

Case T-417/04

Regione autonoma Friuli-Venezia Giulia

v

Commission of the European Communities

(Action for annulment — Regulation (EC) No 1429/2004 — Agriculture — Common organisation of the market in wine — Rules for the use of names of vine varieties or synonyms thereof — Limitation in time on use — Action brought by a sub-national body — Persons individually concerned — Inadmissibility)

Order of the Court of First Instance (Fourth Chamber), 12 March 2007 . . . II - 644

Summary of the Order

Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them

(Arts 230, fourth para., EC and 249, second para., EC; Commission Regulation No 1429/2004, Annex I, point 103)

The provision limiting to 31 March 2007 the right to use the name 'Tocai friulano', in the form of an explanatory note to Annex I to Regulation No 1429/2004 amending Regulation No 753/2002 laying down certain rules for applying Regulation No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products, forms part of the general framework of rules established by that regulation, which concerns all operators and all public bodies in the European Community.

It thus applies to objectively determined situations and produces legal effects with respect to categories of persons envisaged in the abstract. It therefore constitutes a measure of general application within the meaning of the second paragraph of Article 249 EC, and hence a measure of a legislative nature.

Such a measure may nevertheless concern certain persons individually.

That is, however, not the case with the provision in question in relation to a sub-national body such as the Regione autonoma Friuli-Venezia Giulia.

First, the capacity as a producer which that body claims does not distinguish it individu-

ally in the same way as the addressee of a decision. The general applicability, and thus the legislative nature, of a measure are not called into question by the fact that it is possible to determine more or less exactly the number or even the identity of the persons to whom it applies at any given time, as long as it applies to them by virtue of an objective legal or factual situation defined by the measure in question in relation to its purpose. In that respect, the prohibition on the use of the name 'Tocali friulano' applies generally and for an indeterminate period to all the economic operators concerned, that is to say growers of that vine variety, producers of the wine in question and wine merchants dealing in it.

Secondly, the general interest which a region, a body responsible for certain economic affairs within its jurisdiction, may have in obtaining a result that is favourable for its economic prosperity is not sufficient on its own to enable it to be regarded as being individually concerned, for the purposes of the fourth paragraph of Article 230 EC.

Thirdly, the division of legislative and regulatory powers within a Member State is solely a matter for the constitutional law of that State and has no effect from the point of view of assessing the possible effects of a Community legal measure on the interests of

a territorial body. In the Community legal order, it is for the authorities of the State to represent any interests based on the defence of national legislation, regardless of the constitutional form or the territorial organisation of that State.

In addition, the legislative and regulatory prerogatives which may be conferred on a public law legal person, other than the State, are not in themselves of such a nature as to give an individual an interest in applying for the annulment of any measure of substantive Community law which does not affect the scope of its powers, as long as, in principle,

such prerogatives are not exercised in its own interest by the person on whom they have been conferred.

Finally, the requirements of effective judicial protection cannot have the effect of setting aside the condition, laid down in the fourth paragraph of Article 230 EC, that an applicant must be individually concerned.

(see paras 44, 47, 51, 52, 54, 55, 61-63, 67)