

3. With regard to the case referred to in subparagraph (c) of Article 9(1) of the Community Trade Mark Regulation, must this provision be interpreted as meaning that, where an earlier trade mark has coexisted with the contested sign for a certain number of years in two European Union Member States without the proprietor of the earlier trade mark opposing it, this acquiescence on the part of the proprietor towards the use of the later sign in these two States in particular can be extended to the remaining territory of the European Union for the purpose of determining whether there is due cause for a third party's use of the later sign, on account of the unitary treatment that the Community trade mark requires?

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

Request for a preliminary ruling from the Juzgado de lo Social No 3 de Barcelona (Spain) lodged on 17 February 2016 — José María Pérez Retamero v TNT Express Worldwide, S.L., Transportes Sapiro, S.L. and Fondo de Garantía Salarial (Fogasa)

(Case C-97/16)

(2016/C 156/38)

Language of the case: Spanish

Referring court

Juzgado de lo Social No 3 de Barcelona

Parties to the main proceedings

Claimant: José María Pérez Retamero

Defendants: TNT Express Worldwide, S.L., Transportes Sapiro, S.L. and Fondo de Garantía Salarial (Fogasa)

Questions referred

1. Must the definition of 'mobile worker' given in Article 3(d) of Directive 2002/15/EC ⁽¹⁾ be interpreted as precluding domestic legal provisions such as Article 1.3(g) of the Workers' Statute, which provides that 'persons providing a transport service by virtue of administrative authorisations of which they are the holders, carried out ... using vehicles ... of which ownership or a direct power of disposal is vested in them cannot be regarded as 'mobile workers'?
2. Must the second subparagraph of Article 3(e) of the directive ('[f]or the purposes of this directive, those drivers who do not satisfy these criteria shall be subject to the same obligations and benefit from the same rights as those provided for mobile workers by this directive') be interpreted as meaning that, if none or only one of the criteria laid down for a person to be regarded as a 'self-employed driver' is fulfilled, the view must be taken that the person concerned is a 'mobile worker'?

⁽¹⁾ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ 2002 L 80, p. 35).

Request for a preliminary ruling from the Rechtbank Amsterdam (Netherlands) lodged on 24 February 2016 — Openbaar Ministerie v Paweł Dworzecki

(Case C-108/16)

(2016/C 156/39)

Language of the case: Dutch

Referring court

Rechtbank Amsterdam