Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

16 July 2015*

(Reference for a preliminary ruling — Free movement of goods — Articles 34, 35 and 36 TFEU — Measures having equivalent effect — Directive 94/11/EC — Articles 3 and 5 — Exhaustive harmonisation — Bar on impeding the placing on the market of footwear which complies with the labelling requirements of Directive 94/11 — National legislation requiring the country of origin to be shown on the labelling of products manufactured abroad which use the Italian term 'pelle' — Products in free circulation)

In Case C-95/14,

REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunale di Milano (Italy), made by decision of 20 February 2014, received at the Court on 27 February 2014, in the proceedings

Unione Nazionale Industria Conciaria (UNIC),

Unione Nazionale dei Consumatori di Prodotti in Pelle, Materie Concianti, Accessori e Componenti (Uni.co.pel)

v

FS Retail,

Luna Srl,

Gatsby Srl,

THE COURT (Third Chamber),

composed of M. Ilešič, President of the Chamber, A. Ó Caoimh, C. Toader (Rapporteur), E. Jarašiūnas and C.G. Fernlund, Judges,

Advocate General: E. Sharpston,

Registrar: L. Carrasco Marco, Administrator,

having regard to the written procedure and further to the hearing on 15 January 2015,

after considering the observations submitted on behalf of:

— Unione Nazionale Industria Conciaria (UNIC), by G. Floridia, A. Tornato, M. Mussi, A. Fratini and G.P. Geminiani, avvocati,

* Language of the case: Italian.

— Unione Nazionale dei Consumatori di Prodotti in Pelle, Materie Concianti, Accessori e Componenti (Uni.co.pel), by G. Floridia, A. Tornato, M. Mussi, G. Geminiani and A. Fratini, avvocati,

— FS Retail, by M. Sapio, avvocato,

— Luna Srl, by A. Cattel and M. Concetti, avvocati,

— Gatsby Srl, by A. Terenzi, avvocato,

— the Czech Government, by M. Smolek, acting as Agent,

— the German Government, by T. Henze and J. Möller, acting as Agents,

— the Netherlands Government, by M. Bulterman, B. Koopman and H. Stergiou, acting as Agents,

— the Swedish Government, by A. Falk, C. Meyer-Seitz, U. Persson, N. Otte Widgren and K. Sparrman and by L. Swedenborg, E. Karlsson and F. Sjövall, acting as Agents,

— the European Commission, by G. Gattinara and G. Zavvos, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 23 April 2015,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 34, 35 and 36 TFEU, Articles 3 and 5 of Directive 94/11/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer (OJ 1994 L 100, p. 37) and Article 60 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1, 'the Union Customs Code').

2 The request has been made in proceedings between Unione Nazionale Industria Conciaria (UNIC), a national trade association and member of the Italian industry confederation which brings together and represents the main operators in the tanning industry, and Unione Nazionale dei Consumatori di Prodotti in Pelle, Materie Concianti, Accessori e Componenti (Uni.co.pel), a non-profit-making consumer association seeking to achieve social solidarity, on the one hand, and FS Retail, Luna Srl and Gatsby Srl, companies incorporated under Italian law, on the other, concerning the marketing in Italy of footwear bearing the generic Italian term 'pelle' (leather) or 'vera pelle' (genuine leather) on the inner sole, with no indication of the product's country of origin.

Legal context

EU law

3 Pursuant to Article 8 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ 1998 L 204 p. 37), as amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 (OJ 1998 L 217,

p. 18; 'Directive 98/34'), Member States must, as a rule, immediately communicate to the European Commission any draft technical regulation which they wish to adopt. They must also provide the Commission with a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft. The Commission must then immediately notify the other Member States of the draft and all the documents which have been forwarded to it. Member States are to communicate the definitive text of a technical regulation to the Commission without delay.

4 Under Article 9 of that directive, the adoption of a draft technical regulation notified under Article 8 is to be postponed for three months from the date of receipt by the Commission of the draft technical regulation. Article 9 provides, inter alia, that the period in question is to be extended to six months if the Commission or another Member State issues a detailed opinion to the effect that the measure envisaged may create obstacles to the free movement of goods within the internal market. The standstill period is to be extended to 12 months if, within 3 months of receipt of the draft technical regulation, the Commission announces its intention to propose or adopt legislation on the matter covered by the draft technical regulation.

5 Article 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1), provided:

'Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.'

