

Reference for a preliminary ruling from the Cour de Cassation (France) lodged on 15 February 2008 — Copad SA v 1. Christian Dior couture SA, 2. Vincent Gladel, acting as receiver of Société industrielle de lingerie (SIL), 3. Société industrielle de lingerie (SIL)

(Case C-59/08)

(2008/C 92/37)

Language of the case: French

Referring court

Cour de Cassation (France)

Parties to the main proceedings

Claimant: Copad SA

Defendants: 1. Christian Dior couture SA, 2. Vincent Gladel, acting as receiver of Société industrielle de lingerie (SIL), 3. Société industrielle de lingerie (SIL)

Questions referred

1. Must Article 8(2) of First Council Directive No 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks ⁽¹⁾ be interpreted as meaning that the proprietor of a trade mark can invoke the rights conferred by that trade mark against a licensee who contravenes a provision in the licensing contract prohibiting, on grounds of the trade mark's prestige, sale to discount stores?
2. Must Article 7(1) of that directive be interpreted as meaning that a licensee who puts goods bearing a trade mark on the market in the European Economic Area in disregard of a provision of the licensing contract prohibiting, on grounds of the trade mark's prestige, sale to discount stores, does so without the consent of the trade mark proprietor?
3. If not, can the proprietor invoke such a provision to oppose further commercialisation of the goods, on the basis of Article 7(2) of that directive?

⁽¹⁾ OJ 1989 L 40, p. 1.

Action brought on 18 February 2008 — Commission of the European Communities v Hellenic Republic

(Case C-61/08)

(2008/C 92/38)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: G. Zavvos and H. Støvlbæk)

Defendant: Hellenic Republic

Form of order sought

The Court is asked to:

- declare that, by laying down and maintaining in operation Article 19(1) of the Notaries' Code (Law 2830/2000), the Hellenic Republic is in breach of its obligations pursuant to the Treaty establishing the European Community, in particular under Articles 43 and 45 EC and Council Directive 89/48/EEC ⁽¹⁾ of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

1. The Greek authorities maintain that the activities of notaries are excluded from the application of Article 43 EC because they fall with the scope of application of Article 45 EC. They rely upon the status of notaries as public officials who confer on a notarised document increased evidential and executory force, similar to that of a judicial decision, with the use of the State seal, the status of notaries as judicial officials, their role as legal advisers, and a whole series of other activities. They also rely on the principle of territoriality, whereby Greek notaries are not permitted to establish themselves in other districts.
2. The Commission considers that Article 43 EC constitutes one of the fundamental provisions of the Community and has direct application in the Member States from the end of the transitional period. It is aimed at ensuring the benefit of national treatment to every citizen of a Member State who establishes him or herself in another Member State, even as a secondary residence, to exercise a liberal profession and prohibits any discrimination on the ground of nationality created by national legislation.
3. The derogation to freedom of establishment provided for in the first paragraph of Article 45 must be restricted to activities which in themselves 'are directly and specifically connected with the exercise of official authority' ⁽²⁾. In the Commission's view, none of the special features or activities relied upon by the Greek authorities constitute a direct and specific connection with the exercise of official authority as referred to in the case-law of the Court of Justice of the European Communities and accordingly could not justify the nationality requirement.