

The applicant claims that the Court should:

- annul the explanatory note attached to item no 103 in Annex I to Commission Regulation No 1429/2004 concerning the limitation in time on the use of the name 'Tocai friulano' up to 31 March 2007;
- order the Commission to pay all costs of the proceedings.

Pleas in law and main arguments:

Article 1(5) of Commission Regulation No 1429/2004⁽¹⁾ amending Commission Regulation No 753/2002 replaces Annex II to the amended Regulation No 753/2002 by a new annex (Annex I) which maintains, for wine derived from the grape type 'Tocai friulano' (item no 103 in the new Annex I), on the basis of an added explanatory note, the limitation in time up to 31 March 2007 on the use of that name, as already contained in Annex II to Regulation No 753/2002. The present application seeks the annulment of the explanatory note that refers to the use of the name 'Tocai friulano'.

In support of its contentions the applicant makes the following submissions:

- Pursuant to Article 59(1) of the Vienna Convention on the Law of Treaties, following the entry into force on 1 May 2004 of the Treaty of Accession of Hungary and the other Member States, all provisions contained in previous treaties concluded between Hungary and the European Community lapsed unless they were expressly included in that Accession Treaty.
- Lack of competence on the part of the Commission to abolish rights in the area of the application of Article 19 of Regulation No 753/2002 in so far as, if the Commission had the power under Article 53 of the basic regulation (Regulation No 1493/1999) to determine in which country a specific variety of grape could be grown, it had no power to abolish a variety of grape long cultivated in a Member State in view of the fact that the Member States alone are authorised to take such a decision.
- Infringement of the prohibition of discrimination laid down in the second subparagraph of Article 34(2) EC. That prohibition, which could not have been applied in regard to Hungary prior to its accession, has, by contrast, become applicable in full since that country became a Member State.

- Finally, the applicant submits that there has been an infringement of the principle of proportionality and a breach of property rights.

⁽¹⁾ Commission Regulation (EC) No 1429/2004 of 9 August 2004 amending Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (OJ L 263 of 10.08.2004, p. 11).

Action brought on 15 October 2004 by Confcooperative and Others against the Commission of the European Communities

(Case T-418/04)

(2004/C 300/103)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 15 October 2004 by Confcooperative FVG Federagricole, il Consorzio Friulvini S.C.a.r.l., la Cantina Sociale di Ramoscello, S. Vito S.C.a.r.l., la Cantina Produttori Cormòns S.C.a.r.l. and Luigi Soini, represented by Fausto Capelli.

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Pleas in law and main arguments:

The pleas in law and main arguments are identical to those put forward in Case T-417/04 Regione Autonoma Friuli Venezia Giulia v Commission⁽¹⁾.

⁽¹⁾ Not yet published in the Official Journal.