

Parties to the main proceedings

Pál Aranyosi (C-404/15), Robert Căldăraru (C-659/15 PPU)

Operative part of the judgment

Article 1(3), Article 5 and Article 6(1) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as meaning that, where there is objective, reliable, specific and properly updated evidence with respect to detention conditions in the issuing Member State that demonstrates that there are deficiencies, which may be systemic or generalised, or which may affect certain groups of people, or which may affect certain places of detention, the executing judicial authority must determine, specifically and precisely, whether there are substantial grounds to believe that the individual concerned by a European arrest warrant, issued for the purposes of conducting a criminal prosecution or executing a custodial sentence, will be exposed, because of the conditions for his detention in the issuing Member State, to a real risk of inhuman or degrading treatment, within the meaning of Article 4 of the Charter, in the event of his surrender to that Member State. To that end, the executing judicial authority must request that supplementary information be provided by the issuing judicial authority, which, after seeking, if necessary, the assistance of the central authority or one of the central authorities of the issuing Member State, under Article 7 of the Framework Decision, must send that information within the time limit specified in the request. The executing judicial authority must postpone its decision on the surrender of the individual concerned until it obtains the supplementary information that allows it to discount the existence of such a risk. If the existence of that risk cannot be discounted within a reasonable time, the executing judicial authority must decide whether the surrender procedure should be brought to an end.

(¹) OJ C 320, 28.9.2015.
OJ C 59, 15.2.2016.

Appeal brought on 12 February 2016 by Continental Reifen Deutschland GmbH against the judgment of the General Court (Seventh Chamber) delivered on 8 December 2015 in Case T-525/14: Compagnie générale des établissements Michelin v European Union Intellectual Property Office

(Case C-84/16 P)

(2016/C 211/28)

Language of the case: English

Parties

Appellant: Continental Reifen Deutschland GmbH (represented by: S. O. Gillert, K. Vanden Bossche, B. Köhn-Gerdes, J. Schumacher, Rechtsanwälte)

Other parties to the proceedings: European Union Intellectual Property Office, Compagnie générale des établissements Michelin

Form of order sought

The appellant claims that the Court should:





- set aside the judgement of the General Court of 8. December, 2015, in Case T-525/14 in its entirety;
- remit the case back to the General Court in order to re-examine the inherent degree of distinctiveness of the signs in dispute, including of the elements of which these signs are composed of, as well as the degree of similarity between these signs, and to,

— order the defendant to bear the costs including the costs incurred by the Appellant.

Pleas in law and main arguments

The appeal is based on an infringement of Union law by the General Court in so far as the General Court in its judgment of 8. December 2015 infringed Article 8 (1) (b) of Council Regulation No. 207/2009⁽¹⁾ on the Community trade mark.

In summary, the General Court erred in its assessment of the distinctiveness of the contested CTM application

‘’, including of the elements ‘’ and ‘’, of which this sign is composed, and of the earlier trade mark ‘’. In addition, this

incorrect assessment of the General Court was also based on a distortion of the facts regarding the language knowledge of the relevant public and their understanding of the meaning of the elements of the signs in dispute as well as of the evidence submitted by the defendant as Annex C.1 and Annex C.4, currently submitted as Annex 6.

Furthermore, the General Court failed to provide reasons as to why certain aspects of the signs in dispute, e.g. their figurative elements, were not considered in in the assessment of the similarity of signs.

On the basis of these incorrect assessments, the General Court erroneously held that in view of the strong similarity or identity of the goods covered, the average degree of similarity between the mark applied for and the earlier French trade mark and the normal inherent distinctiveness of that earlier trade mark there is a likelihood of confusion pursuant to Article 8 (1) (b) CTMR.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark OJ L 78, p. 1

Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 22 February 2016 — Polbud — Wykonawstwo sp. z o.o.

(Case C-106/16)

(2016/C 211/29)

Language of the case: Polish

Referring court

Sąd Najwyższy

Party to the main proceedings

Appellant on a point of law: Polbud — Wykonawstwo sp. z o.o.

Questions referred

1. Do Articles 49 and 54 of the Treaty on the functioning of the European Union preclude the application by a Member State, in which a commercial company (public limited company) was initially incorporated, of provisions of national law which make removal from the commercial register conditional on the company being wound up after liquidation has been carried out, if the company has been reincorporated in another Member State pursuant to a shareholders' decision to continue the legal personality acquired in the State of initial incorporation?