

Case C-309/89 Codorniu v Council [1994]

Facts: A Regulation reserved the use of the term “*crémant*” and its translations for certain wines manufactured only in France and Luxembourg. Codorniu, a Spanish manufacturer of wines under the trade mark “*Gran Cremant de Codorniu*”, sought a declaration that the relevant Article of this Regulation was void pursuant to the second paragraph of Article 173 EEC Treaty.

Held: The Council lodged an objection of inadmissibility, stating that the measure in question remained essentially a regulation applicable to an objectively determined situation which had legal effect in respect of categories of persons considered in a general and abstract manner, and Codorniu was concerned by the contested provision only in its capacity as a producer of wines using the term “*crémant*”. Codorniu established the existence of a situation which differentiated it from all other traders, as it traditionally used and registered the graphic trademark “*Gran Cremant de Codorniu*” in Spain since 1924, and the contested provision prevented Codorniu from using its graphic trademark. The term “*crémant*” refers primarily to the method of manufacture of the wine and not to the origin, and the wines sold by Codorniu satisfied the conditions provided for by the contested provision. This different treatment of comparable situations was not objectively justified according to the principle of non-discrimination, as Codorniu had been using its graphic trade mark since before the term “*crémant*” as a traditional description was adopted in France and Luxembourg.