

**Request for a preliminary ruling from the Markkinaoikeus (Finland) lodged on 15 July 2022 — Mylan AB v Gilead Sciences Finland Oy, Gilead Biopharmaceutics Ireland UC, Gilead Sciences, Inc.**

(Case C-473/22)

(2022/C 389/08)

*Language of the case: Finnish*

**Referring court**

Markkinaoikeus

**Parties to the main proceedings**

*Applicant:* Mylan AB

*Defendants:* Gilead Sciences Finland Oy, Gilead Biopharmaceutics Ireland UC, Gilead Sciences, Inc.

**Questions referred**

1. Is a compensation regime based on strict liability, such as that described above (paragraphs 16 to 18 of this request for a preliminary ruling) which is in force in Finland, to be regarded as compatible with Article 9(7) of the Enforcement Directive? <sup>(1)</sup>
2. If the first question is answered in the negative, what then is the nature of the liability for compensation on which the liability under Article 9(7) of the Enforcement Directive is based? Is that liability to be regarded as a form of liability based on fault, an abuse of rights, or some other ground?
3. In relation to the second question, what circumstances must be taken into account in assessing the existence of liability?
4. In particular, as regards the third question, must the assessment be made solely on the basis of the circumstances known at the time when the provisional measure was obtained, or is it permissible to take into account, for example, the fact that the intellectual property right on whose alleged infringement the provisional measure was based was subsequently, after that measure was obtained, found to be invalid *ab initio* and, if so, what significance is to be attached to that circumstance?

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<sup>(1)</sup> Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 L 157, p. 45).

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**Request for a preliminary ruling from the Landgericht Düsseldorf (Germany) lodged on 22 July 2022 — EM v Roompot Service B.V.**

(Case C-497/22)

(2022/C 389/09)

*Language of the case: German*

**Referring court**

Landgericht Düsseldorf

**Parties to the main proceedings**

*Applicant and appellant:* EM

*Defendant and respondent:* Roompot Service B.V.