6 The Union Customs Code, which entered into force on 31 October 2013, repealed Regulation No 2913/92. However, Article 60 of the Union Customs Code, the content of which is essentially identical to that of Article 24 of Regulation No 2913/92, will apply, under Article 288(2) of that code, only from 1 May 2016.

7 The first, second, third, fifth and seventh recitals in the preamble to Directive 94/11 state:

'[I]n certain Member States there exist Regulations on footwear labelling which are designed to protect and inform the public as well as to secure the legitimate interests of industry;

[T]he disparity of such Regulations risks creating barriers to trade within the Community, thereby prejudicing the functioning of the internal market;

[I]n order to avoid problems due to different systems, the items of a common labelling system for footwear should be precisely defined;

…

[I]t is in the interests of both consumers and the footwear industry to introduce a system reducing the risk of fraud by indicating the exact nature of the materials used in the main components of footwear;

…

[T]he harmonisation of national legislation is the appropriate way of removing these barriers to free trade; … that objective cannot be satisfactorily achieved by the individual Member States; … this Directive establishes only those requirements which are indispensable for the free movement of the products to which it applies,

…'

8 Article 1(1) of Directive 94/11 states:

‘For the purposes of this Directive, “footwear” shall mean all articles with applied soles designed to protect or cover the foot, including parts marketed separately as referred to in Annex I.’

9 Article 2 of Directive 94/11 provides:

‘1. Member States shall take all necessary measures to ensure that all footwear placed on the market meets the labelling requirements of this Directive without prejudice to other relevant Community provisions.

2. Where footwear not in conformity with the provisions regarding labelling requirements is placed on the market, the competent Member State shall take appropriate action as specified in its national legislation.’

10 Article 3 of Directive 94/11 is worded as follows:

‘Without prejudice to other relevant Community provisions, Member States shall not prohibit or impede the placing on the market of footwear which complies with the labelling requirements of this Directive, by the application of unharmonised national provisions governing the labelling of certain types of footwear or of footwear in general.’

11 Article 4 of Directive 94/11 provides:

‘1. The labelling shall provide information on the material, determined in accordance with Annex I, which constitutes at least 80% of the surface area of the upper, and the lining and sock, of the footwear, and at least 80% of the volume of the outersole. If no one material accounts for at least 80%, information should be given on the two main materials used in the composition of the footwear.

2. The information shall be conveyed on the footwear. The manufacturer or his authorised agent established in the Community may choose either pictograms or written indications in at least the language or languages which may be determined by the Member State of consumption in accordance with the Treaty, as defined and illustrated in Annex I. Member States, in their national provisions shall ensure that consumers are adequately informed of the meaning of these pictograms, while ensuring that such provisions do not create trade barriers.

3. For the purpose of this Directive, labelling shall involve affixing the required information to at least one article of footwear in each pair. This may be done by printing, sticking, embossing or using an attached label.

4. The labelling must be visible, securely attached and accessible and the dimensions of the pictograms must be sufficiently large to make it easy to understand the information contained therein. It must not be possible for the labelling to mislead the consumer.

5. The manufacturer or his authorised agent established in the Community shall be responsible for supplying the label and for the accuracy of the information contained therein. If neither the manufacturer nor his authorised agent is established in the Community, this obligation shall fall on the person responsible for first placing the footwear on the Community market. The retailer shall remain responsible for ensuring that the footwear sold by him bears the appropriate labelling prescribed by this Directive.’

12 Article 5 of Directive 94/11 provides that:

‘Additional textual information, affixed, should the need arise, to the labelling may accompany the information required under this Directive. However, Member States may not prohibit or impede the placing on the market of footwear conforming to the requirements of this Directive, in accordance with Article 3.’

Italian law

13 Article 3(2) of Law No 8 of 14 January 2013 laying down new provisions on the use of the Italian terms ‘cuoio’, ‘pelle’ and ‘pelliccia’ and their derivatives or synonyms (GURI No 25 of 30 January 2013; ‘Law No 8/2013’) provides, inter alia, that ‘[i]t is forbidden to offer for sale or otherwise to place on the market, in conjunction with the terms “cuoio” [leather], “pelle” [leather], “pelliccia” [fur] or their derivatives or synonyms — used as adjectives or nouns, or as prefixes or suffixes in other words, or under the generic names “pellame” [leather], “pelletteria” [leather goods] or “pellicceria” [furs], or even translated into a language other than Italian — articles that are not entirely derived from animal material which has been worked specifically with a view to the conservation of its natural properties or, in any event, products other than those referred to in Article 1’. Labelling indicating the country of origin is obligatory for products bearing the aforementioned Italian terms obtained through working carried out in foreign countries.

