the parties depends on an uncertain event, which may or may not occur during the term of the contract, their legal effects continue until the end of that term. Accordingly, the legal relationships created by such contracts are not exhausted at the time when those contracts are concluded. That point in time marks only the beginning of the performance of the contract, a performance which, in the case of the insured party, is often in instalments, and, in the case of the insurer, is not immediate either, since performance consists in providing compensation for persons who suffer damage if a covered accident occurs during the currency of the contract.
- 39 The fourth subparagraph of Article 1(2) of Second Directive 84/5 and the fourth subparagraph of Article 9(1) of Directive 2009/103 are intended to govern the future effects of contracts concluded before 11 December 2009 and still in force on that date.
- 40 Those provisions, where they require Member States to increase the minimum guarantees for motor insurance, do not exclude from that increase the guarantees provided for in those contracts. Thus, the date of conclusion of the insurance contract is not a decisive factor in that regard. It is therefore not apparent from the wording of those provisions that the EU legislature intended to derogate from the principle that new rules apply immediately to current situations.
- 41 Moreover, as has been stated, in essence, by A.K. and the German Government in their written observations, the objective of protecting the victims of road traffic accidents, pursued by the EU rules relating to motor insurance, which aims to guarantee, inter alia, that the victims of accidents caused by motor vehicles receive comparable treatment irrespective of where in the European Union the accident occurred and which has been continuously pursued and reinforced by the EU legislature (see, to that effect, judgment of 28 November 2017, *Rodrigues de Andrade*, C-514/16, EU:C:2017:908, paragraphs 32 and 33), and the general principle of equal treatment require that victims of accidents which occurred on or after 11 December 2009 should not receive compensation which is limited on the sole ground that the insurance contract was

concluded before that date. As is clear from recital 10 of Directive 2005/14, Member States' obligations to guarantee insurance cover at least in respect of certain minimum amounts constitute an important element in ensuring the protection of victims.

- 42 Contrary to what the State Treasury and the Polish Government maintain in their written observations, the principles of legal certainty and the protection of legitimate expectations do not preclude such an interpretation.
- 43 In that regard, it should be observed that the first of those principles requires, inter alia, that rules of law be clear, precise and predictable in their effect, especially where they may have negative consequences for individuals and undertakings (judgment of 30 April 2019, *Italy v Council (Fishing quota for Mediterranean swordfish)*, C-611/17, EU:C:2019:332, paragraph 111 and the case-law cited).
- 44 The right to rely on the principle of the protection of legitimate expectations, which is the corollary of the principle of legal certainty, extends to any individual in a situation where it is apparent that EU authorities have caused him or her to entertain legitimate expectations (judgment of 30 April 2019, *Italy v Council (Fishing quota for Mediterranean swordfish)*, C-611/17, EU:C:2019:332, paragraph 112 and the case-law cited).
- 45 In the present case, first, it cannot be argued that the rule established by Article 1(2) of Second Directive 84/5 and by Article 9(1) of Directive 2009/103 lacked clarity, precision or predictability in its effects. Secondly, it should be recalled that the scope of the principle of the protection of legitimate expectations cannot be extended to the point of generally preventing new rules from applying to the future effects of situations which arose under the earlier rules (judgment of 29 January 2002, *Pokrzeptowicz-Meyer*, C-162/00, EU:C:2002:57, paragraph 55 and the case-law cited).
- 46 Moreover, as the referring court has pointed out, in essence, and as the German Government also stated in its written observations, the principle of non-retroactivity of the law does not preclude the application of the new minimum amounts of cover to motor insurance contracts concluded before 11 December 2009 and still in force on that date, in so far as those amounts and any new premiums corresponding to them would apply, in accordance with the principle of immediate application, only for the period as from 11 December 2009.
- 47 In the light of the foregoing considerations, the answer to the question referred is that Article 1(2) of Second Directive 84/5 and Article 9(1) of Directive 2009/103 must be interpreted as meaning that Member States which exercised the option, under those provisions, of introducing a transitional period were under an obligation to require that, as from 11 December 2009, the minimum amounts of guarantees provided for in motor insurance contracts concluded before 11 December 2009, but still in force on that date, were compliant with the rule laid down in the fourth subparagraph of each of those provisions.

Costs

- 48 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national 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 (Second Chamber) hereby rules:

Article 1(2) 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, as amended by Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005, and Article 9(1) 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, must be interpreted as meaning that Member States which exercised the option, under those provisions, of introducing a transitional period were under an obligation to require that, as from 11 December 2009, the minimum amounts of guarantees provided for in contracts of insurance against civil liability in respect of the use of motor vehicles concluded before 11 December 2009, but still in force on that date, were compliant with the rule laid down in the fourth subparagraph of each of those provisions.

[Signatures]