

Parties to the main proceedings

Appellant: Hauck GmbH & Co. KG

Respondents: Stokke A/S, Stokke Nederland BV, Peter Opsvik, Peter Opsvik A/S

Operative part of the judgment

1. The first indent of Article 3(1)(e) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks must be interpreted as meaning that the ground for refusal of registration set out in that provision may apply to a sign which consists exclusively of the shape of a product with one or more essential characteristics which are inherent to the generic function or functions of that product and which consumers may be looking for in the products of competitors.
2. The third indent of Article 3(1)(e) of Directive 89/104 must be interpreted as meaning that the ground for refusal of registration set out in that provision may apply to a sign which consists exclusively of the shape of a product with several characteristics each of which may give that product substantial value. The target public's perception of the shape of that product is only one of the assessment criteria which may be used to determine whether that ground for refusal is applicable.
3. Article 3(1)(e) of Directive 89/104 must be interpreted as meaning that the grounds for refusal of registration set out in the first and third indents of that provision may not be applied in combination.

⁽¹⁾ OJ C 189, 29.6.2013.

Judgment of the Court (Second Chamber) of 17 September 2014 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Commerz Nederland NV v Havenbedrijf Rotterdam NV

(Case C-242/13) ⁽¹⁾

(Reference for a preliminary ruling — Competition — State aid — Article 107(1) TFEU — Definition of aid — Guarantees provided by a public undertaking to a bank to facilitate lending to third party creditors — Guarantees deliberately provided by the director of that public undertaking in disregard of that undertaking's statutes — Presumption of opposition by the public body that owns that undertaking — Whether the guarantees may be imputed to the State)

(2014/C 421/14)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Commerz Nederland NV

Respondent: Havenbedrijf Rotterdam NV

Operative part of the judgment

On a proper construction of Article 107(1) TFEU, for the purposes of determining whether or not the guarantees provided by a public undertaking are imputable to the public authority controlling that undertaking, the following are relevant, together with the body of evidence arising from the circumstances of the case in the main proceedings and from the context in which they took place: on the one hand, that the sole director of the company providing those guarantees acted improperly, deliberately kept the provision of those guarantees secret and disregarded the undertaking's statutes and, on the other, that that public authority would have opposed the provision of the guarantees, had it been informed of it. In a situation such as that at issue in the main proceedings, those circumstances could, in themselves, exclude such imputability only if it may be inferred that the guarantees at issue were provided without the involvement of that same public authority.

⁽¹⁾ OJ C 207, 20.7.2013.

Judgment of the Court (Seventh Chamber) of 2 October 2014 (request for a preliminary ruling from the Hof van beroep te Brussel — Belgium) — Orgacom BVBA v Vlaamse Landmaatschappij

(Case C-254/13) ⁽¹⁾

(Reference for a preliminary ruling — Charges having equivalent effect to customs duties — Internal taxes — Import levy on manure imported into the Flanders Region — Articles 30 TFEU and 110 TFEU — Levy payable by the importer — Different levies on imported manure and manure produced within the Flanders Region)

(2014/C 421/15)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Appellant: Orgacom BVBA

Respondent: Vlaamse Landmaatschappij

Operative part of the judgment

Article 30 TFEU precludes a levy, such as that provided for under Article 21(5) of the Decree of the Flanders Region of 23 January 1991 on protection of the environment against fertiliser pollution, as amended by the Decree of 28 March 2003, which is applicable only to imports into the Flanders Region of surplus livestock manure and other fertilisers, which is levied on the importer whereas the tax on the surplus manure produced within the territory of the Flanders Region is levied on the producer and is calculated differently from the tax on imports. In that regard, it is immaterial that the Member State from which the surplus manure is imported into the Flanders Region provides for a tax reduction in the case of export of that surplus to other Member States.

⁽¹⁾ OJ C 207, 20.7.2013.