

JUDGMENT OF THE COURT
OF 14 JANUARY 1981¹

SpA Vinal v SpA Orbat
(preliminary ruling requested
by the Pretura Civile, Casteggio)

“Taxation of denatured alcohol”

Case 46/80

1. *Tax provisions — Internal taxation — System of differential taxation — Permissibility — Conditions — Pursuit of objectives compatible with Community law — Absence of any discriminatory or protective nature*
(EEC Treaty, Art. 95)

2. *Tax provisions — Internal taxation — System of differential taxation of denatured synthetic alcohol and denatured alcohol obtained by fermentation — Permissibility — Conditions — Identical application to imported products — More heavily taxed product exclusively an imported one — Equivalent economic effect on the structure of national production*
(EEC Treaty, Art. 95, first and second paragraphs)

1. In its present stage of development Community law does not restrict the freedom of each Member State to lay down tax arrangements which differentiate between certain products on the basis of objective criteria, such as the nature of the raw materials used or the production processes employed. Such differentiation is compatible with Community law if it pursues objectives of economic policy which are themselves compatible with the requirements of the Treaty and its secondary law and if the detailed rules are such as to avoid any form of

discrimination, direct or indirect in regard to imports from other Member States or any form of protection of competing domestic products.

2. Tax arrangements which impose heavier charges on denatured synthetic alcohol than on denatured alcohol obtained by fermentation on the basis of the raw materials and the manufacturing processes employed for the two products are not at variance with the first paragraph of Article 95 of the EEC Treaty if they are applied identically to the two categories of

¹ — Language of the Case: Italian.

alcohol originating in other Member States.

Such tax arrangements are justified even though the products in question, whilst derived from different raw materials, are capable of being put to the same uses and have the same practical application.

Where by reason of the taxation of synthetic alcohol, it has been impossible to develop profitable

production of that type of alcohol on national territory, the application of such tax arrangements cannot be considered as constituting indirect protection of national production of alcohol obtained by fermentation within the meaning of the second paragraph of Article 95 of the EEC Treaty on the sole ground that their consequence is that the product subject to the heavier taxation is in fact a product which is exclusively imported from other Member States of the Community.

In Case 46/80

REFERENCE to the Court under Article 177 of the EEC Treaty by the Pretura Civile [Civil Court], Casteggio, for a preliminary ruling in the action pending before that court between

SPA VINAL, having its registered office in Casteggio, Pavia,

and

SPA ORBAT, having its registered office in Milan,

on the interpretation of Article 95 of the EEC Treaty in relation to Italian legislation concerning a special revenue charge on denatured alcohol,

THE COURT

composed of: P. Pescatore, President of the Second Chamber, Acting as President, T. Koopmans (President of the First Chamber), Lord Mackenzie Stuart, A. O'Keeffe, G. Bosco, A. Touffait and O. Due, Judges,

Advocate General: G. Reischl
Registrar: A. Van Houtte

gives the following