14 That national legislation establishes an irrebuttable presumption that the marketing of goods made with non-Italian leather but bearing Italian terms is misleading for consumers.

15 Law No 8/2103 does not draw any distinction between goods produced in non-member countries and goods manufactured or placed on the market lawfully in an EU Member State other than the Italian Republic.

16 Under Article 4 of that law, infringement of the marketing ban laid down in that legislation gives rise to administrative penalties of between EUR 10 000 and EUR 50 000 and the administrative seizure of the goods concerned.

The facts in the main proceedings and the questions referred for a preliminary ruling

17 By an action for interim relief lodged on 27 September 2013 before the Tribunale di Milano (Milan District Court), UNIC and Uni.co.pel claimed that urgent interim measures should be adopted in respect of the defendants in the main proceedings.

18 UNIC and Uni.co.pel submit that the defendants in the main proceedings infringed Law No 8/2013 by marketing footwear in Italy bearing the generic Italian term ‘pelle’ (leather) or ‘vera pelle’ (genuine leather) on the inner sole, without any indication of the product’s country of origin. According to UNIC and Uni.co.pel, this misleads the public as to the origin of the leather, by suggesting that the leather is Italian in origin because of the Italian term affixed to the product. Moreover, the term ‘pelle’ or ‘vera pelle’ affixed to the inner sole wrongly suggests that the entire product, including the leather components, is Italian in origin, which is not the case.

19 Consequently, UNIC and Uni.co.pel claimed that the referring court should order the defendants in the main proceedings to desist from marketing such footwear in the Italian market without a label indicating the country of origin of the leather used, on pain of incurring a penalty.

20 It can be seen from the order for reference that some of the footwear at issue in the main proceedings is produced in non-member countries, such as China, as indicated on the plastic label applied to the outer sole. However, according to UNIC and Uni.co.pel, that indication does not satisfy the requirements of Law No 8/2013, because it does not refer specifically to the origin of the leather that forms part of the footwear, but to the origin of the footwear in general. Thus, in those circumstances, the term 'vera pelle' affixed to the inner sole could lead the consumer to believe that the footwear in question, although produced abroad, was made with leather of Italian origin. As regards other footwear, the European or non-European origin of the leather used is disputed.

21 The referring court considers, first of all, referring to the judgment in *Eggers* (13/78, EU:C:1978:182, paragraph 25), that the provisions in question of Law No 8/2013 may constitute measures whose effect is equivalent to quantitative restrictions contrary to EU law, since a presumption of quality which is linked to a requirement that the whole or part of the production process should take place on national territory, thereby restricting or treating unfavourably a process some or all of the phases whereof are carried out in other Member States, is incompatible with the single market.

22 It also asks whether EU law precludes that national legislation only as regards leather products worked and lawfully marketed in other Member States, or also as regards leather products obtained through working carried out in non-member countries and not yet marketed in the European Union.

23 Next, the referring court asks whether Article 3 of Law No 8/2013, which prohibits the marketing of footwear that nevertheless complies with the labelling requirements of Directive 94/11, must be regarded as imposing an obligation to indicate origin that is incompatible with Article 5 of that directive.

24 Lastly, it wishes to ascertain whether the Union Customs Code and the rule that goods the production of which involved more than one country are deemed to originate in the country where they underwent their last substantial processing or working also preclude the national legislation at issue in the main proceedings.

25 In those circumstances, the Tribunale di Milano decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1) Do Articles 34, 35, and 36 TFEU, correctly construed, preclude the application of Article 3(2) of Law No 8/2013 — under which it is compulsory, in the case of products obtained from working carried out in foreign countries but which use the Italian word "pelle", to affix a label thereto indicating the country of origin — to products made of leather lawfully worked or placed on the market in other Member States of the European Union, since that law constitutes a measure having an effect equivalent to a quantitative restriction prohibited under Article 34 TFEU and not justified by Article 36 TFEU?

