



Justis- og
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The 2015 Trade Mark Directive - implementation in Norway

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Background and process in Norway

- Trade Mark Act 2010
 - 1988/2008 Trade Mark Directive
 - Collective + guarantee/certification marks included
 - Administrative cancellation procedure
- Trade Mark Directive 2015
 - Awaits incorporation into the EEA Agreement
 - National consultation: Deadline 14 September

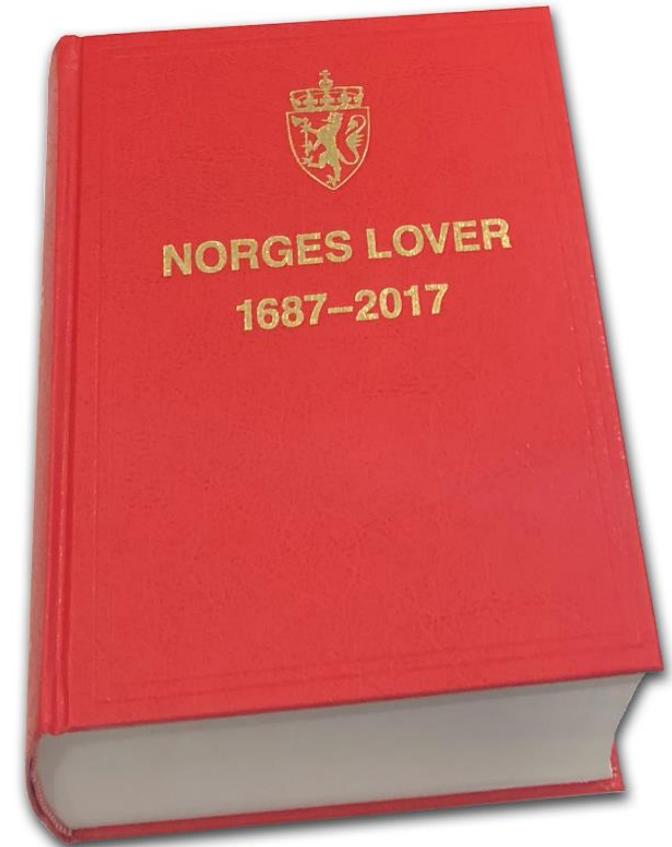
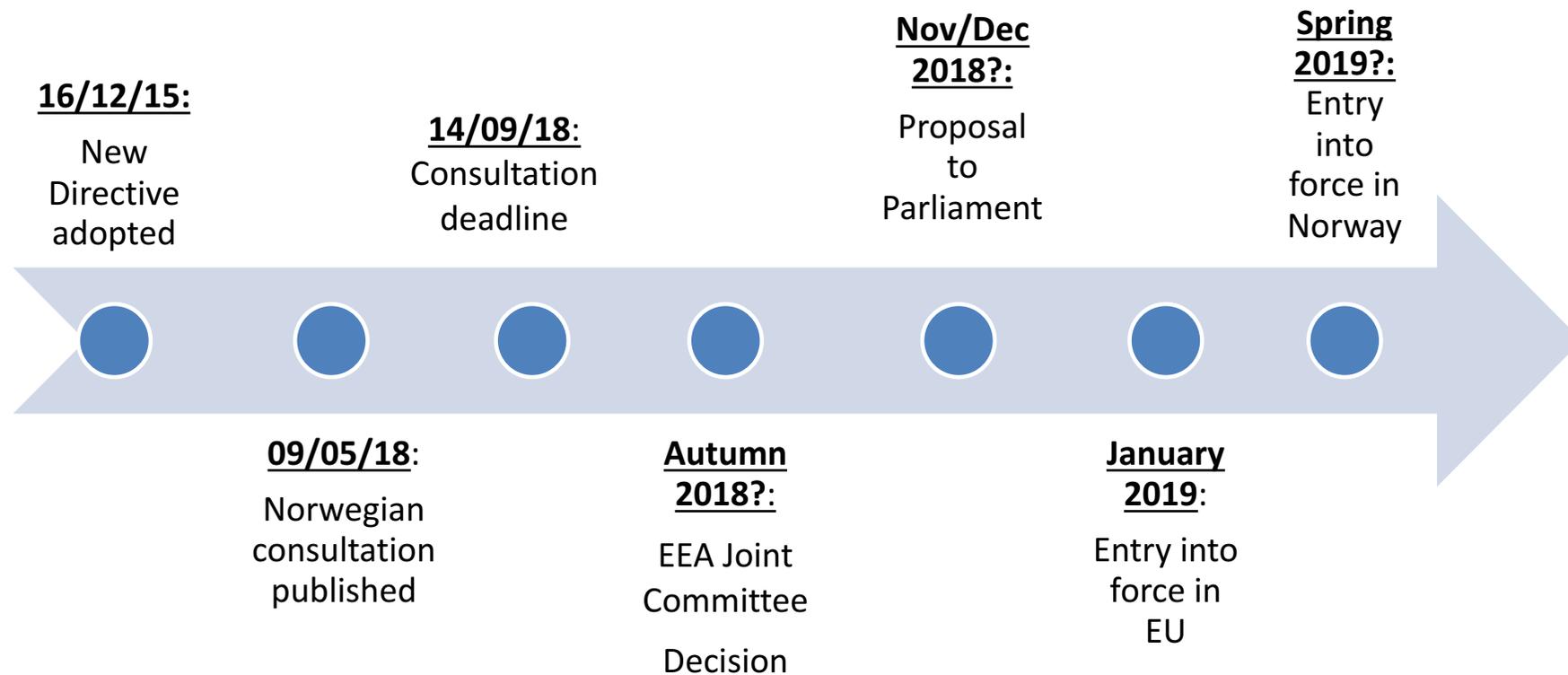


