JUDGMENT OF THE COURT (Fifth Chamber)
14 July 1998 *

In Case C-385/96,

REFERENCE to the Court under Article 177 of the EC Treaty by the Amtsgericht Aachen (Germany) for a preliminary ruling in the criminal proceedings before that court against

Hermann Josef Goerres,

on the interpretation of Article 14 of Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer (OJ 1979 L 33, p. 1),

THE COURT (Fifth Chamber),

composed of: C. Gulmann, President of the Chamber, J. C. Moitinho de Almeida, D. A. O. Edward (Rapporteur), J.-P. Puissochet and L. Sevón, Judges,

Advocate General: G. Cosmas,
Registrar: L. Hewlett, Administrator,

* Language of the case: German.

after considering the written observations submitted on behalf of:

— the Belgian Government, by Jan Devadder, Director of Administration in the Legal Department, Ministry of Foreign Affairs, Trade and Cooperation with Developing Countries, acting as Agent,

— the French Government, by Catherine de Salins, Assistant Director in the Directorate for Legal Affairs, Ministry of Foreign Affairs, and Régine Loosli-Surrans, Chargé de Mission in the same directorate, acting as Agents,

— the Austrian Government, by Franz Cede, Ambassador, Federal Ministry of Foreign Affairs, acting as Agent,

— the Swedish Government, by Lotty Nordling, Rättschef in the Department of Foreign Trade, Ministry of Foreign Affairs, acting as Agent, and

— the Commission of the European Communities, by Claudia Schmidt, of its Legal Service, acting as Agent,

having regard to the Report for the Hearing,

after hearing the oral observations of Mr Goerres, represented by Stefan Gehrold, Rechtsanwalt, Dinklage, the French Government, represented by Régine Loosli-Surrans, and the Commission, represented by Claudia Schmidt, at the hearing on 10 December 1997,

after hearing the Opinion of the Advocate General at the sitting on 19 February 1998,

gives the following

Judgment

1 By order of 6 November 1996, received at the Court on 28 November 1996, the Amtsgericht Aachen (Aachen Local Court) referred to the Court for a preliminary ruling under Article 177 of the EC Treaty two questions on the interpretation of Article 14 of Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer (OJ 1979 L 33, p. 1; 'the directive').

2 The questions were raised in criminal proceedings brought against Mr Goerres by the Oberkreisdirektor des Kreises Aachen (the Chief Executive for the administrative district of Aachen; hereinafter 'the Oberkreisdirektor') for offering for sale in his shop in Germany various foodstuffs that were not labelled in German but only in French, Italian or English, contrary to Paragraph 3(3) of the Verordnung über die Kennzeichnung von Lebensmitteln (Regulations of the labelling of foodstuffs; 'LMKV').

The provisions of German law

3 According to the first sentence of Paragraph 3(3) of the LMKV, particulars such as the name under which the product is sold, the name or business name and the address of the manufacturer, the list of ingredients and the sell-by date 'are to be stated on the packaging or on a label combined therewith, at a clearly visible point, in German, in an easily intelligible, clearly legible and indelible manner'. Accord-

ing to the second sentence of the same paragraph, such particulars 'may also be given in another easily intelligible language, if the provision of information to the consumer is not adversely affected thereby'.

4 The second sentence of Paragraph 3(3) of the LMKV was introduced in 1992 in order to permit labelling 'in German or another easily intelligible language' (see the reasons given by the German Government concerning the amendment of the LMKV in Bundesratsdrucksache No 563/92 of 14 August 1992, p. 11).

The facts of the case

5 Mr Goerres runs a food market in Eschweiler, near Aachen. On 13 January 1995, he offered products for sale in his shop which were not labelled in German but only in French, Italian or English. The products in question included: 'Fanta orange, soda au jus d'orange' (labelled in French), 'Corn Flakes' (labelled in Italian and French), 'I Pelati di San Marzano — il Vero Gusto del Pomodoro' (labelled in Italian), and 'Pasta sauce with olives and capers' (labelled in English).

