

JUDGMENT OF THE COURT

17 September 2002 *

In Case C-253/00,

REFERENCE to the Court under Article 234 EC by the Court of Appeal of England and Wales (Civil Division) for a preliminary ruling in the proceedings pending before that court between

Antonio Muñoz y Cia SA,

Superior Fruticola SA

and

Frumar Ltd,

Redbridge Produce Marketing Ltd,

on the interpretation of Regulation (EEC) No 1035/72 of the Council of 18 May 1972 and Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables (OJ, English Special Edition 1972 (II), p. 437, and OJ 1996 L 297, p. 1 respectively),

* Language of the case: English.

THE COURT,

composed of: G.C. Rodríguez Iglesias, President, P. Jann (Rapporteur), N. Colneric and S. von Bahr, (Presidents of Chambers), C. Gulmann, D.A.O. Edward, A. La Pergola, J.-P. Puissochet, R. Schintgen, J.N. Cunha Rodrigues and C.W.A. Timmermans, Judges,

Advocate General: L.A. Geelhoed,

Registrar: R. Grass,

after considering the written observations submitted on behalf of:

- Antonio Muñoz y Cia SA and Superior Fruiticola SA, by M. Howe QC, M. Brealey and C. May, Barristers, instructed by I. Craig, Solicitor,
- the Commission of the European Communities, by M. Condou-Durande and K. Fitch, acting as Agents,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 13 December 2001,

gives the following

Judgment

- 1 By order of 14 June 2000, received at the Court on 26 June 2000, the Court of Appeal of England and Wales (Civil Division) referred to the Court for a preliminary ruling under Article 234 EC a question on the interpretation of Council Regulation (EEC) No 1035/72 of the Council of 18 May 1972 and Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables (OJ, English Special Edition 1972 (II), p. 437, and OJ 1996 L 297, p. 1 respectively).
- 2 That question was raised in proceedings instituted by Antonio Muñoz y Cia SA ('Muñoz') and Superior Fruiticola SA ('Fruiticola') against Frumar Ltd ('Frumar') and Redbridge Produce Marketing Ltd ('Redbridge'), seeking an order restraining the latter from marketing table grapes in the United Kingdom under names which do not comply with Community legislation.

Legal background

Community law

Regulation No 1035/72

- 3 Article 2(3) of Regulation No 1035/72 provides that '[q]uality standards shall apply to products listed in Annex I to be delivered fresh to the consumer'. The products listed in Annex I include table grapes.

- 4 Article 3(1) of that regulation provides:

‘When quality standards have been established, products to which they apply may not be displayed or offered for sale, sold, delivered or marketed in any other manner within the Community unless they conform to the standards.’

- 5 Article 8 of the same regulation provides that checks shall be made by the authorities appointed by each Member State to ensure that goods for which quality standards have been laid down comply with those standards.

Regulation No 2200/96

- 6 Regulation No 2200/96 repealed Regulation No 1035/72 with effect from 1 January 1997.
- 7 Article 2(1) of Regulation No 2200/96 provides that ‘[p]roducts to be delivered fresh to the consumer may be classified by reference to a set of standards’.

- 8 Article 3(1) of that regulation is worded as follows:

‘The holder of products covered by the quality standards adopted may not display such products or offer them for sale, or deliver or market them in any other manner within the Community than in conformity with those standards. The holder shall be responsible for observing such conformity.’

- 9 Article 7 of the same regulation provides that checks shall be made by the authorities appointed by each Member State to ensure that products for which quality standards have been adopted comply with those standards.

Regulation (EEC) No 1730/87

- 10 As regards marking, Commission Regulation (EEC) No 1730/87 of 22 June 1987 laying down quality standards for table grapes (OJ 1987 L 163, p. 25), as amended by Commission Regulation (EEC) No 93/91 of 15 January 1991 (OJ 1991 L 11, p. 13) and Commission Regulation (EEC) No 291/92 of 6 February 1992 (OJ 1992 L 31, p. 25), states, in Part VI of the Annex thereto, that each package must bear, *inter alia*, the name of the variety.
- 11 In the original version of Regulation No 1730/87 an annex to the Annex set out exhaustive lists of the only varieties which could be marketed in the Community. None of the varieties in issue in the main proceedings appears in those lists.

- 12 Regulation No 93/91 added the variety 'Superior Seedless' to those previously listed.
- 13 Regulation No 291/92 removed the exhaustive character of the lists of varieties, stating that quality standards were applicable to all varieties of grape intended to be delivered fresh to the consumer.
- 14 Regulation No 1730/87 was repealed with effect from 1 February 2000 by Commission Regulation (EC) No 2789/1999 of 22 December 1999 laying down the marketing standard for table grapes (OJ 1999 L 336, p. 13). The provisions of that regulation on the marking of grapes and the names of varieties are substantially the same as the earlier provisions.

National law

- 15 The Horticultural Marketing Inspectorate ('the HMI'), which forms part of the Ministry of Agriculture, Fisheries and Food, is the authority in the United Kingdom empowered to make the checks referred to in Regulation No 1035/72 and No 2200/96.
- 16 The Horticultural and Agricultural Act 1964 as amended imposes penalties for the sale of regulated produce in breach of Community quality standards.

The dispute in the main proceedings and the question referred for a preliminary ruling

- 17 Muñoz and its parent company, Fruiticola, grow grapes in Spain. In particular they grow the 'Superior Seedless' variety which they market in the United Kingdom, amongst other places.
- 18 Frumar and its parent company, Redbridge, import fruit and vegetables to the United Kingdom. From 1987 they sold table grapes in the United Kingdom under the names 'White Seedless', 'Sult' and 'Coryn'.
- 19 Muñoz and Fruiticola complained on several occasions to the HMI that the grapes marketed under those names were in fact of the 'Superior Seedless' variety and that the marking of those goods was therefore incorrect as a matter of Community law. The HMI took no action in response to those complaints.
- 20 In 1998 Muñoz and Fruiticola brought an action before the Chancery Division of the High Court of Justice of England and Wales against Frumar and Redbridge, claiming that they had infringed the Community legislation.

