

Re:

Reference for a preliminary ruling — Court of Cassation (Luxembourg) — Interpretation of Article 5(1) and (3) of Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents (OJ 1997 L 285, p. 1), in relation to Article 29 of the Convention for the Unification of Certain Rules Relating to International Carriage by Air, Signed at Warsaw on 12 October 1929, as amended at The Hague on 28 September 1955 — Time-limit for bringing an action for compensation for damage suffered — Effect of an advance payment by the carrier, even if without the temporal framework provided for by the regulation, on the recognition of that carrier's liability

Operative part of the judgment

1. *The Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, as amended by the four additional protocols signed at Montreal on 25 September 1975, does not form part of the rules of the Community legal order which the Court of Justice has jurisdiction to interpret under Article 234 EC.*
2. *Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents must be interpreted as not precluding the application of Article 29 of the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, as amended by the four additional protocols signed at Montreal on 25 September 1975, to a situation in which a passenger seeks to establish the liability of the air carrier on account of harm suffered by him when flying between Member States of the European Community.*

⁽¹⁾ OJ C 236, 13.9.2008.

Judgment of the Court (First Chamber) of 15 October 2009 (reference for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands)) — Makro Zelfbedieningsgroothandel C.V., Metro Cash & Carry B.V., Remo Zaandam B.V. v Diesel S.P.A.

(Case C-324/08) ⁽¹⁾

(Directive 89/104/EEC — Trade-mark law — Exhaustion of trade mark proprietor's rights — Placing of goods on the market in the European Economic Area by a third party — Implied consent — Conditions)

(2009/C 297/15)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicants: Makro Zelfbedieningsgroothandel C.V., Metro Cash & Carry B.V., Remo Zaandam B.V.

Defendant: Diesel S.P.A.

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden Den Haag — Interpretation of Article 7(1) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1) — Exhaustion of the right conferred by the mark — Product placed on the market in the Community or the EEA by the trade mark proprietor or with his consent — Implied consent — Conditions

Operative part of the judgment

Article 7(1) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks, as amended by the Agreement on the European Economic Area of 2 May 1992, must be interpreted as meaning that the consent of the proprietor of a trade mark to the marketing of goods bearing that mark carried out directly in the European Economic Area by a third party who has no economic link to that proprietor may be implied, in so far as such consent is to be inferred from facts and circumstances prior to, simultaneous with or subsequent to the placing of the goods on the market in that area which, in the view of the national court, unequivocally demonstrate that the proprietor has renounced his exclusive rights.

⁽¹⁾ OJ C 272, 25.10.2008.

Judgment of the Court (Second Chamber) of 15 October 2009 (reference for a preliminary ruling from the Conseil d'État (Belgium)) — Enviro Tech (Europe) Ltd v État belge

(Case C-425/08) ⁽¹⁾

(Environment and consumer protection — Classification, packaging and labelling of n-propyl bromide as a dangerous substance — Directive 2004/73/EC — Directive 67/548/EEC — Duty to transpose)

(2009/C 297/16)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Enviro Tech (Europe) Ltd

Defendant: État belge