6 On 6 July 1995, the Oberkreisdirektor imposed an administrative penalty of DM 2 000 on Mr Goerres for infringement of Paragraph 3(3) of the LMKV.

7 Mr Goerres lodged an objection to the penalty notice before the Amtsgericht Aachen. Relying on a legal opinion from the University of Hamburg (Professor Dr Meinhard Hilf) of 14 July 1994, he submitted that the use of a particular

language could not be imposed; that, under Article 14 of the directive, the decisive factor was the intelligibility of the labelling; and that, in the case of products which were well known to the public, the use of labelling in a foreign language did not adversely affect the consumer's interest in receiving information. He further stated that he had placed in his shop, adjacent to the products in question, supplementary signs giving the required information in German.

The provisions of the directive

8 The first paragraph of Article 14 of the directive provides that Member States are to refrain from laying down requirements more detailed than those already contained in Articles 3 to 11 concerning the manner in which the particulars provided for in Article 3 and Article 4(2) are to be shown.

9 The second paragraph of Article 14 provides: 'The Member States shall, however, ensure that the sale of foodstuffs within their own territories is prohibited if the particulars provided for in Article 3 and Article 4(2) do not appear in a language easily understood by purchasers, unless other measures have been taken to ensure that the purchaser is informed. This provision shall not prevent such particulars from being indicated in various languages.'

10 Article 3 of the directive lists the particulars indication of which is to be compulsory on the labelling of foodstuffs, such as the name under which the product is to be sold, the list of ingredients, the net quantity, the date of minimum durability, any special storage conditions or conditions of use, the name or business name and address of the manufacturer, packager or seller, the place of origin or provenance of the foodstuff, and instructions for use when it would otherwise be impossible

to make appropriate use of the foodstuff. Articles 4 to 14 lay down special rules, definitions or derogations from those compulsory particulars listed in Article 3.

11 Under Article 4(2) of the directive, additional particulars may be required for certain foodstuffs by Community provisions.

12 On 27 January 1997, the European Parliament and the Council adopted Directive 97/4/EC amending Directive 79/112 (OJ 1997 L 43, p. 21). Article 1 of that directive repeals the second paragraph of Article 14 of Directive 79/112 and replaces it with a new Article 13a, requiring, *inter alia*, the labelling of foodstuffs in a language easily understood by the consumer and permitting Member States to stipulate, in accordance with the rules of the Treaty, that the labelling particulars required by the directive are to be given in at least one or more official languages of the Community.

13 Being uncertain as to the interpretation of Article 14 of the directive, the Amtsgericht Aachen decided to stay proceedings and refer the following questions to the Court of Justice for a preliminary ruling:

'1. Does a trader act in accordance with Article 14 of Council Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer, if he puts foodstuffs on the market in the Federal Republic of Germany which are labelled in Italian, French or English?

2. If not, does the trader satisfy the requirements of Article 14 of Council Directive 79/112/EEC at least if he places in his shop, adjacent to the product in question, a supplementary sign containing the prescribed particulars in German?'

14 It should be recalled at the outset that, in proceedings under Article 177 of the Treaty, the Court has no jurisdiction to apply the rules of Community law to a specific case. It may, however, provide the national court with an interpretation of all relevant provisions of Community law which might be useful to it in assessing the effects of its national provisions (see, *inter alia*, Case 37/86 *Van Gastel* v *Rijksdienst and Rijkskas* [1987] ECR 3589, paragraph 8).

15 Having regard to the information on file in the main proceedings, the national court is thus essentially asking in its first question whether Article 14 of the directive precludes national legislation which prescribes the use of a specific language for the labelling of foodstuffs, but which also permits the use of another language easily intelligible to purchasers. It then asks, in its second question, whether the placing in the shop, adjacent to the product in question, of a supplementary sign containing the prescribed particulars in a language which is easily understood, is sufficient to ensure that the consumer is informed.

