

Case: “Day Cream and Nightmare”

Melanie Claimant (Mel C), citizen of Member State Euroland, loves travelling. In Thailand she bought a medical product named “Super Lift Anti-Ageing Day Cream”. As a special offer for Valentine’s Day the item was sold with an additional free bonus: a blooming orchid (*Phalaenopsis amabilis*). The day cream was made with this orchid. Mel C flew back home in 2023.

In early 2024 the cream and the flower were shipped to the Airport of Euroland.

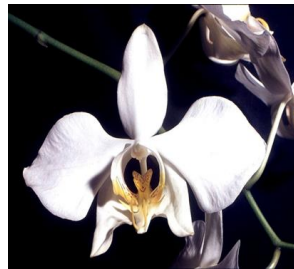
The anti-aging cream¹:

with *Phalaenopsis amabilis*



The orchid²

Phalaenopsis amabilis:



The officer at the customs service, Mr George Right, **confiscated cream and plant** and explained:

Mel C imported orchids to Euroland (partly hidden in a cream and partly openly by the shipment of a living plant). She had no CITES/EU permit for this transaction. All orchids and their derivatives are listed as endangered species under the relevant EU-Regulations on CITES. Most importantly, Article 123 (4) of the Criminal Code of Euroland constitutes that importing goods without the necessary CITES/EU-permit leads to the confiscation of the goods and is punished by fines up to 150.000 Euro or up to five years of imprisonment.

Mel C is out of her mind and wants **to appeal to a court of law**. She argues inter alia:

The confiscated items were private souvenirs brought home. There was no trading involved. She never intended to sell her souvenirs. They are meant for household purposes. Even if the strict import rules were applicable, for orchids exist new rules that exempt their import from the permit requirement.

1. Is there any legal remedy available for Mel C? To a court of law?

Feel free to answer this question from the perspective of your own domestic system.

2. Will (admissible) legal proceedings be successful on the merits?

I am looking forward to our discussion / moot court !

¹ Photo: JA Brinckmann, Report number: PC22 Doc. 22.1 AnnexAffiliation: Federal Food Safety and Veterinary Office FSVO - CITES Management Authority of Switzerland and Lichtenstein.

² Photo: Wikipedia, *Phalaenopsis amabilis*.