

2. The Judgment under Appeal has also misapplied Article 8(1)(b) CTMR in so far as the General Court failed to take into account the impact and weight of the conceptual dissimilarity of the signs within the overall assessment of the likelihood of confusion between trademarks presenting a very low degree of visual similarity and a low degree of aural similarity. According to established case law the conceptual content of the mark applied for should suffice to counteract the very low visual similarity and the low aural similarity that, according to the General Court, exists between the mark applied for and the earlier mark.
3. Finally the General Court has misapplied Article 8(1)(b) CTMR by assessing the existence of a likelihood of confusion between the signs at stake without taking into account all the factors relevant to the circumstances of the case for establishing the likelihood of confusion. More concretely, the General Court ignored a crucial circumstance that was part of the factual background of the proceedings: the origins, the history, the geographical meaning of the word included in the trademarks at stake in the proceedings and its symbolic connection with the goods designated by said marks. Consequently and to that extent, the General Court also distorted the factual background of the proceedings.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark OJ L 78, p. 1.

Action brought on 18 July 2014 — European Commission v Republic of Austria

(Case C-346/14)

(2014/C 361/03)

Language of the case: German

Parties

Applicant: European Commission (represented by: E. Manhaeve and G. Wilms, acting as Agents)

Defendant: Republic of Austria

Form of order sought

The applicant claims that the Court should:

- declare that the defendant failed to fulfil its obligations under Article 4(3) TEU in conjunction with Article 288 TFEU, in so far as by granting permission for the construction of a hydropower plant on the Schwarze Sulm (Black Sulm) it incorrectly applied the provisions of Article 4(1) in conjunction with Article 4(7) of the Water Framework Directive ⁽¹⁾ (WFD);
- order Republic of Austria to pay the costs.

Pleas in law and main arguments

Austria sees to avoid the prohibition of deterioration which is laid down in Article 4(1) as a fundamental principle and thereby failed to satisfy the conditions for receiving an exception under Article 4(7) WFD.

The application of the directive *ratione temporis* is based on the Court's case-law, according to which during the period allowed for transposition of a directive, Member States must refrain from taking any measures liable seriously to compromise the result prescribed by the directive (Article 4(3) TEU in conjunction with Article 288 TFEU).

The defendant bases its new decision solely on an amended assessment of the water status of the Schwarze Sulm. That amended classification ('good' water status instead of 'very good' water status) is not compatible with the original management plan. Findings and assessments in the management plan may not simply be amended as the result of an ad-hoc administrative decision based on new criteria. Otherwise, fundamental substantive provisions of the Water Framework Directive, such as in this case the prohibition of deterioration, and important procedural provisions, such as those on public participation, could be easily avoided.

(¹) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1).

Request for a preliminary ruling from the Judecătoria Câmpulung (Romania) lodged on 21 July 2014 — Maria Bucura v SC Bancpost SA

(Case C-348/14)

(2014/C 361/04)

Language of the case: Romanian

Referring court

Judecătoria Câmpulung

Parties to the main proceedings

Applicant: Maria Bucura

Defendant: SC Bancpost SA

Intervening party: Vasile Ciobanu

Third party: SC Raiffeisen Bank SA

Questions referred

- 1) For the purposes of Directive 93/13/EEC (¹), where authorisation for enforcement has been given in the absence of the consumer, is a national court seised of an objection to enforcement of a credit agreement relating to the issue of a credit card such as an American Express Gold card required, as soon as it has at its disposal the fact and points of laws necessary to that end, to evaluate, including of its own motion, whether the commission provided for in the agreement in question is unfair, namely: (a) — commission for issuing the card; (b) — commission for annual management of the card; (c) — commission for annual management of the additional card; (d) — commission for renewing the card; (e) — commission for replacing the card; (f) — commission for changing the PIN; (g) — commission for withdrawing cash from cash machines and over the counter (the bank's own or those of other banks in Romania or abroad); (h) — commission for payment of goods and/or services supplied by traders abroad or in Romania; (i) — commission for printing and sending statements of account; (j) — commission for viewing balances on cash machines; (k) — commission for late payment; (l) — commission for exceeding the credit limit; (m) — commission for unjustified refusal to pay — notwithstanding the fact that the amount of such commission is not specified in the agreement?
- 2) Is the following statement concerning annual interest: 'Interest on credit shall be calculated by reference to the daily balance, broken down by item (payments, cash withdrawals, charges and commission) and the daily rate of interest for the calculation period. Interest shall be calculated on a daily basis in accordance with the following formula: the sum achieved by multiplying the amount of each item on the daily balance by the daily rate of interest applicable on the relevant day; the daily rate of interest shall be calculated as the ratio between the annual rate and 360 days' — which is of essential importance in the context of Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as amended by Directive 98/7/EC of the European Parliament and of the Council of 16 February 1998, which has similar wording — drafted in plain intelligible language within the meaning of Articles 3 and 4 of Directive 93/13/EEC?
- 3) Does the failure to indicate the amount of commission due under the agreement and the mere inclusion therein of the method of calculating interest, without any indication of the actual amount, allow the national court — pursuant to Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit (²), as amended by Directive 98/7/EC of the European Parliament and of the Council of 16 February 1998 (³), and to Council Directive 93/13/EEC — to find that the failure to provide such information in the consumer credit agreement has the effect of rendering the credit granted commission and interest-free?