Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

4 October 2024*

(Appeal – Protection of designations of origin and geographical indications – Regulation (EU) No 1151/2012 – Articles 7 and 8 – Article 49(2) and Article 50(1) – Scope of the European Commission's control of the applications for registration of a name as a geographical indication – Division of powers between the national authorities and the Commission – Conditions for registration of a name)

In Case C-579/23 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 19 September 2023,

Cunsorziu di i Salamaghji Corsi – Consortium des Charcutiers Corses, established in Borgo (France),

Charcuterie Fontana, established in Borgo,

Costa et Fils, established in Urtaca (France),

L'Aziana, established in Bastelica (France),

Charcuterie Passoni, established in Venzolasca (France),

Orezza – Charcuterie la Castagniccia, established in San-Giuliano (France),

Salaisons Réunies, established in Penta-di-Casinca (France),

Salaisons Joseph Pantaloni, established in Sarrola-Carcopino (France),

Antoine Semidei, established in Castellare-di-Casinca (France),

L'Atelu Corsu, established in Ajaccio (France),

represented by T. de Haan and V. Le Meur-Baudry, avocats,

appellants,

the other party to the proceedings being:

* Language of the case: French.

European Commission, represented by M. Konstantinidis, C. Perrin, and B. Rechena, acting as Agents,

defendant at first instance,

THE COURT (First Chamber),

composed of A. Arabadjiev, President of the Chamber, T. von Danwitz, P.G. Xuereb, A. Kumin and I. Ziemele (Rapporteur), Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after hearing the Opinion of the Advocate General at the sitting on 27 June 2024,

gives the following

Judgment

1 By their appeal, the appellants seek to have set aside the judgment of the General Court of the European Union of 12 July 2023, *Cunsorziu di i Salamaghji Corsi – Consortium des Charcutiers Corses and Others* v *Commission* (T-34/22, EU:T:2023:386; 'the judgment under appeal'), by which the General Court dismissed their action seeking the annulment of Commission Implementing Decision (EU) 2021/1879 of 26 October 2021 rejecting three applications for protection of a geographical indication in accordance with Article 52(1) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council ['Jambon sec de l'Île de Beauté' (PGI), 'Lonzo de l'Île de Beauté' (PGI), 'Coppa de l'Île de Beauté' (PGI)] (OJ 2021 L 383, p. 1; 'the decision at issue').

Legal context

2 Recitals 19, 58 and 61 of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ 2012 L 343, p. 1) are worded as follows:

'(19) Ensuring uniform respect throughout the [European] Union for the intellectual property rights related to names protected in the Union is a priority that can be achieved more effectively at Union level.

…

(58) To ensure that registered names of designations of origin and geographical indications and traditional specialities guaranteed meet the conditions laid down by this Regulation, applications should be examined by the national authorities of the Member State concerned, in compliance with minimum common provisions, including a national opposition procedure. The [European] Commission should subsequently scrutinise

applications to ensure that there are no manifest errors and that Union law and the interests of stakeholders outside the Member State of application have been taken into account.

…

(61) The registration procedure for protected designations of origin, protected geographical indications and traditional specialities guaranteed, including the scrutiny and the opposition periods, should be shortened and improved, in particular as regards decision making. The Commission, in certain circumstances acting with the assistance of Member States, should be responsible for decision-making on registration. …'

3 Title II of Regulation No 1151/2012, entitled 'Protected designations of origin and protected geographical indications', contains Article 6, itself entitled 'Generic nature, conflicts with names of plant varieties and animal breeds, with homonyms and trade marks', the first subparagraph of paragraph 3 of which provides:

'A name proposed for registration that is wholly or partially homonymous with a name already entered in the register established under Article 11 may not be registered unless there is sufficient distinction in practice between the conditions of local and traditional usage and presentation of the homonym registered subsequently and the name already entered in the register, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.'

4 Article 7(1) of that regulation, entitled 'Product specification', provides:

'A protected designation of origin or a protected geographical indication shall comply with a specification which shall include at least:

(a) the name to be protected as a designation of origin or geographical indication, as it is used, whether in trade or in common language, and only in the languages which are or were historically used to describe the specific product in the defined geographical area;

…'

5 Article 8(1)(b) of that regulation provides, inter alia, that an application for registration of a geographical indication is to include at least the product specification provided for in Article 7.

6 Pursuant to Article 11(1) of that regulation:

'The Commission shall adopt implementing acts … establishing and maintaining a publicly accessible updated register of protected designations of origin and protected geographical indications recognised under this scheme.'

