

2. Is it relevant to the assessment of what constitutes 'non-commercial carriage':
- that the driver makes the journey only for his own purposes?
 - that no payment is made for the carriage per se?
 - how large the financial contribution is and/or how large the financial contribution is in relation to the total cost of the hobby activity?

(¹) Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (Text with EEA relevance) — Declaration (OJ 2006 L 102, p. 1).

Reference for a preliminary ruling from the Højesteret (Denmark) lodged on 2 July 2012 — Malaysia Dairy Industries Pte. Ltd v Ankenævnet for Patenter og Varemærker

(Case C-320/12)

(2012/C 258/22)

Language of the case: Danish

Referring court

Højesteret

Parties to the main proceedings

Applicant: Malaysia Dairy Industries Pte. Ltd

Defendant: Ankenævnet for Patenter og Varemærker

Questions referred

1. Is the concept of bad faith in Article 4(4)(g) of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (¹) an expression of a legal standard which may be filled out in accordance with national law, or is it a concept of European Union law which must be given a uniform interpretation throughout the European Union?
2. If the concept of bad faith in Article 4(4)(g) of Directive 2008/95/EC is a concept of European Union law, must the concept be understood as meaning that it may suffice that the applicant knew or should have known of the foreign mark at the time of filing the application, or is there a further requirement concerning the applicant's subjective position in order for registration to be denied?
3. Can a Member State choose to introduce a specific protection of foreign marks which, in relation to the requirement of bad faith, differs from Article 4(4)(g) of Directive 2008/95/EC, for example by laying down a special requirement that the applicant knew or should have known of the foreign mark?

(¹) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ 2008 L 299, p. 25).