

Case C-388/95

Kingdom of Belgium

v

Kingdom of Spain

(Article 34 of the EC Treaty (now, after amendment, Article 29 EC) —
Regulation (EEC) No 823/87 — Quality wines produced in a specified region —
Designations of origin — Obligation to bottle in the region of production —
Justification — Consequences of an earlier judgment giving a preliminary
ruling — Article 5 of the EC Treaty (now Article 10 EC)

Opinion of Advocate General Saggio delivered on 25 March 1999 I-3125

Judgment of the Court, 16 May 2000 I-3146

Summary of the Judgment

Free movement of goods — Quantitative restrictions of exports — Measures having equivalent effect — National rules requiring bottling in the region of production for wines bearing a designation of origin — Justification — Protection of industrial and commercial property — Condition — Measure that is necessary and proportionate and capable of upholding the considerable reputation of wines bearing a designation of origin

(EC Treaty, Arts 34 and 36 (now, after amendment, Arts 29 EC and 30 EC); Council Regulation No 823/87, Art. 18)

National rules applicable to wines bearing a designation of origin which make the use of the name of the production region conditional upon bottling in that region constitute a measure having an effect equivalent to quantitative restrictions on exports within the meaning of Article 34 of the Treaty (now, after amendment, Article 29 EC), since they have the effect of specifically restricting patterns of exports of wine eligible to bear the designation of origin and thereby of establishing a difference of treatment between trade within a Member State and its export trade.

They cannot be rendered lawful by Article 18 of Regulation No 823/87, which, for those types of wine, authorises the Member States, taking into account fair and traditional practices, to impose more stringent conditions of movement than those imposed by that regulation, since that article cannot be interpreted as authorising the Member States to derogate from the Treaty rules on the free movement of goods.

However, the requirement of bottling in the region of production, whose aim is to preserve the considerable reputation of the wine bearing the designation of origin by strengthening control over its particular characteristics and its quality, is justified as a measure protecting the designation of origin which may be used by all the wine producers in that region and is of decisive importance to them, and it must be regarded as being in conformity with Community law despite its restrictive effects on trade, since it constitutes a necessary and proportionate means of attaining the objective pursued in that there are no less restrictive alternative measures capable of attaining it.

(see paras 41–43, 45, 59, 75–76)