JUDGMENT OF THE COURT (Third Chamber)

13 October 2005 *

In Case C-379/04,

REFERENCE for a preliminary ruling under Article 234 EC from the Landgericht Würzburg (Germany), made by decision of 23 August 2004, received at the Court on 3 September 2004, in the proceedings

Richard Dahms GmbH

v

Fränkischer Weinbauverband eV,

THE COURT (Third Chamber),

composed of A. Rosas, President of the Chamber, A. La Pergola, A. Borg Barthet, U. Lõhmus (Rapporteur) and A. Ó Caoimh, Judges,

* Language of the case: German.

Advocate General: L.A. Geelhoed,
Registrar: R. Grass,

having regard to the written procedure,

after considering the observations submitted on behalf of:

— Richard Dahms GmbH, by J. Haas, Rechtsanwalt,

— Fränkischer Weinbauverband eV, by B. Vincke, Rechtsanwalt,

— the Commission of the European Communities, by F. Erlbacher and T. van Rijn, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Article 21 of Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (OJ 2002 L 118, p. 1).

2 The reference was made in the course of proceedings between Richard Dahms GmbH ('Dahms') and Fränkischer Weinbauverband eV ('the Weinbauverband') concerning the entry fees for a wine competition.

Community law

3 Article 47 of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ 1999 L 179, p. 1) lays down, inter alia, rules for the labelling of a number of products for the purpose of protecting the legitimate interests of consumers and ensuring the smooth operation of the internal market and the promotion of the production of quality products. That article establishes a distinction between particulars which must appear on labels and particulars which are optional.

4 The third indent of Annex VIIB(1)(b) to Regulation No 1493/1999 allows particulars relating to 'an award, medal or competition' to be featured on the label next to the geographical indication, in circumstances to be determined by the Commission.

5 Regulation No 753/2002 was adopted to lay down detailed rules for the application of the rules relating, inter alia, to the presentation of certain wine sector products. Title IV is devoted to the rules applicable to table wines with a geographical indication and quality wines produced in specified regions ('quality wines psr').

6 Article 21 of Regulation No 753/2002, which appears in Title IV, is entitled 'Awards and medals' and provides:

'For the purposes of the third indent of Annex VII(B)(1)(b) to Regulation (EC) No 1493/1999, awards and medals may be featured on the labels of table wines with a geographical indication and quality wines psr provided that these have been awarded to the batch of wine concerned in a competition authorised by a Member State or third country and run with complete impartiality. The Member States and third countries shall notify to the Commission the list of authorised competitions. The Commission shall take all appropriate steps to ensure that these lists are publicised.'

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

7 Dahms, the applicant in the main proceedings, runs a company that produces and markets wine. The Weinbauverband, the defendant in those proceedings, organises the Franconian wines and sparkling wines competition in Germany. The entry fees for that competition vary according to whether or not the entrants are members of the Weinbauverband: the fees are thus fixed at EUR 46 for each batch of wine presented by members of that organisation and EUR 92 per batch presented by other entrants, and for each batch of sparkling wine at EUR 76.50 and EUR 153 respectively.

8 Dahms was a member of the Weinbauverband until 2001 and presented wines in several competitions. Now that it is no longer a member of that organisation, Dahms is challenging before the Landgericht (Regional Court) the conditions imposed on it by the Weinbauverband as regards entry fees, which it argues constitute

discrimination within the meaning of Article 21 of Regulation No 753/2002, and the abuse constituted by the Weinbauverband's monopoly of the organisation of such competitions.

9 Dahms wishes to be allowed to participate in competitions under the same conditions as members of the Weinbauverband. Alternatively, it seeks to take part in the competition as a non-member of that organisation, paying an entry fee whose amount is to be fixed by the Landgericht.

10 Before the national court, the Weinbauverband claims that the imposition of entry fees which vary according to whether or not the participants are members of the organisation falls within the powers afforded to it by virtue of the law relating to associations. It denies the existence of discrimination within the meaning of Article 21 of Regulation No 753/2002 in the main proceedings. It submits, first, that that provision is directed at Member States and does not create a personal right for individuals and, second, that that article prohibits only arbitrary discrimination.