Question 1

16 The Court has ruled in Case C-369/89 *Piageme* v *Peeters* [1991] ECR I-2971 that Article 30 of the EEC Treaty and Article 14 of the directive preclude a national law from requiring the exclusive use of a specific language for the labelling of foodstuffs, without allowing for the possibility of using another language easily understood by purchasers or of ensuring that the purchaser is informed by other means.

17 The Court has further held in Case C-85/94 *Piageme* v *Peeters* [1995] ECR I-2955 ('*Piageme II*') that Article 14 of the directive precludes a Member State, having regard to the requirement of a language easily understood by purchasers, from

requiring the use of the language most widely spoken in the area in which the product is offered for sale, even if the use at the same time of another language is not excluded.

18 Unlike the legislation at issue in those cases, this case concerns national legislation which, whilst prescribing the use of a specific language for the labelling of foodstuffs, also allows, as an alternative, the use of another language easily understood by purchasers. Such legislation does not impose a stricter obligation than that of using a language that is easily understood.

19 It follows that, so far as language requirements are concerned, Article 14 of the directive does not preclude such legislation.

20 In that respect, it is for the national court to assess, in the light of all the circumstances of each individual case, the ease with which the information supplied can be understood. That assessment must be made in respect of each of the particulars required by the directive and must take account of the fact that the directive provides for the possibility of stating the required particulars not only by using a language but also by means of other measures such as designs, symbols or pictograms (see *Piageme II*, paragraph 27 et seq.)

21 In the light of the above, the answer to the first question must be that Article 14 of the directive does not preclude national legislation which, as regards language requirements, prescribes the use of a specific language for the labelling of foodstuffs but which also permits, as an alternative, the use of another language easily understood by purchasers.

Question 2

22 In its second question, the national court essentially asks whether the placing in the shop, adjacent to the product in question, of a supplementary sign containing the prescribed particulars in a language which is easily understood, is sufficient to ensure that the consumer is informed.

23 On that point, it is sufficient to recall that, at paragraph 26 of its judgment in *Piageme II*, the Court of Justice held that consumer protection is not ensured by measures other than labelling such as, for example, information supplied at the sales point or as part of wide-ranging advertising campaigns.

24 The Court reached that conclusion on the view that the aim of Article 14 of the directive, which is to inform and protect consumers, would not be attained if they did not always have access to the compulsory particulars specified in the directive, not only at the time of purchase, but also at that of consumption. The Court further pointed out that the ultimate consumer is not necessarily the person who purchased the foodstuffs (see *Piageme II*, paragraphs 23 to 25).

25 The answer to the second question must therefore be that all the compulsory particulars specified in the directive must appear on the labelling either in a language easily understood by consumers of the State or the region in question, or by means of other measures such as designs, symbols or pictograms. The placing in the shop of a supplementary sign adjacent to the product in question is not sufficient to ensure that the ultimate consumer is informed and protected.

Costs

26 The costs incurred by the Belgian, French, Austrian and Swedish Governments and by the Commission of the European Communities, which have 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 (Fifth Chamber),

in answer to the questions referred to it by the Amtsgericht Aachen by order of 6 November 1996, hereby rules:

1) **Article 14 of Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer does not preclude national legislation which, as regards language requirements, prescribes the use of a specific language for the labelling of foodstuffs but which also permits, as an alternative, the use of another language easily understood by purchasers.**

2. **All the compulsory particulars specified in Directive 79/112 must appear on the labelling either in a language easily understood by consumers of the State or the region in question, or by means of other measures such as designs, symbols or pictograms. The placing in the shop of a supplementary**

sign adjacent to the product in question is not sufficient to ensure that the ultimate consumer is informed and protected.

Gulmann Moitinho de Almeida Edward

Puissochet Sevón

Delivered in open court in Luxembourg on 14 July 1998.

R. Grass C. Gulmann

Registrar President of the Fifth Chamber