

**Judgment of the Court (Second Chamber) of 12 July 2012**  
(reference for a preliminary ruling from the Tribunale di Firenze — Italy) — Criminal proceedings against Maurizio Giovanardi and Others

(Case C-79/11) <sup>(1)</sup>

*(Police and judicial cooperation in criminal matters — Framework Decision 2001/220/JHA — Standing of victims in criminal proceedings — Directive 2004/80/EC — Compensation to victims of crime — Liability of a legal person — Compensation in criminal proceedings)*

(2012/C 287/15)

Language of the case: Italian

#### Referring court

Tribunale di Firenze

#### Parties in the main proceedings

Maurizio Giovanardi, Andrea Lastini, Filippo Ricci, Vito Pigionica, Massimiliano Pempori, Gezim Lakja, Elettrifer Srl, Rete Ferroviaria Italiana SpA

#### Re:

Reference for a preliminary ruling — Tribunale Ordinario di Firenze — Interpretation of Articles 2, 3 and 8 of Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings (OJ 2001 L 82, p. 1) — Interpretation of Article 9 of Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ 2004 L 261, p. 15) — Criminal liability of legal persons — Right of a victim of a criminal act to be compensated, in the context of criminal proceedings, by a legal person indirectly liable for the harm suffered

#### Operative part of the judgment

Article 9(1) of Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings must be interpreted as meaning that, under a system governing the liability of legal persons such as that at issue in the main proceedings, that provision does not preclude a situation in which the victim of a criminal act is not entitled to seek compensation for the harm directly caused by that act in the course of criminal proceedings from the legal person who committed an administrative offence.

<sup>(1)</sup> OJ C 120, 16.4.2011.

**Judgment of the Court (Grand Chamber) of 3 July 2012**  
(reference for a preliminary ruling from the Bundesgerichtshof — Germany) — UsedSoft GmbH v Oracle International Corp.

(Case C-128/11) <sup>(1)</sup>

*(Legal protection of computer programs — Marketing of used licences for computer programs downloaded from the internet — Directive 2009/24/EC — Articles 4(2) and 5(1) — Exhaustion of the distribution right — Concept of lawful acquirer)*

(2012/C 287/16)

Language of the case: German

#### Referring court

Bundesgerichtshof

#### Parties to the main proceedings

Applicant: UsedSoft GmbH

Defendant: Oracle International Corp.

#### Re:

Reference for a preliminary ruling — Bundesgerichtshof — Interpretation of first subparagraph of Article 4(2) and Article 5(1) of Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (OJ 2009 L 111, p. 16) — Downloading of copies of computer programs from the internet with the rightholder's consent onto a data carrier on the basis of a software licence — Whether that action can be classified as exhausting the rightholder's distribution right with regard to the copies downloaded — Marketing of 'used' licences of programs downloaded by the first acquirer — Concept of 'lawful acquirer'

#### Operative part of the judgment

1. Article 4(2) of Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs must be interpreted as meaning that the right of distribution of a copy of a computer program is exhausted if the copyright holder who has authorised, even free of charge, the downloading of that copy from the internet onto a data carrier has also conferred, in return for payment of a fee intended to enable him to obtain a remuneration corresponding to the economic value of the copy of the work of which he is the proprietor, a right to use that copy for an unlimited period.
2. Articles 4(2) and 5(1) of Directive 2009/24 must be interpreted as meaning that, in the event of the resale of a user licence entailing the resale of a copy of a computer program downloaded from the copyright holder's website, that licence having originally been granted by that rightholder to the first acquirer for an unlimited period in return for payment of a fee intended to enable the rightholder to obtain a remuneration corresponding to the economic value of that copy of his work, the second acquirer of the licence, as well as any subsequent acquirer of it, will be able to