11 In those circumstances the Landgericht Würzburg decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1) Does Article 21 of Commission Regulation (EC) No 753/2002 accord the claimant a personal right not to be discriminated against by the defendant in competitions of Franconian wines and sparkling wines?

(2) If so, does the fact that the defendant requires the claimant — who is not a member of the defendant organisation — to pay fees twice as high as those charged to members for the presentation of wine in competitions of Franconian wines and sparkling wines constitute discrimination within the meaning of Article 21 of Regulation No 753/2002?'

The questions referred for a preliminary ruling

The first question

12 By its first question the national court asks whether Article 21 of Regulation No 753/2002 confers a personal right on Dahms which it may rely on to challenge the discriminatory treatment that it claims to have suffered on account of the fact that it had to pay higher entry fees than those charged to the Weinbauverband's members in order to take part in the Franconian wine and sparkling wine competition.

13 It should be recalled, as a preliminary point, that, pursuant to the second subparagraph of Article 249 EC, regulations have general application and are directly applicable in all Member States. It is settled case-law that, 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 *Variola* [1973] ECR 981, paragraph 8, and Case C-253/00 *Muñoz and Superior Fruiticola* [2002] ECR I-7289, paragraph 27).

14 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; Case C-453/99 *Courage and Crehan* [2001] ECR I-6297, paragraph 25; and *Muñoz and Superior Fruiticola*, paragraph 28).

15 Article 21 of Regulation No 753/2002 sets out the detailed rules for implementation of Annex VII to Regulation No 1493/1999. Article 47 of Regulation No 1493/1999 provides, inter alia, that the rules governing the mandatory and optional particulars relating to the labelling of certain wine sector products have several objectives. Those aims also appear in the fourth recital in the preamble to Regulation No 753/2002, which states that protecting the legitimate interests of consumers and producers, ensuring the smooth operation of the internal market and promoting the production of quality products are the objectives pursued by the directive.

16 As the Commission rightly points out, Article 21 of Regulation No 753/2002 allows awards or medals to be featured on the labels of table wines with a geographical indication or quality wines psr. That option is subject to the condition that the latter were awarded in a competition authorised by a Member State or third country and run with complete impartiality.

17 It is clear from its wording that Article 21 applies to the labelling of the wines in question but is not designed to lay down procedural rules for the organisation of wine competitions. Although it is true that that provision states that the procedure for awarding of those awards and medals must comply with a number of mandatory requirements, it does not, however, regulate any other aspects of the procedure applicable to the organisation of wine competitions, even though they constitute the framework within which such awards and medals are conferred.

18 Therefore, it must be held that Article 21 of Regulation No 753/2002 applies to the optional particulars relating to awards and medals which may be featured on labels in order to protect the legitimate interests of consumers and, above all, wine producers. The procedure or the detailed rules for conferring awards or medals, together with the rules applicable to the procedure for the organisation of wine competitions, fall within the exclusive competence of the Member States, subject to the proviso that where awards and medals are conferred in such a context the competition concerned must be authorised by the competent national authorities and the award procedure must be objective and impartial.

19 Accordingly, an entrant or potential entrant to a wine competition cannot rely on the content of Article 21 to challenge the rules for the organisation of such a competition in general, and the determination of the entry fee for the competition, in particular.

20 By contrast, the Court recognises that where the awards or medals are displayed on a label, competing wine producers could object to the authorisation to use such markings where they are awarded as a result of a competition which is not authorised by the competent national authorities or as a result of a biased or discriminatory procedure.

21 Accordingly, the answer to the question is that Article 21 of Regulation No 753/2002 must be interpreted as meaning that entrants or potential entrants to a wine competition cannot rely on that provision to contest the conditions for the organisation of that competition and, in particular, the rules determining the entry fees.

The second question

22 In view of the answer to the first question, the second question is devoid of purpose and need not be answered.

Costs

23 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. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

Article 21 of Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products must be interpreted as meaning that entrants or potential

entrants to a wine competition cannot rely on that provision to contest the conditions for the organisation of that competition and, in particular, the rules determining the entry fees.

[Signatures]