

3. If the first two questions are answered in the negative, it is important to ascertain whether, in the case of a claim for recourse, the legal relations between the insurers of vehicles used in a combination fall within the concept of a 'non-contractual obligation' within the meaning of the Rome II regulation and whether or not these relations should be treated as derivative legal relations arising as a result of the road traffic accident (delict), when determining the applicable law in accordance with Article 4(1) of the Rome II regulation. In a case such as the present case, should the insurers of the vehicles used in a combination be treated as debtors who are liable for the same claim within the meaning of Article 20 of the Rome II regulation, and should the law applicable to the relations between them be determined according to that rule?

⁽¹⁾ 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).

⁽²⁾ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ 2008 L 177, p. 6).

⁽³⁾ Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) (OJ 2007 L 199, p. 40).

**Reference for a preliminary ruling from High Court of Justice Queen's Bench Division
(Administrative Court) (England and Wales) (United Kingdom) made on 27 October 2014 — Pillbox
38 (UK) Limited, trading as 'Totally Wicked' v Secretary of State for Health**

(Case C-477/14)

(2015/C 007/21)

Language of the case: English

Referring court

High Court of Justice Queen's Bench Division (Administrative Court)

Parties to the main proceedings

Applicant: Pillbox 38 (UK) Limited, trading as 'Totally Wicked'

Defendant: Secretary of State for Health

Questions referred

Is Article 20 of Directive 2014/40/EU of the European Parliament and of the Council of April 2014⁽¹⁾ on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC⁽²⁾ invalid, either in whole or in a relevant part, for one or more of the following reasons:

- It imposes either as a whole or in a relevant part a series of obligations on electronic cigarette manufacturers and/or retailers which infringe the principle of proportionality, read in conjunction with the principle of legal certainty?
- For equivalent or similar reasons, it fails to comply with the principle of equality and/or unlawfully distorts competition?
- It fails to comply with the principle of subsidiarity?
- It infringes the rights of electronic cigarette manufacturers or retailers under Articles 16 and/or 17 of the Charter of Fundamental Rights?

⁽¹⁾ OJ L 127, p. 1.

⁽²⁾ OJ L 194, p. 26.