



## Reports of Cases

Case C-381/16

**Salvador Benjumea Bravo de Laguna**  
v  
**Esteban Torras Ferrazzuolo**

(Request for a preliminary ruling from the Tribunal Supremo)

(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)

Summary — Judgment of the Court (Tenth Chamber), 23 November 2017

1. *Questions referred for a preliminary ruling — Reference to the Court — Conformity of the decision to refer with the rules of national law governing the organisation of the courts and their procedure — Not a matter for the Court to determine*

(Art. 267 TFEU)

2. *Questions referred for a preliminary ruling — Reference to the Court — Issues of interpretation — Obligation to seek a preliminary ruling — Scope*

(Art. 267, third para., TFEU)

3. *EU trade mark — EU trade marks as objects of property — Dealing with EU trade marks as national trade marks — Application of the 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 permissible — Conditions — Situation not falling within Article 18 of Regulation No 207/2009*

(Council Regulation No 207/2009, Arts 16 and 18)

1. See the text of the decision.

(see para. 26)

2. See the text of the decision.

(see para. 29)

3. 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.

(see para. 38, operative part)