

**Request for a preliminary ruling from the Rechtbank Amsterdam (Netherlands) lodged on  
28 September 2017 — Openbaar Ministerie v Daniel Adam Popławski**

(Case C-573/17)

(2017/C 412/27)

*Language of the case: Dutch*

**Referring court**

Rechtbank Amsterdam

**Parties to the main proceedings**

*Applicant:* Openbaar Ministerie

*Defendant:* Daniel Adam Popławski

**Questions referred**

1. If the executing judicial authority cannot interpret the national provisions implementing a framework decision in such a way that their application leads to an outcome in conformity with the framework decision, must it then, in accordance with the principle of primacy, disapply those national provisions not in conformity with that framework decision?
2. Does a declaration of a Member State within the meaning of Article 28(2) of Framework Decision 2008/909/JHA <sup>(1)</sup> that it did not make 'on the adoption of this Framework Decision', but at a later date, have legal effect?

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<sup>(1)</sup> Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 2008 L 327, p. 27).

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**Request for a preliminary ruling from the Korkein hallinto-oikeus (Finland) lodged on 3 October  
2017 — Oy Hartwall Ab**

(Case C-578/17)

(2017/C 412/28)

*Language of the case: Finnish*

**Referring court**

Korkein hallinto-oikeus

**Parties to the main proceedings**

*Applicant:* Oy Hartwall Ab

*Other interested parties:* Patentti- ja rekisterihallitus

**Questions referred**

1. For the interpretation of Article 2 of Directive 2008/95/EC <sup>(1)</sup> and the condition relating to the distinctive character of a trade mark within the meaning of Article 3(1)(b) thereof, is it of relevance whether the trade mark is to be registered as a figurative mark or a colour mark?
2. If the classification of the mark as a colour mark or figurative mark is of importance in the assessment of its distinctive character, is the mark, regardless of its representation as an image, to be registered as a colour mark in accordance with the trade mark application, or can it be registered only as a figurative mark?