

СЪД НА ЕВРОПЕЙСКИТЕ ОБЩНОСТИ  
TRIBUNAL DE JUSTICIA DE LAS COMUNIDADES EUROPEAS  
SOUDNÍ DVŮR EVROPSKÝCH SPOLEČENSTVÍ  
DE EUROPÆISKE FÆLLESSKABERS DOMSTOL  
GERICHTSHOF DER EUROPÄISCHEN GEMEINSCHAFTEN  
EUROOPA ÜHENDUSTE KOHUS  
ΔΙΚΑΣΤΗΡΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ  
COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES  
COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES  
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH  
CORTE DI GIUSTIZIA DELLE COMUNITÀ EUROPEE  
EIROPAS KOPIENU TIESA



EUROPOS BENDRIJŲ TEISINGUMO TEISMAS  
AZ EURÓPAI KÖZÖSSÉGEK BÍRÓSÁGA  
IL-QORTI TAL-GUSTIZZJA TAL-KOMUNITAJIET EWROPEJ  
HOF VAN JUSTITIE VAN DE EUROPESE GEMEENSCHAPPEN  
TRYBUNAŁ SPRAWIEDLIWOŚCI WSPÓLNOT EUROPEJSKICH  
TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPEIAS  
CURTEA DE JUSTIȚIE A COMUNITĂȚILOR EUROPENE  
SÚDNY DVOR EURÓPSKÝCH SPOLOČENSTEV  
SODIŠČE EVROPSKIH SKUPNOSTI  
EUROOPAN YHTEISÖJEN TUOMIOISTUIN  
EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

**PRESS RELEASE No 71/09**

8 September 2009

Judgment of the Court of Justice in Case C-478/07

*Budějovický Budvar v Rudolf Ammersin GmbH*

**THE DESIGNATION ‘BUD’ CANNOT BE PROTECTED AS A DESIGNATION OF ORIGIN OUTSIDE THE COMMUNITY SYSTEM OF PROTECTION**

*If, however, the designation ‘Bud’ were to be recognised, in the Czech Republic, as a simple geographical indication of provenance, its protection in Austria would require that it be capable of informing the Czech consumer that the product which bears it originates from a region or location in the territory of the Czech Republic*

In the European Union, the Regulation on the protection of geographical indications and designations of origin for agricultural products and foodstuffs<sup>1</sup> is intended to assure consumers that agricultural products bearing a geographical indication registered under that regulation have, because of their provenance from a particular geographical area, certain specific characteristics and, accordingly, offer a guarantee of quality due to their geographical provenance.

Provided that they meet the conditions laid down in the Regulation, designations of origin and ‘qualified’ geographical indications are protected. However, the Regulation does not apply to ‘simple’ geographical indications, that is to say, those which do not require products to have any special characteristics or element of renown deriving from the place from which they come. Nevertheless, protection of such a simple indication of geographical provenance by a Member State, likely to constitute a restriction on the free movement of goods, may, on certain conditions, be justified under Community law.

The Commercial Court of Vienna (Austria) asks the Court of Justice to clarify on what conditions the designation ‘Bud’ may be protected, under a bilateral agreement, for beer produced in the Czech Republic.

Proceedings commenced by the Czech brewery Budějovický Budvar in 1999 before the Commercial Court of Vienna seek to prohibit the Viennese drinks distributor Rudolf Ammersin GmbH from marketing beer produced by the brewery Anheuser-Busch Inc under the trade mark American Bud.

---

<sup>1</sup> Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ 2006 L 93, p. 12).

Budvar asserts that the use of the designation American Bud for a beer from a State other than the Czech Republic is contrary to the provisions of a bilateral agreement concluded in 1976 between Austria and the Czechoslovak Socialist Republic. The designation Bud is a protected designation under that agreement and is therefore reserved exclusively for Czech products.

In order to ascertain whether Community law authorises the protection conferred by the bilateral agreement on the designation 'Bud', the Commercial Court seeks clarification on the basis of two divergent premises regarding the classification of the designation 'Bud'.

In that regard, the Court points out that the designation 'Bud' may constitute a **simple and indirect indication of geographical provenance**, that is to say, a name in respect of which there is no direct link between a specific quality, reputation or other characteristic of the product and its specific geographical origin, and which, moreover, is not in itself a geographical name but is at least capable of informing the consumer that the product bearing that indication comes from a particular place, region or country.

If the Commercial Court were to classify the designation 'Bud' as a simple indication of geographical provenance, it would have to ascertain whether, according to factual circumstances and perceptions prevailing in the Czech Republic, the designation 'Bud' is at least capable of informing the consumer that the product bearing that indication comes from a particular place or region of that Member State and has not become generic in that Member State. In those circumstances, Community law does not preclude national protection of such a simple indication of geographical source, nor, moreover, the extension of that protection by way of a bilateral agreement to the territory of another Member State.

Nevertheless, in the view of the Commercial Court, the designation 'Bud' must rather be classified as a **designation of origin** covering goods whose specific features can be attributed to natural or human factors inherent in their place of provenance. On that basis, the Commercial Court seeks to ascertain whether the Community Regulation on the protection of geographical indications precludes protection of the designation of origin 'Bud', registration of which was not sought in accordance with that regulation. At the time of its accession to the European Union, the Czech Republic sought Community protection for only three indications of provenance concerning beer produced in the town of České Budějovice, namely 'Budějovické pivo', 'Českobudějovické pivo' and 'Budějovický měšťanský', designating a strong beer called 'Bud Super Strong'.

In its judgment today, the Court rules that **the Regulation on the protection of geographical indications and designations of origin is exhaustive in nature, with the result that it precludes the application of a system of protection laid down by agreements between two Member States, such as the bilateral instruments at issue, which confers on a designation, recognised under the law of a Member State as constituting a designation of origin, protection in another Member State where that protection is actually claimed despite the fact that no application for registration of that designation of origin has been made in accordance with that regulation.**

*Unofficial document for media use, not binding on the Court of Justice.*

*Languages available: ES, CS, DE, EN, FR, NL, PL, SK*

*The full text of the judgment may be found on the Court's internet site*

*<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-478/07>*

*It can usually be consulted after midday (CET) on the day judgment is delivered.*

*For further information, please contact Christopher Fretwell*

*Tel: (00352) 4303 3355 Fax: (00352) 4303 2731*

*Pictures of the delivery of the judgment are available on EbS "Europe by Satellite",  
a service provided by the European Commission, Directorate-General Press and  
Communications,*

*L-2920 Luxembourg, Tel: (00352) 4301 35177 Fax: (00352) 4301 35249*

*or B-1049 Brussels, Tel: (0032) 2 2964106 Fax: (0032) 2 2965956*