(2) Do Articles 34, 35, and 36 TFEU, correctly construed, preclude the application of Article 3(2) of Law No 8/2013 — under which it is compulsory, in the case of products obtained from working carried out in foreign countries but which use the Italian word "pelle", to affix a label thereto indicating the country of origin — to products made of leather obtained from working carried out in non-member countries and not already lawfully placed on the market in the European Union, since that law constitutes a measure having an effect equivalent to a quantitative restriction prohibited under Article 34 TFEU and not justified by Article 36 of that Treaty?

(3) Do Articles 3 and 5 of Directive 94/11, correctly construed, preclude the application of Article 3(2) of Law No 8/2013 — under which it is compulsory, in the case of products obtained from working carried out in foreign countries but which use the Italian word "pelle", to affix a label thereto indicating the country of origin — to products made of leather lawfully worked, or lawfully placed on the market, in other Member States of the European Union?

(4) Do Articles 3 and 5 of Directive 94/11, correctly construed, preclude the application of Article 3(2) of Law No 8/2013, under which it is compulsory, in the case of products made of leather obtained from working carried out in non-member countries and not already lawfully placed on the market in the European Union, to affix a label thereto indicating the country of origin?

(5) Does Article 60 of Regulation No 952/2013, correctly construed, preclude the application of Article 3(2) of Law No 8/2013 — under which it is compulsory, in the case of products obtained from working carried out in foreign countries but which use the Italian word "pelle", to affix a label thereto indicating the country of origin — to products made of leather obtained from working carried out in Member States of the European Union or not already lawfully placed on the market in the European Union?

(6) Does Article 60 of Regulation No 952/2013, correctly construed, preclude the application of Article 3(2) of Law No 8/2013 — under which it is compulsory, in the case of products obtained from working carried out in foreign countries but which use the Italian word "pelle", to affix a label thereto indicating the country of origin — to products made of leather obtained from working carried out in non-member countries and not already lawfully placed on the market in the European Union?'

Consideration of the questions referred

Directive 98/34

26 As a preliminary point, it must be noted that the Commission submits that the provisions of Law No 8/2013 are inapplicable since they were adopted in breach of the three month standstill period required under Article 9 of Directive 98/34.

27 The Commission states that it received notification of Law No 8/2013 on 29 November 2012 and indicated, in accordance with Article 9(1) of Directive 98/34, that the standstill period before the adoption of that law should be extended until 1 March 2013. According to the Commission, Law No 8/2013 was adopted on 14 January 2013 and entered into force on 14 February 2013, in manifest breach of that provision.

28 At the hearing, UNIC and Uni.co.pel confirmed the information submitted by the Commission and added that the Italian authorities had taken measures to remedy that breach of the mandatory provisions of Directive 98/34 by repealing Law No 8/2013 pursuant to Article 26 of Law No 161 of 30 October 2014. According to that repealing law, new legislation governing the matter is to be adopted within 12 months, in compliance with the requirements laid down in Directive 98/34 concerning the notification of technical regulations.

29 In that respect, it must be noted that a technical regulation cannot be applied if it has not been notified in accordance with Article 8(1) of Directive 98/34, or if, though notified, it has been adopted and implemented before the end of the three month standstill period required under Article 9(1) of that directive (see judgments in *CIA Security International*, C-194/94, EU:C:1996:172, paragraphs 41, 44 and 54, and *Unilever*, C-443/98, EU:C:2000:496, paragraph 49).

30 Consequently, in the main proceedings, it is for the referring court to verify whether Law No 8/2013 entered into force without respecting the standstill period required under Article 9 of Directive 98/34. If so, the failure to respect that standstill period is a material procedural defect rendering the technical regulation at issue inapplicable. As the Advocate General pointed out in points 44 to 47 of her Opinion, Article 3(2) of Law No 8/2103 would, in that case, be unenforceable against individuals.

31 However, since the questions on the interpretation of EU law referred by a national court in the factual and legislative context which that court is responsible for defining, and the accuracy of which is not a matter for the Court to determine, enjoy a presumption of relevance (judgment in *Melki and Abdeli*, C-188/10 and C-189/10, EU:C:2010:363, paragraph 27 and the case-law cited), the questions asked by the referring court should be answered.

The first and third questions

32 By its first and third question, which it is appropriate to examine together, the referring court asks, in essence, whether Articles 34, 35 and 36 TFEU and Articles 3 and 5 of Directive 94/11 must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, prohibiting, inter alia, the marketing of leather components of footwear coming from other Member States, or coming from non-member countries and already marketed in another Member State or in the Member State concerned, when those products do not bear a label indicating their country of origin.

