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Court of Justice of the European Union

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Judgment in Joined Cases C-4/10 and C-27/10
Bureau national interprofessionnel du Cognac v Gust. Ranin Oy

A trade mark containing the geographical indication ‘Cognac’ cannot be registered to designate a spirit drink not covered by that indication

The commercial use of such a mark would adversely affect the protected indication

Under the regulation on the protection of geographical indications for spirit drinks¹, it is possible to register as a geographical indication the name of a country, region or locality from which a spirit drink originates, where a given quality, reputation or other characteristic of that drink is essentially attributable to its geographical origin. A registration of that kind is made upon application by the Member State of origin of the drink. The application must be accompanied by a technical file listing the specifications which the drink must meet if it is to be able to be designated by the protected geographical indication.

Furthermore, the regulation prohibits the registration of trade marks which may adversely affect a protected geographical indication and states that, as a general rule, where such a mark has already been registered, it must be invalidated.

The regulation mentions ‘Cognac’ as a geographical indication identifying wine spirits originating from France.

Gust. Ranin Oy, a Finnish company, applied in Finland for the registration, for spirit drinks, of two figurative marks in the form of a bottle label bearing descriptions of the spirit drinks containing the term ‘Cognac’ and its Finnish translation, ‘konjakki’. Although the Finnish authorities have accepted the application for registration, the Bureau national interprofessionnel du Cognac – a French organisation of cognac producers – contests the legality of that registration before the Finnish courts.

The Korkein hallinto-oikeus (Supreme Administrative Court, Finland) asks the Court of Justice whether it is permissible under the regulation to register national trade marks containing the term ‘Cognac’ for products which, in terms of manufacturing method and alcohol content, do not meet the requirements set for the use of the geographical indication ‘Cognac’.

In its judgment given today, the Court states, first of all, that although the contested marks were registered on 31 January 2003 – that is to say, before the regulation entered into force – that regulation is applicable in the present case. In that connection, the Court observes that the retrospective application of the regulation does not undermine the principle of legal certainty or the principle of the protection of legitimate expectations. The obligation on Member States to prevent the use of a geographical indication identifying spirits for alcoholic beverages which do not originate from the place designated by that indication has existed in EU law since 1 January 1996.

Next, the Court observes that the two Finnish trade marks, registered on 31 January 2003, cannot benefit from the derogation provided for under the regulation, in accordance with which the use of a mark which was acquired before the date of protection of the geographical indication in the

¹ Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ 2008 L 39, p. 16).

country of origin (or before 1 January 1996) is permitted, even if it adversely affects the geographical indication concerned. In that regard, **the Court points out that, independently of the protection it enjoys under French law, the term ‘Cognac’ has been protected as a geographical indication under EU law since 15 June 1989.**

The Court also finds that the use of a mark containing the term ‘Cognac’ for products which are not covered by that indication constitutes a direct commercial use of the protected indication. Such a use is prohibited by the regulation in so far as it concerns comparable products. The Court finds that this may be the position in the case of spirit drinks.

Likewise, the Court finds that the fact that the two Finnish marks incorporate part of the name ‘Cognac’ means that, when the consumer is confronted with the name of the marks on the bottles of spirit drinks not covered by the protected indication, the image triggered in his mind is that of the product whose designation is protected. The Court points out that such ‘evocation’ is also prohibited under the regulation.

In those circumstances, **the Court holds that the Finnish authorities must invalidate the registration of the contested marks.**

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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