



Press and Information

Court of Justice of the European Union  
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Judgment in Case C-544/10  
Deutsches Weintor eG v Land Rheinland-Pfalz

## **Wine may not be promoted as being ‘easily digestible’**

*Such a description, indicating reduced acidity levels, constitutes a health claim that is prohibited in relation to alcoholic beverages*

EU law<sup>1</sup> prohibits all ‘health claims’<sup>2</sup> in the labelling and advertising of beverages containing more than 1.2% by volume of alcohol, including wine. Owing to the dangers inherent in the consumption of alcoholic beverages, the EU legislature has sought to protect the health of consumers, whose consumption habits may be directly influenced by such claims.

Deutsches Weintor, a wine-growers’ cooperative established in Ilbesheim in the *Land* of Rhineland-Palatinate (Germany), markets wines of the Dornfelder and Grauer/Weißer Burgunder grape varieties described as ‘mild edition’, accompanied by a reference to ‘gentle acidity’. The label states, in particular: ‘It owes its mildness to the application of our special “LO3” protective process for the biological reduction of acidity’. The labels on the necks of the bottles bear the inscription: ‘mild edition, easily digestible’. In the price catalogue, the wine is described in the following terms: ‘mild edition – gentle acidity/easily digestible’.

The authority responsible for supervising the marketing of alcoholic beverages in the *Land* of Rhineland-Palatinate objected to the use of the description ‘easily digestible’ on the ground that it is a ‘health claim’ that is prohibited by EU law. Consequently, Deutsches Weintor turned to the German courts for permission to use that description in the labelling of its wines and in their advertising. It argues, *inter alia*, that the description ‘easily digestible’ does not refer to health but only to general well-being. The Bundesverwaltungsgericht (Federal Administrative Court), before which the dispute was brought on final appeal, asked the Court of Justice to clarify the scope of the prohibition in question, and, if necessary, to rule on its compatibility with the fundamental rights of producers and distributors of wine, such as the freedom to choose an occupation and the freedom to conduct a business.

By today’s judgment, **the Court answers that the prohibition against using health claims to promote beverages containing more than 1.2% by volume of alcohol covers the description ‘easily digestible’, accompanied by a reference to the reduced content of substances frequently perceived by consumers as being harmful.**

The concept of a ‘health claim’ does not necessarily presuppose the suggestion of an improvement in health as a result of the consumption of the food in question. It is sufficient that the mere preservation of a good state of health, despite the potentially harmful consumption, is suggested. Furthermore, it is not only the temporary or fleeting effects of consumption in a specific instance that must be taken into account, but also the cumulative effects of the repeated and long-term consumption of the food on physical condition.

<sup>1</sup> Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (OJ 2006 L 404, p. 9), as last amended by Commission Regulation (EU) No 116/2010 of 9 February 2010 (OJ 2010 L 37, p. 16).

<sup>2</sup> A ‘claim’ is defined as any message or representation which is not mandatory, which states, suggests or implies that a food has particular characteristics.

In the present case the description at issue, which suggests that the wine is readily absorbed and digested, implies that the digestive system will not suffer, or will suffer little as a result, and that the digestive system will remain relatively healthy and intact even after repeated consumption, given that the wine is characterised by reduced acidity. In this, the claim might suggest a sustained beneficial physiological effect consisting in the preservation of a healthy digestive system, contrary to other wines, which are presumed to result, after being consumed a number of times, in sustained adverse effects on the digestive system and, consequently, on health. Consequently, that description constitutes a prohibited health claim.

Furthermore, the Court finds that **the fact that a producer or distributor of wine is prohibited, without exception, from using a claim such as that in this instance, even if that claim is inherently correct, is compatible with the fundamental rights guaranteed by the Charter of Fundamental Rights of the European Union and with the principle of proportionality.** The prohibition strikes a fair balance between the protection of consumers' health, on the one hand, and the freedom of producers and distributors to choose an occupation and to conduct a business, on the other.

In that context, the Court notes in particular that all claims in relation to alcoholic beverages must be entirely unambiguous, so that consumers are in a position to regulate their consumption while taking into account all the ensuing dangers, and in so doing to protect their health effectively. Even if the claim at issue is correct, the fact remains that it is incomplete. It highlights a certain quality that facilitates digestion, but is silent as to the fact that, regardless of a sound digestion, the dangers inherent in the consumption of alcoholic beverages are not in any way removed, or even limited. On the contrary, by highlighting only the easy digestion of the wine concerned, the claim at issue is likely to encourage its consumption and, ultimately, to increase those dangers. Accordingly, the total prohibition of the use of such claims in the labelling and advertising of alcoholic beverages is necessary in order to protect consumers' health.

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**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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