33 Given that those two questions concern both the interpretation of the FEU Treaty and that of Directive 94/11, it must be noted that, in accordance with settled case-law, any national measure in an area which has been the subject of exhaustive harmonisation at EU level must be assessed in the light of the provisions of that harmonising measure and not those of the Treaty (judgments in *Gysbrechts and Santurel Inter*, C-205/07, EU:C:2008:730, paragraph 33, and in *Commission* v *Belgium*, C-421/12, EU:C:2014:2064, paragraph 63).

34 It is therefore appropriate, in the first place, to examine whether the harmonisation brought about by Directive 94/11, in particular Articles 3 and 5 thereof, is exhaustive in nature.

35 To that end, the Court must interpret those provisions taking into account not only their wording but also the context in which they occur and the objectives of the rules of which they form part (see judgment in *Sneller*, C-442/12, EU:C:2013:717, paragraph 21 and the case-law cited).

36 It follows from recitals 1, 2, 3 and 7 in the preamble to Directive 94/11 that the objective of that directive is to define precisely the items of a common labelling system for footwear in order to avoid problems due to the disparities between the various national regulations governing the matter, which risk creating barriers to trade within the European Union. The harmonisation of that national legislation is considered to be the appropriate way of removing these barriers to free trade, since that objective cannot be satisfactorily achieved by the individual Member States.

37 As the Advocate General pointed out in points 58 and 59 of her Opinion, a combined reading of Articles 1 and 4 of, and Annex I to, Directive 94/11 indicates that the directive does not set out minimum requirements as regards the labelling of the materials used in the main components of footwear, but rather exhaustive rules. Member States are therefore not entitled to adopt more stringent requirements.

38 While it is true that, under Article 5 of that directive, Member States may allow 'additional textual information' to be 'affixed, should the need arise, to the labelling' in order to 'accompany the information required under this Directive', nevertheless, in accordance with that same article, Member States may not 'prohibit or impede the placing on the market of footwear conforming to the requirements of this Directive, in accordance with Article 3'.

39 It therefore follows from a literal interpretation of Articles 3 and 5, read in the light of the objectives of Directive 94/11, that the directive in question brings about an exhaustive harmonisation as regards the content of the requirements for the labelling of materials used in the main components of footwear, which, once fulfilled, preclude the Member States from impeding the marketing of those products.

40 Having regard to those considerations, the national legislation at issue in the main proceedings, in so far as it concerns the labelling of leather components of footwear coming from other Member States or already in free circulation within the European Union, must be assessed solely with regard to the provisions of Directive 94/11, and not those of the FEU Treaty.

41 As regards, in the second place, the assessment in the light of Directive 94/11, it must be recalled that the measures for the liberalisation of trade between Member States, such as Directive 94/11, apply in identical fashion to goods originating in Member States and to goods from non-member countries which are in free circulation in the European Union. In that respect, the Court has made it clear that, as regards free movement of goods within the European Union, goods in free circulation are definitively and wholly assimilated to goods originating in Member States (see, to that effect, *Tezi Textiel* v *Commission*, 59/84, EU:C:1986:102, paragraph 26).

42 Article 3 of Directive 94/11 provides that 'Member States shall not prohibit or impede the placing on the market of footwear which complies with the labelling requirements of this Directive, by the application of unharmonised national provisions governing the labelling of certain types of footwear or of footwear in general'.

43 In accordance with Article 4 of, and Annex I to, Directive 94/11, the labelling on those products should only provide information on the material used in the composition of the footwear (leather, coated leather, textile or other materials). A requirement to indicate the country of origin of the leather, such as that imposed by the legislation at issue in the main proceedings, is therefore not envisaged by that directive.

44 In that respect, it must be recalled that the Court has already held, as regards the interpretation of Article 34 TFEU, that the purpose of indications of origin or origin-marking, such as those at issue in the main proceedings, is to enable consumers to distinguish between domestic and imported goods and that this enables them to assert any prejudices which they may have against foreign goods. Within the internal market, the origin-marking requirement not only makes the marketing in a Member State of goods produced in other Member States in the sectors in question more difficult, it also has the effect of slowing down economic interpenetration in the European Union by handicapping the sale of goods produced as the result of a division of labour between Member States (see, to that effect, judgment in *Commission* v *United Kingdom*, 207/83, EU:C:1985:161, paragraph 17).

