

obtained, in accordance with Article 8 of that directive, a permit to continue to operate, may be closed, or by failing to adopt the measures necessary to bring those landfill sites which have obtained a permit to continue to operate into line with that directive, without prejudice to the conditions laid down in Annex I, point 1, to that directive, the Italian Republic has failed to fulfil its obligations under Article 14(b) and (c) of Directive 1999/31;

2. Orders the Italian Republic to pay the costs.

(¹) OJ C 338, 9.10.2017.

Judgment of the Court (Fourth Chamber) of 27 March 2019 (request for a preliminary ruling from the Sąd Najwyższy — Poland) — Mariusz Pawlak v Prezes Kasy Rolniczego Ubezpieczenia Społecznego

(Case C-545/17) (¹)

(Reference for a preliminary ruling — Internal market of postal services — Directives 97/67/EC and 2008/6/EC — Article 7(1) — Definition of ‘exclusive or special rights for the establishment and provision of postal services’ — Article 8 — Right of the Member States to organise the registered mail service used in the course of judicial proceedings — Time-limit for lodging a procedural document before a court — Interpretation of national law in conformity with EU law — Limits — Direct effect relied on by an emanation of a Member State in proceedings between it and an individual)

(2019/C 187/21)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Appellant: Mariusz Pawlak

Respondent: Prezes Kasy Rolniczego Ubezpieczenia Społecznego

Operative part of the judgment

1. The first sentence of Article 7(1) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008, read in conjunction with Article 8 of Directive 97/67/EC, must be interpreted as precluding a rule of national law which recognises only the posting of a procedural document in a post office of the sole operator designated to provide the universal postal service as being equivalent to lodging a procedural document before the relevant court, without there being an objective justification based on grounds of public policy or public security.

2. A public authority, regarded as an emanation of a Member State, cannot rely on Directive 97/67, as amended by Directive 2008/6, as such, against an individual.

(¹) OJ C 13, 15.1.2018.

Judgment of the Court (Fourth Chamber) of 27 March 2019 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — proceedings brought by Oy Hartwall Ab

(Case C-578/17) (¹)

(Reference for a preliminary ruling — Approximation of laws — Trade marks — Directive 2008/95/EC — Articles 2 and 3(1)(b) — Refusal to register or invalidity — Assessment of distinctive character by reference to the actual situation — Classification of a trade mark — Effect — Colour mark or figurative mark — Graphic representation of a mark submitted as a figurative mark — Conditions for registration — Insufficiently clear and precise graphic representation)

(2019/C 187/22)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Oy Hartwall Ab

Interested party: Patentti- ja rekisterihallitus

Operative part of the judgment

1. Articles 2 and 3(1)(b) of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks must be interpreted as meaning that the classification as a 'colour mark' or 'figurative mark' given to a sign by the applicant on registration is a relevant factor among others for the purpose of establishing whether that sign can constitute a trade mark within the meaning of Article 2 of the directive and, if so, whether it is distinctive within the meaning of Article 3(1)(b) of that directive, but does not release the competent trade mark authority from its obligation to carry out a global assessment of distinctive character by reference to the actual situation of the mark considered, which means that that authority cannot refuse registration of a sign as a mark on the sole ground that that sign has not acquired distinctive character through use in relation to the goods or services claimed.
2. Article 2 of Directive 2008/95 must be interpreted as precluding, in circumstances such as those in the main proceedings, the registration of a sign as a mark due to an inconsistency in the application for registration, which it is for the referring court to ascertain.

(¹) OJ C 412, 4.12.2017.