7 Article 13 of Regulation No 1151/2012, headed 'Protection', provides:

'1. Registered names shall be protected against:

…

(b) any misuse, imitation or evocation, even if the true origin of the products or services is indicated or if the protected name is translated or accompanied by an expression such as "style", "type", "method", "as produced in", "imitation" or similar, including when those products are used as an ingredient;

…

3. Member States shall take appropriate administrative and judicial steps to prevent or stop the unlawful use of protected designations of origin and protected geographical indications, as referred to in paragraph 1, that are produced or marketed in that Member State.

To that end Member States shall designate the authorities that are responsible for taking these steps in accordance with procedures determined by each individual Member State.

These authorities shall offer adequate guarantees of objectivity and impartiality, and shall have at their disposal the qualified staff and resources necessary to carry out their functions.'

8 Article 49 of that regulation, entitled 'Application for registration of names', states:

'…

2. Where the application under the scheme set out in Title II relates to a geographical area in a Member State, or where an application under the scheme set out in Title III is prepared by a group established in a Member State, the application shall be addressed to the authorities of that Member State.

The Member State shall scrutinise the application by appropriate means in order to check that it is justified and meets the conditions of the respective scheme.

3. As part of the scrutiny referred to in the second subparagraph of paragraph 2 of this Article, the Member State shall initiate a national opposition procedure that ensures adequate publication of the application and that provides for a reasonable period within which any natural or legal person having a legitimate interest and established or resident on its territory may lodge an opposition to the application.

…

4. If, after assessment of any opposition received, the Member State considers that the requirements of this Regulation are met, it may take a favourable decision and lodge an application dossier with the Commission. It shall in such case inform the Commission of admissible oppositions received from a natural or legal person that have legally marketed the products in question, using the names concerned continuously for at least five years preceding the date of the publication referred to in paragraph 3.

…'

9 Article 50 of that regulation, entitled 'Scrutiny by the Commission and publication for opposition', provides:

'1. The Commission shall scrutinise by appropriate means any application that it receives pursuant to Article 49, in order to check that it is justified and that it meets the conditions of the respective scheme. This scrutiny should not exceed a period of six months. Where this period is exceeded, the Commission shall indicate in writing to the applicant the reasons for the delay.

…

2. Where, based on the scrutiny carried out pursuant to the first subparagraph of paragraph 1, the Commission considers that the conditions laid down in this Regulation are fulfilled, it shall publish in the *Official Journal of the European Union*:

(a) for applications under the scheme set out in Title II, the single document and the reference to the publication of the product specification;

…'

10 Article 52 of that regulation, entitled 'Decision on registration', provides in paragraph 1 thereof:

'Where, on the basis of the information available to the Commission from the scrutiny carried out pursuant to the first subparagraph of Article 50(1), the Commission considers that the conditions for registration are not fulfilled, it shall adopt implementing acts rejecting the application. …'

Background to the dispute

11 The background to the case was summarised in paragraphs 4 to 10 of the judgment under appeal as follows:

'4 The names "Jambon sec de Corse"/"Jambon sec de Corse – Prisuttu", "Lonzo de Corse" /"Lonzo de Corse – Lonzu" and "Coppa de Corse"/"Coppa de Corse – Coppa di Corsica" were registered as protected designations of origin (PDOs) on 28 May 2014, respectively, by Commission Implementing Regulation (EU) No 581/2014 (OJ 2014 L 160, p. 23), Commission Implementing Regulation (EU) No 580/2014 (OJ 2014 L 160, p. 21) and Commission Implementing Regulation (EU) No 582/2014 (OJ 2014 L 160, p. 25) […]

5 In December 2015, [Cunsorziu di i Salamaghji Corsi – Consortium des Charcutiers Corses] filed seven applications for registration as a protected geographical indication (PGI) with the French national authorities, pursuant to [Regulation No 1151/2012]. The seven applications concern the following names, used by the [appellants]: "Jambon sec de l'Île de Beauté", "Coppa de l'Île de Beauté", "Lonzo de l'Île de Beauté", "Saucisson sec de l'Île de Beauté", "Pancetta de l'Île de Beauté", "Figatelli de l'Île de Beauté" and "Bulagna de l'Île de Beauté".

6 On 20 April 2018, the Minister for Agriculture and Food and the Minister for Economics and Finance issued seven decrees approving the seven corresponding specifications with a view to forwarding them to the European Commission for approval.

