

**Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 7 December 2017 — Zentrale zur Bekämpfung unlauteren Wettbewerbs Frankfurt am Main e.V. v Prime Champ Deutschland Pilzkulturen GmbH**

(Case C-686/17)

(2018/C 104/17)

*Language of the case: German*

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Applicant:* Zentrale zur Bekämpfung unlauteren Wettbewerbs Frankfurt am Main e.V.

*Defendant:* Prime Champ Deutschland Pilzkulturen GmbH

**Questions referred**

1. For the purposes of the definition of the term ‘country of origin’ in Article 113a(1) of Regulation (EC) No 1234/2007 <sup>(1)</sup> and Article 76(1) of Regulation (EU) No 1308/2013, <sup>(2)</sup> are the definitions in Article 23 et seq. of the Community Customs Code <sup>(3)</sup> and Article 60 of the Union Customs Code <sup>(4)</sup> decisive?
2. Do cultivated mushrooms which are harvested in a national territory have their origin in that territory pursuant to Article 23 of Regulation (EEC) No 2913/92 and Article 60(1) of Regulation (EU) No 952/2013 if substantial production steps [take] place in other Member States of the European Union and the cultivated mushrooms have been transported to the relevant national territory only three days or fewer prior to the first harvest?
3. Is the prohibition on the making of misleading statements under Article 2(1)(a)(i) of Directive 2000/13/EC <sup>(5)</sup> and Article 7(1)(a) of Regulation (EU) No 1169/2011 <sup>(6)</sup> to be applied to the indication of origin that is required under Article 113a(1) of Regulation (EC) No 1234/2007 and Article 76(1) of Regulation (EU) No 1308/2013?
4. Is it permitted to append additional, explanatory elements to the indication of origin prescribed under Article 113a(1) of Regulation (EC) No 1234/2007 and Article 76(1) of Regulation (EU) No 1308/2013 in order to counteract a misleading statement prohibited under Article 2(1)(a)(i) of Directive 2000/13/EC and Article 7(1)(a) of Regulation (EC) No 1169/2011?

<sup>(1)</sup> Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation); OJ 2007 L 299, p. 1.

<sup>(2)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007; OJ 2013 L 347, p. 671.

<sup>(3)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code; OJ 1992 L 302, p. 1.

<sup>(4)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code; OJ 2013 L 269, p. 1.

<sup>(5)</sup> Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs; OJ 2000 L 109, p. 29.

<sup>(6)</sup> Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004; OJ 2011 L 304, p. 18.