

**Reference for a preliminary ruling from the Handelsgericht Wien (Austria) lodged on 25 October 2007 — Budějovický Budvar národní podnik v Rudolf Ammersin GmbH**

(Case C-478/07)

(2008/C 22/45)

*Language of the case: German*

**Referring court**

Handelsgericht Wien

**Parties to the main proceedings**

*Applicant:* Budějovický Budvar národní podnik

*Defendant:* Rudolf Ammersin GmbH

**Questions referred**

1. In its judgment of 18 November 2003 in Case C-216/01 the Court of Justice defined the requirements for the compatibility with Article 28 EC of the protection of a designation as a geographical indication which in the country of origin is the name neither of a place nor of a region, namely that such a designation must,

- according to the factual circumstances and
- perceptions in the country of origin, designate a region or a place in that State,
- and that its protection must be justified there on the basis of the criteria laid down in Article 30 EC.

Do those requirements mean:

- 1.1. that the designation as such fulfils a specific geographical indication function referring to a particular place or a particular region, or does it suffice that the designation is capable, in conjunction with the product bearing it, of informing consumers that the product bearing it comes from a particular place or a particular region in the country of origin;
  - 1.2. that the three conditions are conditions to be examined separately and to be satisfied cumulatively;
  - 1.3. that a consumer survey is to be carried out for ascertaining perceptions in the country of origin, and, if so, that that a low, medium or high degree of recognition and association is required;
  - 1.4. that the designation has actually been used as a geographical indication by several undertakings, not just one undertaking, in the country of origin and that use as a trade mark by a single undertaking precludes protection?
2. Does the circumstance that a designation has not been notified or its registration applied for either within the six-

month period provided for in [Commission] Regulation (EC) No 918/2004 [of 29 April 2004 introducing transitional arrangements for the protection of geographical indications and designations of origin for agricultural products and foodstuffs in connection with the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia] <sup>(1)</sup> or otherwise in the context of [Council] Regulation (EC) No 510/2006 [of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs] <sup>(2)</sup> mean that existing national protection, or in any case protection that has been extended bilaterally to another Member State, becomes void if the designation is a qualified geographical indication under the national law of the State of origin?

3. Does the circumstance that, in the context of the Treaty of Accession between the Member States of the European Union and a new Member State, the protection of several qualified geographical indications for a foodstuff has been claimed by that Member State in accordance with Regulation (EC) No 510/2006 mean that national protection, or in any case protection that has been extended bilaterally to another Member State, for another designation for the same product may no longer be maintained, and Regulation (EC) No 510/2006 has preclusive effect to that extent?

<sup>(1)</sup> OJ L 163 of 30.4.2004, p. 88.

<sup>(2)</sup> OJ L 93 of 31.3.2006, p. 12.

**Reference for a preliminary ruling from the Centrale Raad van Beroep (Netherlands) lodged on 5 November 2007 — Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen v H. Akdas and Others**

(Case C-485/07)

(2008/C 22/46)

*Language of the case: Dutch*

**Referring court**

Centrale Raad van Beroep

**Parties to the main proceedings**

*Applicant:* Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen

*Defendants:* H. Akdas and Others