Foto: JD



Implementation in Norway – timeline



Overview – proposed amendments

- Graphic representation abandoned (vml § 14)
- Filing date and application requirements (vml §§ 12, 23)
- Amended grounds for refusal (vml §§ 15, 16)
- Distinctiveness in invalidity cases, «mellomliggende rettigheter» (vml §§ 7 a, 35)



Overview – proposed amendments

- Rights conferred and exceptions (vml §§ 4, 5)
 - Trade names, comparative advertising, use of own name limited to natural persons
- Oppositions
 - Use requirement (vml § 29), cooling off-period (vml § 27)
- Trademarks as objects of property
 - Separate security in registered marks (vml §§ 56 a, pantel § 4-15)
- Extended provisions on collective + guarantee/certification marks (vml §§ 15, 29 35)

Implementation – grounds for refusal and invalidity

- Shape marks (Article 4 (1) e)
 - Absolute ground: «consists exclusively of the shape, or another characteristic»
 - Court of Justice Case C-163/16 *Louboutin*



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Grounds for refusal cont.

- Geographical indications
 - Absolute ground, Article 4 (1) i,j,k
 - Relative ground, Article 5 (3) c
 - KFIR case 16/00207 BORDEAUX v. BORD'OH



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Grounds for refusal cont.

- Plant variety rights
 - Absolute ground, Article 4 (1) I
- Bad faith
 - Absolute ground, Article 4 (2)
 - Relative ground, marks protected abroad (Article 5 (4) c)
 - Relative ground, agents/representatives (Articles 5 (3) b,13)



Rose Tano 3266
Eier: Rosen Tantau,
Tyskland
Foto: plantesortsnemnda.no

Opposition and administrative cancellation

- Opposition, Article 43 (1):
 - «Member States shall provide for an efficient and expeditious administrative procedure before their offices for opposing the registration of a trade mark application on the grounds provided for in Article 5.»
- Cancellation, Article 45 (1):
 - «Without prejudice to the right of the parties to appeal to the courts, Member States shall provide for an efficient and expeditious administrative procedure before their offices for the revocation or declaration of invalidity of a trade mark.»



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Thank you for your attention!

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