



Press and Information

General Court of the European Union  
**PRESS RELEASE No 101/20**  
Luxembourg, 9 September 2020

Judgment in Case T-626/17  
Slovenia v Commission

---

## **The General Court dismisses Slovenia's action for annulment of the delegated regulation pursuant to which the designation 'Teran' may be used on the labels of Croatian wines**

In the judgment in *Slovenia v Commission* (T-626/17), delivered on 9 September 2020, the General Court dismissed Slovenia's action for annulment of Delegated Regulation (EU) 2017/1353<sup>1</sup> ('the contested regulation'), pursuant to which the designation 'Teran' may be used, under strict conditions, to refer to a wine grape variety on the labels of wines produced in Croatia.

The action concerned the wine designation 'Teran', used in both Slovenia and Croatia. As from the accession of Slovenia to the EU, that name could appear on the labels of certain Slovenian wines. It was used initially as an additional traditional name associated with Kras wine as a 'quality wine produced in specified regions'. The designation was subsequently recognised as a protected designation of origin (PDO).

Since the name of the wine grape variety 'Teran' was also used in Croatia, Croatia had expressed its concerns, before its accession to the EU, about whether it could continue to use that name for labelling its wines after its accession, on account of the protection already afforded to the Slovenian designation. After that accession, the European Commission then attempted, unsuccessfully, to find a negotiated solution between Croatia and Slovenia. Finally, almost four years after the accession of Croatia to the EU, the Commission used its powers to adopt a labelling derogation in order to enable the PDOs and existing labelling practices to co-exist peacefully once a PDO is registered or applicable.<sup>2</sup> It thus adopted the contested regulation in order to include the name 'Teran' in the list in Annex XV to Regulation No 607/2009.<sup>3</sup> That annex contained the list of wine grape varieties which contain or consist of a PDO or protected geographical indication that may, by way of derogation, appear on wine labels. The Commission adopted the contested regulation with retroactive effect as from the date of the accession of Croatia to the EU, on 1 July 2013. It is also apparent from the contested regulation that the designation 'Teran' may be used to refer to a wine grape variety on the labels of wines produced in Croatia, but only for the designation of origin 'Hrvatska Istra', and on condition that 'Hrvatska Istra' and 'Teran' appear in the same visual field and that the font size of the name 'Teran' is smaller than that of the words 'Hrvatska Istra'. Pursuant to Article 2 of the contested regulation, Croatian wines with the Croatian PDO 'Hrvatska Istra' produced before the entry into force of the contested regulation may continue to be sold until stocks are exhausted.

---

<sup>1</sup>Commission Delegated Regulation (EU) 2017/1353 of 19 May 2017 amending Regulation (EC) No 607/2009 as regards the wine grape varieties and their synonyms that may appear on wine labels (OJ 2017 L 190, p. 5).

<sup>2</sup>Initially pursuant to Article 118j of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ 2007 L 299, p. 1) and subsequently, as from 1 January 2014, pursuant to the second subparagraph of Article 100(3) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ 2013 L 347, p. 671).

<sup>3</sup>Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ 2009 L 193, p. 60).

In support of its action, Slovenia raised, inter alia, having regard to the retroactive effect of the contested regulation, pleas alleging infringement of the second subparagraph of Article 100(3) of Regulation No 1308/2013 — which is the legal basis of the contested regulation — and infringement of the principles of legal certainty and the protection of legitimate expectations.

First, regarding the legal basis of the contested regulation, the Court found that the Commission had indeed applied the second subparagraph of Article 100(3) of Regulation No 1308/2013 retroactively, which had not been provided for by the legislature. Nevertheless, it was appropriate to examine whether the contested regulation was vitiated by a substantial defect as a result of that retroactive application. In that regard, the Court held that the Commission had not made use of new powers as regards the period between 1 July 2013 and 1 January 2014. The second subparagraph of Article 100(3) of Regulation No 1308/2013 is a direct continuation of a similar provision of Regulation No 1234/2007, which was in force and applicable on the date of the accession of Croatia to the EU.<sup>4</sup>

The Court next recalled that the provision constituting the legal basis for a measure and empowering the EU institution to enact it must be in force at the moment of its adoption. Therefore, the only legal basis on which the Commission could rely in order to adopt the contested regulation was the second subparagraph of Article 100(3) of Regulation No 1308/2013. Moreover, the provisions of Regulations No 1234/2007 and No 1308/2013 concerned did not lay down any time limit for action by the Commission. Having found that the Commission could not adopt the contested regulation before the accession of Croatia to the EU in so far as it did not have any territorial jurisdiction before that date, the Court inferred from this that the Commission had acted in accordance with the general scheme and the wording of the provisions concerned.

Second, regarding the argument that the Commission failed to have regard to the principles of legal certainty, the respect for acquired rights and the protection of legitimate expectations by giving retroactive effect to the contested regulation, the Court recalled that the principle of legal certainty precludes retroactive effect being given to EU measures, except where the objective pursued by the contested measure requires it to be given retroactive effect and the legitimate expectations of the persons concerned are duly respected.

In the first place, as regards the objective pursued by the contested regulation, the Court found that the purpose of the latter was to protect legal labelling practices existing in Croatia on 30 June 2013 and to resolve the conflict between those practices and the protection of the Slovenian PDO 'Teran'. Therefore, it pursued an objective in the public interest, which made it necessary for it to be given retroactive effect. The Commission was not able to adopt the contested regulation before the date of the accession of Croatia to the EU and had to place itself at the time of that accession in order to assess the existence of specific labelling practices. Moreover, it was legitimately able to attempt to find a negotiated solution between the two States, given the sensitive nature of the issue. Lastly, the Court emphasised that such retroactive effect was required because of the necessary continuity of legal labelling practices.

In the second place, the Court verified whether the Commission had led Slovenian wine producers to entertain well-founded expectations that no derogation with retroactive effect would be granted to Croatia concerning the use of the name 'Teran' on the labels of wines produced on its territory. After examining the facts in the case, it held that it could not be found that the Commission had given precise, unconditional and consistent assurances. It recalled that it was necessary for the contested regulation to be given retroactive effect, having regard to the circumstances of the case at hand. According to the Court, Slovenia had not established that the extent and details of the retroactive effect of the contested regulation had infringed the legitimate expectations of Slovenian wine producers.

---

**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

---

<sup>4</sup>Article 118j(3) of Regulation No 1234/2007.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If *the* action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

---

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

The [full text](#) of the judgment is published on the CURIA website on the day of delivery

Press contact: Jacques René Zammit ☎ (+352) 4303 3355

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106