

Case C-183/00

María Victoria González Sánchez

v

Medicina Asturiana SA

(Reference for a preliminary ruling from the Juzgado
de Primera Instancia e Instrucción nº 5 de Oviedo)

(Approximation of laws — Directive 85/374/EEC — Product liability —
Relationship with other systems of liability)

Opinion of Advocate General Geelhoed delivered on 18 September 2001 I-3904
Judgment of the Court (Fifth Chamber), 25 April 2002 I-3905

Summary of the Judgment

1. *Preliminary rulings — Jurisdiction of the Court — Limits — Manifestly irrelevant question — Jurisdiction of national courts — Establishment and evaluation of the facts — Application of provisions interpreted by the Court*
(Art. 234 EC)

2. *Approximation of laws — Measures for the establishment and functioning of the internal market — Legal basis — Article 100 of the Treaty (now Article 94 EC) — Possibility for the Member States to maintain or establish provisions departing from Community harmonisation measures — No such possibility*
(EEC Treaty, Art. 100 (amended to Art. 100 of the EC Treaty, now Art. 94 EC); EC Treaty, Art. 100a (now Art. 95 EC))
3. *Approximation of laws — Measures for the establishment and functioning of the internal market — Directives already adopted when Article 153 EC entered into force — Possibility for the Member States to maintain or establish more stringent consumer protection measures on the basis of Article 153 EC — No effect*
(Arts 94 EC, 95 EC and 153 EC)
4. *Approximation of laws — Liability for defective products — Directive 85/374 — Margin of discretion of the Member States*
(Council Directive 85/374)
5. *Approximation of laws — Liability for defective products — Directive 85/374 — Possibility of retaining a general system of product liability different from that provided for in the Directive — No such possibility*
(Council Directive 85/374, Art. 13)

1. In the context of the cooperation between the Court of Justice and the national courts provided for by Article 234 EC, it is solely for the national courts before which disputes have been brought, and which must assume responsibility for the subsequent judicial decision, to determine in the light of the particular circumstances of the case both the need for a preliminary ruling in order to enable them to deliver judgment and the relevance of the questions which they submit to the Court. The Court may not decline to give a ruling on a question referred to it by a national court unless it is quite obvious that the interpretation of Community law or the consideration of the validity of a Community rule sought by that court

bears no relation to the facts of the main action or its purpose.

(see para. 16)

2. Unlike Article 100a of the EC Treaty (now, after amendment, Article 95 EC), Article 100 of the EEC Treaty (amended to Article 100 of the EC Treaty, now Article 94 EC) provides

no possibility for the Member States to maintain or establish provisions departing from Community harmonising measures.

(see para. 23)

3. Article 153 EC is worded in the form of an instruction addressed to the Community concerning its future policy and cannot permit the Member States, owing to the direct risk that would pose for the *acquis communautaire*, autonomously to adopt measures contrary to the Community law contained in the directives already adopted at the time of entry into force of that law. In fact, the competence conferred in that respect on the Member States by Article 153(5) EC concerns only the measures mentioned at paragraph 3(b) of that article. That competence does not extend to the measures referred to in paragraph 3(a) of Article 153 EC, that is to say the measures adopted pursuant to Article 95 EC in the context of attainment of the internal market with which in that respect the measures adopted under Article 94 EC must be equated.

(see para. 24)

4. The margin of discretion available to the Member States in order to make provision for product liability is entirely determined by Directive 85/374 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products and must be inferred from its wording, purpose and structure. The fact that the Directive provides for certain derogations or refers in certain cases to national law does not mean that in regard to the matters which it regulates harmonisation is not complete.

(see paras 25, 28)

5. Article 13 of Directive 85/374 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products must be interpreted as meaning that the rights conferred under the legislation of a Member State on the victims of damage caused by a defective product under a general system of liability having the same basis as that put in place by the Directive may be limited or restricted as a result of the Directive's transposition into the domestic law of that State.

(see para. 34, operative part)