

5. In the circumstances at issue in the present proceedings and given the time of the establishment of (the predecessor of) Article 2(7) BC, are the conditions of the first paragraph of Article 351 TFEU satisfied for Belgium, meaning that Belgium is therefore free to apply the material reciprocity test provided for in Article 2(7) BC, taking into account the fact that in the present case the country of origin acceded to the Berne Convention on 1 May 1989?

⁽¹⁾ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10).

⁽²⁾ Berne Convention for the Protection of Literary and Artistic Works; 'BC'.

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 12 April 2023 — AFAÏA
v Institut national de l'origine et de la qualité (INAO)**

(Case C-228/23, AFAÏA)

(2023/C 252/25)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: AFAÏA

Defendant: Institut national de l'origine et de la qualité (INAO)

Party to the proceedings: Ministre de l'Agriculture et de l'Alimentation

Questions referred

1. Is Annex II to Commission Regulation (EU) 2021/1165 of 15 July 2021, ⁽¹⁾ which was adopted to implement Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018, ⁽²⁾ to be interpreted as meaning that the concept of factory farming contained therein is equivalent to that of landless livestock production?
2. If the concept of factory farming is distinct from the concept of landless livestock production, what criteria must be used to determine whether a livestock holding must be categorised as factory farming within the meaning of Annex II to Regulation (EU) 2021/1165?

⁽¹⁾ Commission Implementing Regulation (EU) 2021/1165 of 15 July 2021 authorising certain products and substances for use in organic production and establishing their lists (OJ 2021 L 253, p. 13).

⁽²⁾ Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ 2018 L 150, p. 1).

**Request for a preliminary ruling from the Ondernemingsrechtbank Gent, afdeling Gent (Belgium)
lodged on 13 April 2023 — Reprobel SCRL v Copaco Belgium NV**

(Case C-230/23, Reprobel)

(2023/C 252/26)

Language of the case: Dutch

Referring court

Ondernemingsrechtbank Gent, afdeling Gent

Parties to the main proceedings

Applicant: Reprobel SCRL

Defendant: Copaco Belgium NV