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COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH
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Press and Information

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Judgment of the Court of Justice in Case C-222/02

Peter Paul and Others v Federal Republic of Germany

NONE OF THE DIRECTIVES ON BANKING LAW CONFERS ON INDIVIDUALS THE RIGHT TO REQUIRE THE BANKING SUPERVISORY BODY TO ADOPT APPROPRIATE SUPERVISORY MEASURES OR TO CLAIM THAT THAT BODY OR THE STATE CONCERNED IS LIABLE IN THE EVENT OF DEFECTIVE SUPERVISION, IF THEY ARE ENSURED THE COMPENSATION PRESCRIBED BY THE DIRECTIVE ON DEPOSIT-GUARANTEE SCHEMES

A national rule to the effect that the functions of the national authority responsible for supervising credit institutions are to be fulfilled only in the public interest is thus compatible with Community law

In 1987, the German bank BVH, which was not a member of a deposit-guarantee scheme, received authorisation from the Bundesaufsichtsamt für das Kreditwesen (Federal office for the supervision of credit institutions) to engage in banking transactions. In November 1997, following special examinations of the bank's difficult financial situation, the Bundesaufsichtsamt filed a bankruptcy petition and withdrew from the BVH Bank the authorisation which had been granted to it 10 years earlier.

Mr Peter Paul and others had opened term deposit accounts with the BVH Bank to a total sum of about DEM 300 000 (about EUR 150 000). In the event that deposits are unavailable, the Directive on deposit-guarantee schemes¹ states that a depositor's aggregate deposits are to be covered up to ECU 20 000. The Landgericht Bonn held that the belated transposition of that directive constituted a serious breach of Community law by the Federal Republic of Germany and ordered the defendant to pay the sum of EUR 20 000 to each of the applicants. The applicants, however, seek compensation from the Federal Republic of Germany for the pecuniary loss in excess of that sum on the ground that the Bundesaufsichtsamt did not properly comply with its banking supervisory obligations.

The Bundesgerichtshof, the court of last instance in the case, refers to the Court of Justice of

¹ Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 (OJ 1994 L 135, p. 5).

the European Communities the question whether depositors are granted, under the Directive on deposit-guarantee schemes or other directives on banking law, the right to require from the supervisory body the implementation of appropriate supervisory measures.

According to the Court of Justice, if the compensation of depositors is ensured in the event that their deposits are unavailable, as prescribed by the Directive on deposit-guarantee schemes, that directive does not grant to depositors a right to have the competent authorities adopt supervisory measures in their interest.

That directive cannot thus be interpreted as precluding a national rule to the effect that the functions of the national authority responsible for supervising credit institutions are to be fulfilled only in the public interest, which under national law precludes individuals from claiming compensation for damage resulting from defective supervision on the part of that authority.

Moreover, although the other directives on banking law² impose on the national authorities a number of supervisory obligations vis-à-vis credit institutions and the objectives pursued by those directives also include the protection of depositors, it does not follow that those directives seek to confer rights on depositors in the event that their deposits are unavailable as a result of defective supervision on the part of the competent national authorities.

Nor therefore can those directives be interpreted as conferring on individuals the right to require the banking supervisory body to adopt appropriate supervisory measures or to claim that that body or the State concerned is liable in the event of defective supervision.

Unofficial document for media use, not binding on the Court of Justice.

Languages available: English, French, German, Italian

The full text of the judgment may be found on the Court's internet site

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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² Council Directive 77/780/EEC of 12 December 1977 (OJ 1977 L 322, p.30); Council Directive 89/299/EEC of 17 April 1989 (OJ 1989 L 124, p. 16) and Council Directive 89/646/EEC of 15 December 1989 (OJ 1989 L 386, p. 1).