

**Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 4 March 2020 —
Ferrari SpA v Mansory Design & Holding GmbH, WH**

(Case C-123/20)

(2020/C 215/24)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Ferrari SpA

Defendants: Mansory Design & Holding GmbH, WH

Questions referred

1. Can unregistered Community designs in individual parts of a product arise as a result of disclosure of an overall image of a product in accordance with Article 11(1) and the first sentence of Article 11(2) of Regulation (EC) No 6/2002? ⁽¹⁾
2. If Question 1 is answered in the affirmative:

What legal criterion is to be applied for the purpose of assessing individual character in accordance with Article 4(2)(b) and Article 6(1) of Regulation (EC) No 6/2002 when determining the overall impression of a component part which — as in the case of a part of a vehicle's bodywork, for example — is to be incorporated into a complex product? In particular, can the criterion be whether the appearance of the component part, as viewed by an informed user, is not completely lost in the appearance of the complex product, but rather displays a certain autonomy and consistency of form such that it is possible to identify an aesthetic overall impression which is independent of the overall form?

⁽¹⁾ Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ 2002 L 3, p. 1).

**Request for a preliminary ruling from the Verwaltungsgericht Berlin (Germany) lodged on 6 March
2020 — ExxonMobil Production Deutschland GmbH v Bundesrepublik Deutschland, represented by
the Umweltbundesamt**

(Case C-126/20)

(2020/C 215/25)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: ExxonMobil Production Deutschland GmbH

Defendant: Bundesrepublik Deutschland, represented by the Umweltbundesamt

Questions referred

1. Does the CO₂ released into the atmosphere as part of the processing of natural gas (in the form of sour gas) in the 'Claus process', by means of the CO₂ inherent in natural gas being separated from the gas mixture, constitute an emission which, for the purposes of the first sentence of Article 3(h) of Commission Decision 2011/278/EU, ⁽¹⁾ occurs as a result of the process referred to in Article 3(h)(v)?
2. For the purposes of the first sentence of Article 3(h) of Commission Decision 2011/278/EU, can CO₂ emissions occur 'as a result of' a process in which the CO₂ inherent in the raw material is released into the atmosphere, even though the process taking place does not give rise to additional CO₂, or does that provision make it mandatory for the CO₂ released into the atmosphere to occur for the first time as a result of that process?
3. Is a carbon-containing raw material 'used' within the meaning of Article 3(h)(v) of Commission Decision 2011/278/EU where, in the 'Claus process', the naturally occurring natural gas is used to produce sulphur and, in the course of that procedure, the CO₂ inherent in the natural gas is released into the atmosphere, even though the CO₂ inherent in the natural gas does not play a part in the chemical reaction taking place in that process, or does the term 'use' make it mandatory for the carbon to play a part in, or indeed be essential to, the chemical reaction taking place?
4. If Questions 1 to 3 are answered in the affirmative:

On the basis of which benchmark is the allocation of free emission allowances to be carried out where an installation subject to the emission trading scheme satisfies both the defining conditions of a heat benchmark sub-installation and the defining conditions of a process emissions sub-installation? Does entitlement to an allocation on the basis of the heat benchmark take priority over entitlement to an allocation for process emissions or does entitlement to an allocation for process emissions take precedence over the heat benchmark and the fuel benchmark because it is more specific to the case in question?

5. If Questions 1 to 4 are answered in the affirmative:

Can entitlements to a further free allocation of emission allowances for the third trading period be met after the end of the third trading period with allowances of the fourth trading period where the existence of the allowance entitlement is established by a court only after expiry of the third trading period, or do allowance entitlements that have not yet been met lapse on expiry of the third trading period?

⁽¹⁾ Commission Decision of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ 2011 L 130, p. 1).

Request for a preliminary ruling from the Zalaegerszegi Járásbíróság (Hungary) lodged on 12 March 2020 — Proceedings against LU

(Case C-136/20)

(2020/C 215/26)

Language of the case: Hungarian

Referring court

Zalaegerszegi Járásbíróság

Party to the main proceedings

LU