



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 139/17**

Luxembourg, 20 December 2017

Judgment in Case C-393/16

Comité Interprofessionnel du Vin de Champagne v Aldi Süd Dienstleistungs-GmbH & Co. OHG

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**A sorbet may be sold under the name ‘Champagner Sorbet’ if it has, as one of its essential characteristics, a taste attributable primarily to champagne**

*If that is the case, that product name does not take undue advantage of the protected designation of origin ‘Champagne’*

The Comité Inteprofessionnel du Vin de Champagne (“CIPV”), an association of champagne producers, brought proceedings before the German courts against the German discounter Aldi Süd for an injunction to prohibit it from selling a sorbet under the name ‘Champagner Sorbet’. That sorbet, which Aldi Süd began selling at the end of 2012, contains 12% champagne. According to the CIPV, the distribution of the sorbet under that name infringes the protected designation of origin (PDO) ‘Champagne’. The Bundesgerichtshof (Federal Court of Justice, Germany), to which the case was referred at final instance, has made a reference to the Court of Justice for an interpretation of EU rules on the protection of PDOs.<sup>1</sup>

By today’s judgment, the Court finds that the unlawful exploitation of the reputation of a PDO entails use of the PDO that seeks to take *undue* advantage of its reputation.

It is true that the use of the name ‘Champagner Sorbet’ to refer to a sorbet containing champagne is liable to extend to that product the reputation of the PDO ‘Champagne’, which conveys an image of quality and prestige, and therefore to take advantage of that reputation.

However, such use of the name ‘Champagner Sorbet’ does not take *undue* advantage (and therefore does not exploit the reputation) of the PDO ‘Champagne’ if the product concerned has, as one of its essential characteristics, a taste that is primarily attributable to champagne. It is for the national court to determine, in the light of the evidence before it, whether that is the case. The Court observes in that regard that the quantity of champagne in the sorbet is a significant but not, in itself, sufficient factor.

Furthermore, the Court finds that if the sorbet in question did not have, as an essential characteristic, a taste primarily attributable to champagne, it would equally be possible to conclude that the name ‘Champagner Sorbet’ on the inner or outer packaging of the product constituted a false or misleading indication and was therefore unlawful.

A PDO is protected not only against false or misleading indications which are liable to create a false impression as to the origin of the product concerned, but also against false or misleading indications relating to the nature or essential qualities of the product.

Lastly, the Court also observes that where the PDO ‘Champagne’ is used directly, by being incorporated in the name of the product in question, to openly claim a gustatory quality connected

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<sup>1</sup> 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), as amended by Council Regulation (EC) No 491/2009 of 25 May 2009 (OJ 2009 L 154, p. 1), and 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).

with it, that does not amount to misuse, imitation or evocation within the meaning of EU rules on the protection of PDOs.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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

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