- 21 Before the action came on for trial the defendants conceded on expert evidence that the grapes marketed under the 'Coryn' name were in fact of the 'Superior Seedless' variety. After the start of the trial the defendants conceded that, for the purposes of that action only, the grapes marketed as 'White Seedless' and 'Sult' were also of the 'Superior Seedless' variety.
- 22 By order of 26 March 1999 the High Court of Justice dismissed the action brought by Muñoz and Fruiticola. It found that Frumar and Redbridge had infringed the Community rules on quality standards. It held, however, that those rules did not give producers like Muñoz and Fruiticola the right to bring a civil action based on non-compliance with Regulations No 1035/72 and No 2200/96.
- 23 Considering that the High Court of Justice had erred in law on that second point, Muñoz and Fruiticola appealed to the Court of Appeal of England and Wales (Civil Division). It is in those circumstances that the latter stayed proceedings and referred the following question to the Court for a preliminary ruling:

'Does Regulation No 2200/96 (and did Regulation No 1035/72 when it was in force) give rise to a legal duty resting upon persons who trade in a fruit or a vegetable within the Community to comply with the requirements as regards variety name laid down by a quality standard which is applicable to that fruit or vegetable, which a national court should enforce in civil proceedings brought at the suit of a person who is a substantial grower within the Community of the fruit or vegetable concerned?'

The question referred

- 24 By that question the referring court asks, essentially, whether compliance with the provisions of Regulations No 1035/72 and No 2200/96 on quality standards applicable to fruit or vegetables must be capable of enforcement by means of civil proceedings instituted by a trader against a competitor.
- 25 Muñoz submits that it is both necessary and sufficient for a Community provision to be relied on in relations between individuals that the obligation it sets out be clear and unconditional. That obligation may be imposed for the benefit of individuals in general, without there being any need to prove that the intent of the Community legislature was to benefit any particular class of the public or to confer subjective rights.
- 26 The Commission considers that the question whether the relevant provisions confer the right on an individual to bring an action to compel another individual to comply with the obligations imposed on him by the Community legislation must be determined in the light of the regulations in question and of the general principles of the common agricultural policy, of which they form part.
- 27 Pursuant to the second subparagraph of Article 189 of the EC Treaty (now the second subparagraph of Article 249 EC) regulations have general application and are directly applicable in all Member States. Accordingly, owing to their very

nature and their place in the system of sources of Community law, regulations operate to confer rights on individuals which the national courts have a duty to protect (see, *inter alia*, Case 34/73 *Fratelli Variola* [1973] ECR 981, paragraph 8).

- 28 The national courts, whose task it is to apply the provisions of Community law in areas within their jurisdiction, must ensure that they take full effect (see, *inter alia*, Case 106/77 *Simmenthal* [1978] ECR 629, paragraph 16, Case C-213/89 *Factortame and Others* [1990] ECR I-2433, paragraph 19, and Case C-453/99 *Courage and Crehan* [2001] ECR I-6297, paragraph 25).
- 29 As is apparent from the fourth recital in the preamble to Regulation No 1035/72, the purpose of applying common quality standards is to keep products of unsatisfactory quality off the market, to guide production to meet consumers' requirements, and to facilitate trade relations based on fair competition. That objective is confirmed by the third recital in the preamble to Regulation No 2200/96, which states that the classification of goods using common obligatory standards seeks, first, to establish a reference framework that encourages fair trading and market transparency and, second, to eliminate products of unsatisfactory quality from the market. The 20th recital of the same regulation states that the rules of the common market organisation should be complied with by all operators to whom they apply, since otherwise their impact will be distorted.
- 30 Accordingly, the full effectiveness of the rules on quality standards and, in particular, the practical effect of the obligation laid down by Article 3(1) of both Regulation No 1035/72 and Regulation No 2200/96 imply that it must be

possible to enforce that obligation by means of civil proceedings instituted by a trader against a competitor.

- 31 The possibility of bringing such proceedings strengthens the practical working of the Community rules on quality standards. As a supplement to the action of the authorities designated by the Member States to make the checks required by those rules it helps to discourage practices, often difficult to detect, which distort competition. In that context actions brought before the national courts by competing operators are particularly suited to contributing substantially to ensuring fair trading and transparency of markets in the Community.
- 32 In those circumstances the answer to the question referred must be that Regulations No 1035/72 and No 2200/96 are to be interpreted as meaning that compliance with the provisions on quality standards applicable to fruit or vegetables must be capable of enforcement by means of civil proceedings instituted by a trader against a competitor.

Costs

- 33 The costs incurred by the Commission, which has submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT,

in answer to the question referred to it by the Court of Appeal of England and Wales (Civil Division) by order of 14 June 2000, hereby rules:

Regulation (EEC) No 1035/72 of the Council of 18 May 1972 and Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables are to be interpreted as meaning that compliance with the provisions on quality standards applicable to fruit or vegetables must be capable of enforcement by means of civil proceedings instituted by a trader against a competitor.

Rodríguez Iglesias	Jann	Colneric
von Bahr	Gulmann	Edward
La Pergola	Puissochet	Schintgen
Cunha Rodrigues	Timmermans	

Delivered in open court in Luxembourg on 17 September 2002.

R. Grass

Registrar

G.C. Rodríguez Iglesias

President