

Parties to the main proceedings

Appellant: Syndicat OP 84

Respondent: Office national interprofessionnel des fruits, des légumes, des vins et de l'horticulture (VINIFLHOR) venant aux droits de l'ONIFLHOR

Questions referred

1. Must the 'scrutiny period' from 1 July of one year to 30 June of the following year, as referred to in Article 2(4) of Council Regulation No 4045/89 of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the EAGGF,⁽¹⁾ be understood as the period during which the authorities responsible for the scrutiny must inform the producer organisation of the planned inspection, and commence and complete the scrutiny procedure in its entirety on-site and on paper and communicate the results of that scrutiny, or must it be understood as the period during which only some of those procedural steps have to be carried out?
2. Where the conduct or the shortcomings of the producer organisation make it impossible to carry out effectively an inspection initiated during one scrutiny period, may the authorities — despite the absence of express provision to that effect in [Regulation No 4045/89] — carry out the scrutiny procedure during the subsequent scrutiny period, without causing the procedure to be vitiated by a defect which the organisation under scrutiny could rely on against the decision setting out the inferences to be drawn from the findings of that inspection?
3. If the previous question falls to be answered in the negative, may the authorities, where the conduct or the shortcomings of the producer organisation make an effective scrutiny impossible, require repayment of the financial assistance received? Does such a measure constitute one of the penalties for which provision may be made pursuant to Article 6 of [Regulation No 4045/89]?

⁽¹⁾ Council Regulation (EEC) No 4045/89 of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Directive 77/435/EEC (OJ 1989 L 388, p. 18).

**Reference for a preliminary ruling from the
Bundesgerichtshof (Germany) lodged on 9 January 2012
— Colloseum Holding AG v Levi Strauss & Co.**

(Case C-12/12)

(2012/C 89/20)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Colloseum Holding AG

Defendant: Levi Strauss & Co.

Questions referred

Is Article 15(1) of Regulation (EC) No 40/94⁽¹⁾ to be interpreted as meaning that:

1. a trade mark which is part of a composite mark and has become distinctive only as a result of the use of the composite mark can be used in such a way as to preserve the rights attached to it if the composite mark alone is used?
2. a trade mark is being used in such a way as to preserve the rights attached to it if it is used only together with another mark, the public sees independent signs in the two marks and, in addition, both marks are registered together as a trade mark?

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

**Appeal brought on 13 January 2012 by Dashiqiao Sanqiang
Refractory Materials Co. Ltd against the judgment of the
General Court (First Chamber) delivered on 16 December
2011 in Case T-423/09 Dashqiao Sanqiang Refractory
Materials Co. Ltd v Council**

(Case C-15/12 P)

(2012/C 89/21)

Language of the case: French

Parties

Appellant: Dashiqiao Sanqiang Refractory Materials Co. Ltd (represented by: J.-F. Bellis and R. Luff, avocats)

Other parties to the proceedings: Council of the European Union, European Commission