

JUDGMENT OF THE COURT
OF 11 JULY 1974¹

Procureur du Roi
v Benoît and Gustave Dassonville
(preliminary ruling requested by
the Tribunal de Première Instance de Bruxelles)

Case 8/74

Summary

1. *Quantitative restrictions — Abolition — Measures having equivalent effect — Concept*
(EEC Treaty, Article 30)
2. *Quantitative restrictions — Abolition — Measures having equivalent effect — Designation of origin of a product — Protective measures — Admissibility — Conditions*
(EEC Treaty, Article 30, 36)
3. *Competition — Agreements — Exclusive dealing agreement — Prohibition — Application — Criteria*
(EEC Treaty, Article 85)
4. *Competition — Agreements — Exclusive dealing agreements — Prohibition — Application — Economic and legal context*
(EEC Treaty, Article 85)

1. All trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade are to be considered as measures having an effect equivalent to quantitative restrictions.
2. In the absence of a Community system guaranteeing for consumers the authenticity of a product's designation or origin, Member States may take measures to prevent unfair practices in this connexion, on condition that such measures are reasonable and do not constitute a

means of arbitrary discrimination or a disguised restriction on trade between Member States.

Consequently, the requirement by a Member State of a certificate of authenticity which is less easily obtainable by importers of an authentic product which has been put into free circulation in a regular manner in another Member State than by importers of the same product coming directly from the country of origin constitutes a measure having an effect equivalent to a quantitative restriction as prohibited by the Treaty.

¹ — Language of the Case: French.

3. An exclusive dealing agreement falls within the prohibition of Article 85 when it impedes, in law or in fact, the importation of the products in question from other Member States into the protected territory by persons other than the exclusive importer.
4. An exclusive dealing agreement may adversely affect trade between Member States and can have the effect of hindering competition if the concessionaire is able to prevent parallel imports from other Member States into the territory covered by the concession by means of the combined effects of the agreement

and a national law requiring the exclusive use of a certain means of proof of authenticity.

For the purpose of judging whether this is the case, account must be taken not only of the rights and obligations flowing from the provisions of the agreement, but also of the legal and economic context in which it is situated and, in particular, the possible existence of similar agreements concluded between the same producer and concessionaires established in other Member States. Price differences found to exist between Member States are an indication to be taken into account.

In Case 8/74

Reference to the Court under Article 177 of the EEC Treaty by the Tribunal de Première Instance of Brussels for a preliminary ruling in the criminal proceedings pending before that court between

PROCUREUR DU ROI (Public Prosecutor)

and

BENOÎT AND GUSTAVE DASSONVILLE

and in the civil action between

SA ÉTS. FOURCROY

SA BREUVAL ET CIE

and

BENOÎT AND GUSTAVE DASSONVILLE

on the interpretation of Articles 30 to 33, 36 and 85 of the EEC Treaty,

THE COURT

composed of: R. Lecourt, President, A. M. Donner, M. Sørensen, Presidents