

JUDGMENT OF THE COURT
OF 20 FEBRUARY 1979 ¹

Rewe-Zentral AG
v Bundesmonopolverwaltung für Branntwein
(preliminary ruling requested by the Hessisches Finanzgericht)

“Measures having an effect equivalent to quantitative restrictions”

Case 120/78

1. *State monopolies of a commercial character — Specific provision of the Treaty — Scope*
(EEC Treaty, Art. 37)
2. *Quantitative restrictions — Measures having equivalent effect — Marketing of a product — Disparities between national laws — Obstacles to intra-Community trade — Permissible — Conditions and limits*
(EEC Treaty, Art. 30 and 36)
3. *Quantitative restrictions — Measures having equivalent effect — Concept — Marketing of alcoholic beverages — Fixing of a minimum alcohol content*
(EEC Treaty, Art. 30)

1. Since it is a provision relating specifically to State monopolies of a commercial character, Article 37 of the EEC Treaty is irrelevant with regard to national provisions which do not concern the exercise by a public monopoly of its specific function — namely, its exclusive right — but apply in a general manner to the production and marketing of given products, whether or not the latter are covered by the monopoly in question.
2. In the absence of common rules, obstacles to movement within the Community resulting from disparities between the national laws relating to the marketing of a product must be accepted in so far as those provisions may be recognized as being necessary in order to satisfy mandatory requirements relating in particular to the effectiveness of fiscal supervision, the protection of public health, the fairness of commercial transactions and the defence of the consumer.

¹ — Language of the Case: German.

3. The concept of “measures having an effect equivalent to quantitative restrictions on imports”, contained in Article 30 of the EEC Treaty, is to be understood to mean that the fixing of a minimum alcohol content for alcoholic beverages intended for human consumption by the legislation

of a Member State also falls within the prohibition laid down in that provision where the importation of alcoholic beverages lawfully produced and marketed in another Member State is concerned.

In Case 120/78

REFERENCE to the Court under Article 177 of the EEC Treaty by the Hessisches Finanzgericht for a preliminary ruling in the action pending before that court between

REWE-ZENTRAL AG, having its registered office in Cologne,

and

BUNDESMONOPOLVERWALTUNG FÜR BRANNTWEIN (Federal Monopoly Administration for Spirits),

on the interpretation of Articles 30 and 37 of the EEC Treaty in relation to Article 100 (3) of the German Law on the Monopoly in Spirits,

THE COURT

composed of: H. Kutscher, President, J. Mertens de Wilmars and Lord Mackenzie Stuart (Presidents of Chambers), A. M. Donner, P. Pescatore, M. Sørensen, A. O’Keeffe, G. Bosco and A. Touffait, Judges,

Advocate General: F. Capotorti

Registrar: A. Van Houtte

gives the following