

Press and Information Division

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Judgments of the Court of Justice in Cases C-469/00 and C-108/01

Ravil SARL v Bellon Import SARL and Biraghi SpA; Consorzio del Prosciutto di Parma and Salumificio S. Rita SpA v Asda Stores Ltd and Hygrade Foods Ltd

**THE COURT CONFIRMS THE EXTENT OF PROTECTION CONFERRED BY
COMMUNITY LEGISLATION ON GRANA PADANO CHEESE AND PARMA HAM**

Maintaining the quality and reputation of Grana Padano cheese and Parma ham justifies the rule that the product must be grated or sliced and packaged in the region of production

A 1992 regulation establishes Community protection for designations of origin and geographical indications for agricultural products and foodstuffs. To be able to use a protected designation of origin (PDO), an agricultural product or foodstuff must comply with a specification which defines it in detail.

In 1996 the Commission adopted a regulation on the registration of geographical indications and PDOs. It registers, among others, the Italian cheese Grana Padano and the Italian ham Prosciutto di Parma. The specification for the PDO Grana Padano expressly refers to Italian law under which the cheese has to be grated and packaged in the region of production. The specification for the PDO Prosciutto di Parma expressly requires the ham to be sliced and packaged in the region of production, also referring to Italian law on this point.

- The French company Ravil imports, grates, pre-packages and distributes in France, among other products, Grana Padano cheese, which it markets under the name "Grana Padano râpé frais" (Grana Padano freshly grated). The Italian company Biraghi, a producer of Grana Padano cheese in Italy, and the French company Bellon, the exclusive importer and distributor of Biraghi products in France, sought for Ravil to cease distribution, arguing before the French courts that Italian law makes the use of the Grana Padano name subject to the condition that the grating and packaging are done in the region of production. The Cour de Cassation referred to the Court of

Justice for a preliminary ruling a question on the compatibility of the Italian legislation with Community law (Case C-469/00).

- The Asda supermarkets, in the United Kingdom, sell ham under the designation "Parma ham"; Asda buys it from Hygrade, which in turn buys the ham boned but not sliced from an Italian producer belonging to the association Consorzio del Prosciutto di Parma. Hygrade slices the ham and packs it hermetically in the United Kingdom. The Consorzio del Prosciutto di Parma brought proceedings in the United Kingdom against Asda and Hygrade, seeking for them to cease their activities, on the ground that they were contrary to the rules applicable to Parma ham. The House of Lords referred to the Court of Justice for a preliminary ruling a question on the interpretation of the Community regulations on the PDO (Case C-108/01).

The Court of Justice points out, first, that the specification determines the extent of the uniform protection which the 1992 regulation confers within the Community. That regulation does not exclude the determination of special technical rules applicable to operations leading to different presentations on the market of the same product, in order to satisfy the criteria of quality and guarantee an identifiable geographical origin.

Consequently, grating, slicing and packaging the product may be made conditional on those operations taking place in the region of production, where the corresponding conditions are laid down in the specification.

But the Court of Justice also finds that such conditions restrict patterns of exports of cheese bearing the PDO Grana Padano and ham bearing the PDO Parma ham. Only Grana Padano cheese grated and packaged in the region of production and Parma ham sliced and packaged in the region of production retain the right to use the PDOs. Those conditions therefore constitute measures equivalent to a quantitative restriction, which are prohibited by the principle of the free movement of goods laid down in the EC Treaty.

Can they be justified?

The Court recalls that the EC Treaty provides for exceptions to the free movement of goods on grounds such as the protection of industrial and commercial property.

It notes that Community legislation displays a general tendency to enhance the quality of products within the framework of the common agricultural policy, in order to promote the reputation of those products, in particular through the use of PDOs. Those PDOs constitute industrial and commercial property rights which protect those entitled to use them against improper use of those designations by third parties seeking to profit from the reputation which they have acquired. They are thus intended to guarantee that the product in question comes from a specified geographical area and displays certain particular characteristics which are valued by consumers.

The conditions laid down by the specifications for Grana Padano cheese and Parma ham are therefore consistent with Community law, provided that they are necessary and proportionate for the purposes of protecting the PDOs Grana Padano and Parma ham.

The Court points out that the **grating of cheese and slicing of ham and their packaging constitute important operations which may damage** the quality and authenticity and

consequently **the reputation of the PDO** if those **requirements are not complied with**. **The specifications for Grana Padano cheese and Parma ham define checks and detailed strict operations in order to preserve the reputation** of those two products.

The PDOs of those products would not be protected in the same way by an obligation imposed on operators outside the region of production to inform consumers **by appropriate labelling that grating, slicing and packaging have taken place outside that region**. There are therefore no alternative, less restrictive measures to attain the objective pursued.

However, the Court finds that the protection conferred by a PDO does not normally extend to operations such as grating, slicing and packaging the product. The Court states that **those operations are prohibited to third parties outside the region of production only if that is expressly laid down in the specification**. **The principle of legal certainty requires that adequate publicity** be given to those prohibitions - for example being mentioned ... - **to bring them to the attention of third parties**. **In the absence of such publicity, those prohibitions cannot be relied on before a national court**.

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