



Court of Justice of the European Union

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Judgment in Case C-614/17

Fundación Consejo Regulador de la Denominación de Origen Protegida
Queso Manchego v Industrial Quesera Cuquerella SL and Juan
Ramón Cuquerella Montagud

Press and Information

The use of figurative signs evoking the geographical area with which a protected designation of origin (PDO) is associated may constitute an unlawful evocation of that designation

Industrial Quesera Cuquerella SL ('IQC') markets three of its cheeses using labels with an illustration of a knight similar to the usual depictions of Don Quixote de La Mancha, a bony horse and landscapes with windmills and sheep, as well as the words 'Quesos Rocinante' ('Rocinante cheeses'). Those images and the word 'Rocinante' refer to the novel Don Quixote de La Mancha by Miguel de Cervantès, 'Rocinante' being the name of the horse ridden by Don Quixote. The cheeses in question are not covered by the protected designation of origin (PDO) 'queso manchego', which covers cheeses made in the region of La Mancha (Spain) from sheep's milk in accordance with the requirements of the product specification of that PDO.

The Fundación Consejo Regulador de la Denominación de Origen Protegida Queso Manchego ('the Foundation') is responsible for managing and protecting that PDO. On that basis, it brought an action against IQC and Mr Juan Ramón Cuquerella Montagud seeking a declaration that the labels used to identify and market those three cheeses, which are not covered by the PDO 'queso manchego', as well as the use of the words referred to, infringe the PDO at issue. The Foundation takes the view that those labels and those words constitute an unlawful evocation of that PDO for the purpose of the regulation on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.¹

The Spanish courts of first and second instance held that the signs and names used by IQC to market those cheeses evoke the region of La Mancha but not necessarily the cheese 'queso manchego' covered by the PDO. The Tribunal Supremo (Supreme Court, Spain), seised of the case, asks the Court of Justice, first, whether a registered name may be evoked through the use of figurative signs and, second, whether the use of such signs evoking the geographical area with which a PDO is associated may constitute evocation of that designation, including where such figurative signs are used by a producer established in that region, but whose products are not covered by the PDO.

By today's judgment, **the Court holds that a registered name may be evoked through the use of figurative signs.** The Court notes first of all that the regulation provides that registered names must be protected against 'any evocation' and that the use of the word 'any' reflects the intention to protect registered names, as evocation is deemed possible through the use of a word element or figurative element. The decisive criterion for establishing whether an element evokes a registered name is whether that element is capable of triggering directly in the consumer's mind the image of the product whose designation is protected. The Court adds that the objective of ensuring that the consumer has clear, succinct and credible information regarding the origin of the product is further guaranteed if the registered name cannot be evoked through the use of figurative signs. It will be

¹ 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).

for the national court to assess specifically whether the figurative signs in question are capable of triggering directly in the consumer's mind the products whose names are registered.

Next, the Court finds that **the use of figurative signs evoking the geographical area with which a designation of origin is associated may constitute evocation of that designation, including where such figurative signs are used by a producer established in that region, but whose products, similar or comparable to those protected by the designation of origin, are not covered by the PDO.**

The regulation does not provide that a producer established in a geographical area corresponding to the PDO and whose products are not protected by the PDO but are similar or comparable to those protected by it is to be excluded from its scope. Accordingly, it is for the Tribunal Supremo to establish whether there is sufficiently clear and direct 'conceptual proximity' between the figurative signs used by IQC and the PDO 'queso manchego', which refers to the geographical area with which it is associated, namely the region of La Mancha. The national court will have to satisfy itself that those figurative signs, in particular those with an illustration of a knight similar to the usual depictions of Don Quixote de La Mancha, a bony horse and landscapes with windmills and sheep, are capable of creating 'conceptual proximity' with the PDO 'queso manchego', so that the image triggered directly in the consumer's mind is that of the product protected by that PDO. In that regard, the Tribunal Supremo will also have to assess whether it is necessary to consider together all the figurative and word elements which appear on the products at issue in order to carry out an overall assessment taking account of all the elements which are potentially evocative.

The Tribunal Supremo also asks the Court whether **the concept of "the average consumer who is reasonably well informed and reasonably observant and circumspect", to whose perception the national court has to refer in order to assess whether there is 'evocation' within the meaning of the regulation,** covers European consumers or only consumers of the Member State in which the product giving rise to evocation of the protected name is made or with which that name is geographically associated and in which the product is mainly consumed.

The Court points out that that concept must be interpreted in such a way as to guarantee effective and uniform protection of registered names against any evocation throughout the territory of the EU. Accordingly, it holds that that concept **must be understood as covering European consumers, including consumers of the Member State in which the product giving rise to evocation of the protected name is made or with which that name is geographically associated and in which the product is mainly consumed.** The Court concludes that it will therefore be for the Tribunal Supremo to assess whether both the figurative and word elements relating to the product at issue, which is made or mainly consumed in Spain, evoke the image of a registered name in the mind of the consumers of that Member State, which must, if that is the case, be protected against evocation wherever that may occur throughout the territory of the EU.

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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