

**Reference for a preliminary ruling from the Oberster Patent- und Markensenat (Austria) lodged on 27 September 2007 — Verein Radetzky-Orden v Bundesvereinigung Kameradschaft 'Feldmarschall Radetzky'**

(Case C-442/07)

(2007/C 283/40)

*Language of the case: German*

**Referring court**

Oberster Patent — und Markensenat

**Parties to the main proceedings**

*Applicant:* Verein Radetzky-Orden

*Defendant:* Bundesvereinigung Kameradschaft 'Feldmarschall Radetzky'.

**Question referred**

Is Article 12(1) of [First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks] to be construed as meaning that a trade mark is put to (genuine) use to distinguish goods and services of one undertaking from those of other undertakings in the case where a non-profit-making association uses the trade mark in announcements for events, on business papers and on advertising material and that trade mark is used by the association's members when collecting and distributing donations inasmuch as those members wear badges featuring that trade mark?

**Reference for a preliminary ruling from the Sąd Rejonowy Gdańsk — Północ w Gdańsku (Republic of Poland) lodged on 27 September 2007 — MG Probud Gdynia Sp. z o.o. v Hauptzollamt Saarbrücken**

(Case C-444/07)

(2007/C 283/41)

*Language of the case: Polish*

**Referring court**

Sąd Rejonowy Gdańsk — Północ w Gdańsku (Poland)

**Parties to the main proceedings**

*Applicant:* MG Probud Gdynia Sp. z o.o., Gdynia

*Defendant:* Hauptzollamt Saarbrücken

**Questions referred**

- 1 In the light of Articles 3, 4, 16, 17 and 25 of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings<sup>(1)</sup>, that is to say, in the light of the rules governing the jurisdiction of the courts of the State in which insolvency proceedings are opened, the law applicable to those proceedings and the conditions governing, and the effects of recognition of, those proceedings, do the public administrative authorities of a Member State have the power to seize funds held in the bank account of an economic subject following a declaration of its insolvency made in another EU Member State (application of the so-called seizure of assets), thereby contravening the national legal rules of the Member State which opened such proceedings (Article 4 of Regulation No 1346/2000), where the conditions for the application of the provisions of Articles 5 and 10 of that regulation do not exist?
- 2 In the light of Article 25(1) et seq. of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings, may the administrative authorities of the Member State in which secondary insolvency proceedings have not been opened and which must recognise the insolvency proceedings pursuant to Article 16 of that regulation refuse, on the basis of domestic legal rules, to recognise decisions made by the State of the opening of insolvency proceedings relating to the conduct and closure of insolvency proceedings pursuant to Articles 31 to 51 of the Brussels Convention on jurisdiction and the enforcement of judgments in civil and commercial matters?

<sup>(1)</sup> OJ 2000 L 160, p. 1.

**Appeal brought on 27 September 2007 by Ayuntamiento de Madrid and Madrid Calle 30, SA against the order of the Court of First Instance (Fourth Chamber) delivered on 12 July 2007 in Case T-177/06 Ayuntamiento de Madrid and Madrid Calle 30, SA v Commission of the European Communities**

(Case C-448/07 P)

(2007/C 283/42)

*Language of the case: Spanish*

**Parties**

*Appellants:* Ayuntamiento de Madrid and Madrid Calle 30, SA (represented by: J.L. Buendía Sierra and R. González-Gallarza Granizo, abogados)

*Other party to the proceedings:* Commission of the European Communities