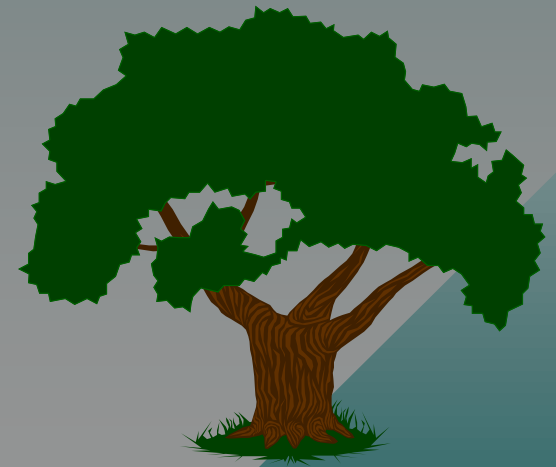


# Current issues as to the legal aspects of parallel trade

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# Court of Justice of the European Union

## Case C-108/13:

Request for a preliminary ruling from the Conseil d'État (France) lodged on 6 March 2013

Société Mac GmbH (Germany)

v

Ministère de l'agriculture, de l'agroalimentaire et de la forêt (France)

## Question referred:

Do Articles 34 and 36 of the Treaty on the Functioning of the European Union **preclude national legislation** which makes, inter alia, the grant of a parallel import marketing authorisation for a plant protection product subject to the condition that the product in question have, in the exporting State, a marketing authorisation granted in accordance with Directive 91/414/EEC, and which consequently does not permit the grant of a parallel import marketing authorisation for a product which has, in the exporting State, a parallel import marketing authorisation and which is identical to a product authorised in the importing State?

## Case C-108/13:

PPP authorised (after evaluation) in France

Parallel import of this PPP to United Kingdom (UK) approved in UK

Mac GmbH. (Germany) application for parallel import of this PPP from United Kingdom to France not approved - justification of the French Ministry of Agriculture ... - PPP not authorised (after evaluation) in UK

# Opinion of **General Advocate** of the Court of Justice of the European Union

**Paolo Mengozzi**

Case C-108/13:

Société Mac GmbH (Germany)

v

Ministère de l'agriculture, de l'agroalimentaire  
et de la forêt (France)

Concluded by Recommendation for the EU Court  
of Justice **presented on 22nd May 2014**

## Question answered:

Articles 34 and 36 of the Treaty on the Functioning of the European Union **do not preclude national legislation** which makes, inter alia, the grant of a parallel import marketing authorisation for a plant protection product subject to the condition that the product in question have, in the exporting State, a marketing authorisation granted in accordance with Directive 91/414/EEC, and which consequently does not permit the grant of a parallel import marketing authorisation for a product which has, in the exporting State, a parallel import marketing authorisation and which is identical to a product authorised in the importing State?

# Judgment of the Court of Justice of the European Union

## Case C-108/13:

Société Mac GmbH (Germany)

v

Ministère de l'agriculture, de l'agroalimentaire et de la forêt (France)

Expected to be decided in November 2014

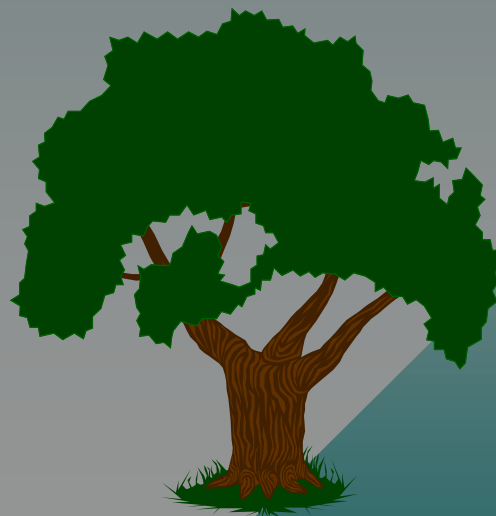
## What does it mean in fact in the relation to the PPPs parallel trade ?

In the case that the Opinion of General Advocate of the Court of Justice of the European Union will be confirmed in the form of the Judgment of the Court of Justice of the European Union:

- PPP paralelly imported to United Kingdom (UK) from France can be paralelly (re)-imported to France as it is an identical PPP.
- Does it mean „*per analogiam*„ that, e.g.: PPP paralelly imported to United Kingdom from France can be paralelly imported to the Czech Republic as it is find as identical PPP (based on comparison of composition) ?
- DG SANCO Guidance on parallel trade to be changed ?



**Thank you for your attention!**



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