

TRIBUNAL DE JUSTICIA DE LAS COMUNIDADES EUROPEAS  
SOUDNÍ DVŮR EVROPSKÝCH SPOLEČENSTVÍ  
DE EUROPÆISKE FÆLLESSKABERS DOMSTOL  
GERICHTSHOF DER EUROPÄISCHEN GEMEINSCHAFTEN  
EUROOPA ÜHENDUSTE KOHUS  
ΔΙΚΑΣΤΗΡΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ  
COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES  
COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES  
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH  
CORTE DI GIUSTIZIA DELLE COMUNITÀ EUROPEE  
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HOF VAN JUSTITIE VAN DE EUROPESE GEMEENSCHAPPEN  
TRYBUNAŁ SPRAWIEDLIWOŚCI WSPÓLNOT EUROPEJSKICH  
TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPEIAS  
SÚDNY DVOR EURÓPSKÝCH SPOLOČENSTEV  
SODIŠČE EVROPSKIH SKUPNOSTI  
EUROOPAN YHTEISÖJEN TUOMIOISTUIN  
EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

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Judgment of the Court of Justice in Case C-347/03

*Regione Autonoma Friuli-Venezia Giulia and ERSA v. Ministero delle Politiche Agricole e Forestali*

**THE PROHIBITION ON USING THE NAME ‘TOCAI’ FOR CERTAIN ITALIAN WINES, ARISING FROM AN AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF HUNGARY, IS VALID AS REGARDS THE ASPECTS EXAMINED BY THE COURT**

*The rules governing homonyms in the international agreements examined do not require that, given the Hungarian geographical indication ‘Tokaj’, the name of the Italian vine variety ‘Tocai friulano’ should be allowed to continue to be used for the description and presentation of certain Italian wines*

‘Tocai friulano’ or ‘Tocai italico’ is a vine variety traditionally grown in the region of Friuli-Venezia Giulia (Italy) and used in the production of white wines marketed inter alia under geographical indications such as ‘Collio’ or ‘Collio goriziano’. In 1993, the European Community and the Republic of Hungary concluded an agreement on the reciprocal protection and control of wine names. In order to protect the Hungarian geographical indication ‘Tokaj’, the agreement prohibited the use of the term ‘Tocai’ to describe the abovementioned Italian wines at the end of a transitional period expiring on 31 March 2007. In 2002, the autonomous region of Friuli-Venezia Giulia and the regional agency for rural development asked the Tribunal amministrativo regionale del Lazio (Lazio Regional Administrative Court) to annul the national legislation implementing the prohibition provided for by the agreement. In that context, the Italian court made a reference to the Court of Justice of the European Communities for a preliminary ruling.

The Court notes, first, that, on the date on which the EC-Hungary Agreement on wines was concluded, **the names ‘Tocai friulano’ and ‘Tocai italico’ did not constitute a geographical indication** within the meaning of the EC-Hungary Agreement on wines, **but the name of a vine variety recognised in Italy**. Thus, unlike the Hungarian name ‘Tokaj’, mentioned in the Annex to that agreement listing the geographical indications for wines originating in the Republic of Hungary, the terms ‘Tocai friulano’ and ‘Tocai italico’ were not mentioned in the Annex to that agreement listing the geographical indications for wines originating in the Community. The Court rules that **the contested prohibition complies with**

**the rules on homonyms laid down by the agreement since those rules presuppose the existence of two geographical indications.**

The Court then points out that **in the case of homonymity between a geographical indication of a third country and a name incorporating the name of a vine variety** used for the description and presentation of certain Community wines, the provisions on homonyms contained in the Agreement on Trade-Related Aspects of Intellectual Property (the TRIPs Agreement)<sup>1</sup> **do not require that the name of a vine variety used for the description of Community wines be allowed to continue to be used in the future.**

Finally, the Court holds that, since it does not exclude any reasonable method of marketing the Italian wines concerned, **the prohibition does not constitute deprivation of possessions** for the purposes of the European Convention on Human Rights.<sup>2</sup> Consequently, the lack of compensation for the winegrowers concerned is not in itself a circumstance demonstrating incompatibility between the prohibition and the right to property.

In addition, even if that prohibition constitutes control of the use of property as referred to in the European Convention on Human Rights,<sup>3</sup> the interference which it involves may be justified. In that regard, the Court observes that the objective of the prohibition is to reconcile the need to provide consumers with clear and accurate information on products with the need to protect producers on their territory against distortions of competition. The prohibition therefore pursues **a legitimate aim of general interest**. The Court rules that the prohibition is also proportionate to that aim, given, inter alia, that a transitional period of thirteen years was provided for and that alternative terms are available to replace the names ‘Tocai friulano’ and ‘Tocai italico’.

Consequently, the Court rejects the objections raised as to the validity of **the prohibition, arising from the EC-Hungary Agreement, on using the name ‘Tocai’ in Italy after 31 March 2007.**

*Unofficial document for media use, not binding on the Court of Justice.*

*Languages available: DE, EN, FR, HU, IT, PL*

*The full text of the judgment may be found on the Court's internet site*

*<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>*

*It can usually be consulted after midday (CET) on the day judgment is delivered.*

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<sup>1</sup> Agreement concluded within the World Trade Organisation and approved by the European Community in 1994.

<sup>2</sup> First paragraph of Article 1 of Protocol No 1 to the European Convention on Human Rights.

<sup>3</sup> Second paragraph of Article 1 of Protocol No 1 to the European Convention on Human Rights.