45 Furthermore, it is clear from the case-law in relation to Article 34 TFEU that language requirements such as those laid down by the national legislation at issue in the main proceedings constitute a barrier to intra-Community trade in so far as goods coming from other Member States have to be given different labelling involving additional packaging costs (judgment in *Colim*, C-33/97, EU:C:1999:274, paragraph 36).

46 In view of the foregoing, the answer to the first and third questions is that Articles 3 and 5 of Directive 94/11 must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, prohibiting, inter alia, the marketing of leather components of footwear coming from other Member States, or coming from non-member countries and already marketed in another Member State or in the Member State concerned, when those products do not bear a label indicating their country of origin.

The second and fourth questions

47 By its second and fourth questions, which it is appropriate to deal with together, the referring court essentially asks whether Articles 34, 35 and 36 TFEU and Articles 3 and 5 of Directive 94/11 must be interpreted as precluding national legislation, such as that at issue in the main proceedings, prohibiting,

inter alia, the marketing of leather components of footwear coming from non-member countries and not yet lawfully marketed in the European Union, when those products do not bear a label indicating the country of origin.

48 According to the terms used by the referring court, those questions concern leather components of footwear coming from non-member countries and not yet placed in free circulation within the European Union, including therefore in Italy.

49 In that respect, it must be recalled, in the first place, that, in accordance with Article 28 TFEU, there is a prohibition between Member States of custom duties on imports and exports and of all charges having equivalent effect, and that prohibition applies both 'to products originating in Member States' and 'to products coming from third countries which are in free circulation in Member States'.

50 Under Article 29 TFEU, products coming from a third country are considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.

51 It is clear from the order for reference and from the national case file however that the products in question have been marketed in Italy and, accordingly, are already in free circulation in the European Union for the purpose of Article 29 TFEU.

52 It must be emphasised that the answer provided by the Court in paragraphs 32 to 46 of the present judgment is also applicable as regards such products.

53 Moreover, given that the second and fourth questions expressly relate to products which are not yet in free circulation in the European Union, it follows that those questions are hypothetical.

54 In that respect, it must be recalled that the Court may refuse to rule on a question referred for a preliminary ruling by a national court only where it is quite obvious that the interpretation of EU law that is sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to provide a useful answer to the questions submitted to it (judgment in *Stark*, C-293/10, EU:C:2011:355, paragraph 25 and the case-law cited).

55 The second and fourth questions must therefore be declared inadmissible.

The fifth and sixth questions

56 By its fifth and sixth questions, the national court asks, in essence, whether Article 60 of the Customs Code must be interpreted as precluding national legislation such as that at issue in the main proceedings.

57 As a preliminary point, it must be noted that, although the referring court seeks an interpretation of Article 60 of the Customs Code, that article will not enter into force until 1 May 2016. Accordingly, it is appropriate to rule on the interpretation of Article 24 of Regulation No 2913/92, the provision in force at the material time, the content of which is essentially identical to that of Article 60.

58 According to Article 24 of Regulation No 2913/92, for the purpose of setting import or export duties, '[g]oods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial … processing or working'.

59 That provision provides a common definition of the concept of the origin of goods, which constitutes an indispensable means of ensuring the uniform application of the common customs tariff and of all other measures adopted, in relation to the importation or exportation of goods, by the European Union or by the Member States (see, to that effect, judgment in *Gesellschaft für Überseehandel*, 49/76, EU:C:1977:9, paragraph 5).

60 It follows that Article 24 of Regulation No 2913/92 does not concern the content of consumer information displayed on the labelling of footwear.

61 In addition, as the Commission points out, since Article 3(2) of Law No 8/2013 does not lay down any criterion by which the origin of the products may be defined on the basis of the place of the 'last, substantial … processing or working' within the meaning of Article 24 of Regulation No 2913/92, it must be held that the order for reference does not allow the identification of any link between the interpretation of Article 24 of Regulation No 2913/92 and the resolution of the dispute in the main proceedings.

62 Since the Court's answer to the fifth and sixth question is not relevant to the resolution of the dispute in the main proceedings, it must be held that, in view of the case-law cited in paragraph 54 of the present judgment, those questions are inadmissible.

Costs

63 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

Articles 3 and 5 of Directive 94/11/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, prohibiting, inter alia, the marketing of leather components of footwear coming from other Member States, or coming from non-member countries and already marketed in another Member State or in the Member State concerned, when those products do not bear a label indicating their country of origin.

[Signatures]