



Press and Information

Court of Justice of the European Union

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Judgment in Case C-783/19

Comité Interprofessionnel du Vin de Champagne

The Court specifies the conditions for the protection of products covered by a protected designation of origin as laid down by the regulation establishing a common organisation of the markets in agricultural products

Those designations are protected vis-à-vis prohibited conduct in respect of both products and services

GB owns tapas bars in Spain and uses the sign CHAMPANILLO to designate and promote his establishments. In his advertising, he uses an image of two champagne coupes containing a sparkling beverage.

The Comité Interprofessionnel du Vin de Champagne (CIVC), an organisation which safeguards the interests of champagne producers, brought an action before the Spanish courts seeking to prohibit the use of the term *champanillo* (which in Spanish means 'little champagne') on the ground that the use of that sign infringes the protected designation of origin (PDO) 'Champagne'.

Upon appeal, the Audiencia Provincial de Barcelona (Provincial Court, Barcelona, Spain) requests the Court of Justice to interpret EU law on the protection of products covered by a PDO where the term *champanillo* is used in the course of trade to designate not products but services.

The Court specifies, as a preliminary point, that, in the present case, it is the regulation establishing a common organisation of the markets in agricultural products¹ that is applicable and, more specifically, the provision² concerning conduct which does not use either directly or indirectly the protected name itself, but suggests it in such a way that it causes the consumer to establish a sufficiently close link with it.

In the first place, the Court finds that **the regulation protects PDOs vis-à-vis conduct in respect of both products and services**. That regulation is essentially intended to assure consumers that agricultural products bearing a registered geographical indication have, because of their provenance from a particular geographical area, certain specific characteristics. Accordingly, they offer a guarantee of quality due to their geographical provenance, with the aim of enabling agricultural operators to secure higher incomes in return for a genuine effort to improve quality, and of preventing improper use of those designations by third parties seeking to profit from the reputation which those products have acquired by their quality.

The regulation thus establishes wide-ranging protection which is intended to extend to all uses which take advantage of the reputation enjoyed by products covered by one of those indications. In those circumstances, the Court considers that an interpretation of Article 103(2)(b) of that regulation that does not grant protection to a PDO where the disputed sign designates a service would not only be inconsistent with the broad scope granted to the protection of registered geographical indications, but would prevent the protection objective from being fully attained, since the reputation of a product covered by a PDO is liable to be exploited also where the practice referred to in that provision concerns a service.

¹ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ 2013 L 347, p. 671).

² Article 103(2)(b).

In the second place, the Court notes that the regulation does not contain **any indication** either that the protection against any evocation is **limited solely to cases** where the products covered by the PDO and the products or services for which the disputed sign is used are ‘comparable’ or ‘similar’ or that that protection extends to cases where the sign refers to products or services which **are different** from those covered by the PDO.

According to the Court’s case-law, the concept of ‘evocation’ covers a situation in which the sign used to designate a product incorporates part of a protected geographical indication (PGI) or of a PDO, so that when the consumer is confronted with the name of the product in question, the image triggered in his or her mind is that of the product whose indication or designation is protected.

In addition, there can be an evocation of a PGI or a PDO where, concerning products which are similar in appearance, there is a phonetic and visual relationship between the PGI or PDO and the disputed sign. Nevertheless, neither the partial incorporation of a PDO in a sign borne by the products or services not covered by that designation nor the identification of a phonetic and visual similarity between the sign and that designation is an essential prerequisite for establishing that there is an evocation of that same designation. **The evocation may also result from a ‘conceptual proximity’ between the protected name and the sign at issue.**

The Court considers that, **as regards the concept of ‘evocation’, the decisive criterion is whether, when the consumer is confronted with a disputed name, the image triggered directly in his or her mind is that of the product covered by the PDO**, a matter which it falls to the national court to assess, taking into account, as the case may be, the partial incorporation of a PDO in the disputed name, any phonetic and/or visual relationship, or any conceptual proximity, between the name and the PDO.

According to the Court, what is essential, in assessing whether there is an evocation, is that consumers establish a link between the term used to designate the product at issue and the PGI. That link must be sufficiently clear and direct. The evocation can therefore be established only by means of an overall assessment carried out by the national court, including all the relevant aspects of the case.

Consequently, the **concept of ‘evocation’, within the meaning of the regulation, does not require that the product covered by the PDO and the product or service covered by the disputed name be identical or similar.**

The Court has specified that, in making the assessment as to whether there is such an evocation, reference must be made to the perception of an average European consumer who is reasonably well informed and reasonably observant and circumspect. According to the case-law, the effective and uniform protection of protected names throughout the territory of the European Union means that circumstances which may lead to the conclusion that there is no evocation in respect of the consumers of a single Member State must be disregarded. The fact remains that, in order to implement the protection in question, the assessment as to whether there is an evocation may also be made solely by reference to the consumers of a single Member State.

The Court concludes that Article 103(2)(b) of the regulation must be interpreted as meaning that the ‘evocation’ referred to in that provision, **first, does not require, as a preliminary condition, that the product protected by a PDO and the product or service covered by the disputed sign be identical or similar and, second, is established where the use of a name creates, in the mind of an average European consumer who is reasonably well informed and reasonably observant and circumspect, a sufficiently clear and direct link between that name and the PDO.**

The existence of such a link can result from several aspects, in particular, the partial incorporation of the protected designation, the phonetic and visual relationship between the two names and the similarity resulting from it, and even in the absence of those aspects, from the conceptual similarity between the PDO and the name at issue or from a similarity between the products covered by that PDO and the products or services covered by that name. In the context of that assessment, it is for

the Audiencia Provincial de Barcelona to take account of all the relevant aspects surrounding the use of the name at issue.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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