

Judgment of the Court (Tenth Chamber) of 23 November 2017 (request for a preliminary ruling from the Tribunal Supremo — Spain) — Salvador Benjumea Bravo de Laguna v Esteban Torras Ferrazzuolo

(Case C-381/16) ⁽¹⁾

(Reference for a preliminary ruling — Regulation (EC) No 207/2009 — EU trade mark — Article 16 — Trade mark as an object of property — Dealing with EU trade marks as national trade marks — Article 18 — Transfer of a trade mark registered in the name of the agent or representative of the trade mark's proprietor — National provision allowing the possibility of bringing an action for recovery of ownership of a national trade mark registered in fraud of the owner's rights or in breach of a legal or contractual obligation — Whether compatible with Regulation No 207/2009)

(2018/C 022/16)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Salvador Benjumea Bravo de Laguna

Defendant: Esteban Torras Ferrazzuolo

Operative part of the judgment

Articles 16 and 18 of Council Regulation (EC) No 207/2009 of 26 February 2009 on the [European Union] trade mark must be interpreted as not precluding the application to an EU trade mark of a national provision, such as that at issue in the main proceedings, under which a person harmed, by the trade mark registration which was applied for in fraud of his rights or in breach of a legal or contractual obligation, is entitled to claim ownership of that trade mark, provided that the situation concerned does not fall within those covered by Article 18 of that regulation.

⁽¹⁾ OJ C 335, 12.9.2016.

Judgment of the Court (First Chamber) of 23 November 2017 (requests for a preliminary ruling from the Sofiyski rayonen sad — Bulgaria) — CHEZ Elektro Bulgaria AD v Yordan Kotsev (C 427/16), and FrontEx International EAD v Emil Yanakiev (C-428/16)

(Joined Cases C-427/16 and C-428/16) ⁽¹⁾

(Reference for a preliminary ruling — Competition — Freedom to provide services — Setting of minimum fee amounts by a lawyers' professional organisation — Court prohibited from ordering reimbursement of fees in an amount less than those minimum amounts — National legislation considering value added tax (VAT) to form part of the price of a service provided in the performance of professional activities)

(2018/C 022/17)

Language of the case: Bulgarian

Referring court

Sofiyski rayonen sad

Parties to the main proceedings

Applicants: CHEZ Elektro Bulgaria AD (C-427/16), FrontEx International EAD (C-428/16)

Defendants: Yordan Kotsev (C-427/16), Emil Yanakiev (C-428/16)

Operative part of the judgment

1. Article 101(1) TFEU, read in conjunction with Article 4(3) TEU must be interpreted as meaning that national legislation, such as that at issue in the main proceedings, which, first, does not allow a lawyer and his client to agree remuneration in an amount below the minimum amount laid down in a regulation issued by a lawyers' professional organisation, such as the Vissh advokatski savet (Supreme Council of the Legal Profession, Bulgaria), without that lawyer being subject to a disciplinary procedure, and, secondly, which does not authorise the courts to order reimbursement of fees in an amount less than that minimum amount, is capable of restricting competition in the internal market within the meaning of Article 101(1) TFEU. It is for the referring court to confirm whether such legislation, in the light of the specific detailed rules for the application thereof, actually meets legitimate objectives and whether the restrictions thus imposed are limited to what is necessary to ensure that those legitimate objectives are given effect.
2. Article 101(1) TFEU, read in conjunction with Article 4(3) TEU and Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services, must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, by virtue of which individuals and sole traders obtain reimbursement of lawyers' remuneration, ordered by a national court, if they have been defended by a legal adviser.
3. Point (a) of the first subparagraph of Article 78 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding national legislation such as that at issue in the main proceedings, by virtue of which VAT forms an inseparable component part of a registered lawyers' fees, if that legislation leads to double taxation of those fees in respect of VAT.

⁽¹⁾ OJ C C 371, 10.10.2016.

Judgment of the Court (Sixth Chamber) of 15 November 2017 (request for a preliminary ruling from the Administrativen sad Sofia-grad — Bulgaria) — Entertainment Bulgaria System EOOD v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika', Sofia

(Case C-507/16) ⁽¹⁾

(Reference for a preliminary ruling — Taxation — Directive 2006/112/EC — Article 168(a), Article 169(a), Article 214(1)(d) and (e), and Articles 289 and 290 — Deductibility of input value added tax (VAT) due or paid — Output transactions carried out in other Member States — Tax deduction scheme in the Member State in which the right to deduct is exercised)

(2018/C 022/18)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: Entertainment Bulgaria System EOOD

Defendant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika', Sofia