7 At the same time, by applications lodged on 27 June 2018 before the Conseil d'État (Council of State, France), the union holding the specifications of the PDOs "Jambon sec de Corse – Prisuttu", "Coppa de Corse – Coppa di Corsica" and "Lonzo de Corse – Lonzu" applied for the annulment of the decrees of 20 April 2018 concerning the approval of the specifications of the names "Jambon sec de l'Île de Beauté", "Coppa de l'Île de Beauté" and "Lonzo de l'Île de Beauté" with a view to forwarding their applications for registration as a PGI to the Commission, on the ground, inter alia, that the term "Île de Beauté" imitated or evoked the term "Corsica" and therefore caused confusion with the names already registered as PDOs.

8 On 17 August 2018, the seven applications for registration as PGIs of the names at issue were forwarded to the Commission. As regards the applications for registration as PGIs of the names "Jambon sec de l'Île de Beauté", "Lonzo de l'Île de Beauté" and "Coppa de l'Île de Beauté", the Commission sent two letters, on 12 February 2019 and 24 November 2020, to the national authorities seeking clarification, in particular as regards the issue of their ineligibility, if any, for registration. The national authorities replied, in essence, that they considered that the two groups of products (that is to say, the registered PDOs and the applications for protection as [PGIs]) were clearly dissimilar as regards the products and that the names appeared to them to be sufficiently distinct.

9 By judgment of 19 December 2019, relating to the name "Jambon sec de l'Île de Beauté" (PGI) and two judgments of 13 February 2020, relating to the names "Coppa de l'Île de Beauté" (PGI) and "Lonzo de l'Île de Beauté" (PGI) respectively, the Conseil d'État (Council of State) rejected the three abovementioned applications (see paragraph 7 above), on the ground, inter alia, that "the use of different terms and the difference in the protection conferred by a designation of origin, on the one hand, and by a geographical indication, on the other, are such as to dispel the risk that consumers, who are reasonably well informed and reasonably observant and circumspect, have, in the presence of the contested geographical indication, directly in mind, as a reference image, the goods enjoying the protected designation of origin already registered[;] consequently, the [appellants] are not entitled to maintain that the contested decree infringes the provisions … of Article 13(1)(b) of Regulation [No 1151/2012]" (paragraph 5 of the three judgments of the Conseil d'État (Council of State)).

10 By the [decision at issue], the Commission rejected the three applications for registration of the names "Jambon sec de l'Île de Beauté", "Lonzo de l'Île de Beauté" and "Coppa de l'Île de Beauté", on the ground that, since those names had been used in breach of Article 13 of Regulation No 1151/2012, those applications did not comply with the eligibility criteria for registration, namely Article 7(1)(a) of that regulation.'

The procedure before the General Court and the judgment under appeal

12 By application lodged at the Registry of the General Court on 24 January 2022, the appellants brought an action under Article 263 TFEU seeking the annulment of the decision at issue.

13 In support of their action, the appellants raised two pleas in law, alleging, first, that the Commission exceeded its powers and, second, that the national authorities and the Conseil d'État (Council of State) had sufficiently demonstrated that the three applications for registration that were rejected by the decision at issue complied with Articles 7 and 13 of Regulation No 1151/2012.

14 In the first place, after setting out, first of all, in paragraphs 21 to 24 of the judgment under appeal, the principles underlying the system of protection of PDOs and PGIs established by Regulation No 1151/2012, the General Court recalled, in paragraph 38 of that judgment, that it is for the Commission, under Article 52(1) of that regulation, to refuse registration if it considers the use, in trade, of the name – the registration of which is sought – to be unlawful.

15 Next, in paragraphs 42 to 44 of the judgment under appeal, the General Court stated that the Commission had a margin of independent discretion when scrutinising applications for registration. The General Court found, in paragraph 49 of that judgment, that the Commission had indeed scrutinised the applications for registration.

16 Lastly, for the reasons set out in paragraphs 51 to 60 of that judgment, the General Court rejected the appellants' arguments that the Commission has only limited, if any, discretion when scrutinising an application for registration of a name as a PDO or PGI.

17 In the second place, after rejecting the appellants' arguments seeking to show that the Commission was bound by the assessments of the national authorities as regards the risk of evocation created by the names the registration of which is sought, the General Court, in paragraphs 78 to 108 of the judgment under appeal, examined the evidence on the basis of which the Commission rejected the applications at issue. It concluded that the Commission had not made an error of assessment in that regard.

18 The General Court therefore dismissed the action in its entirety.

Forms of order sought by the parties

19 The appellants claim that the Court should:

– set aside the judgment under appeal;

– annul the decision at issue, and

– order the Commission to pay the costs.

20 The Commission contends that the Court should:

– dismiss the appeal and

– order the appellants to pay the costs.

The request for referral to the Grand Chamber

21 By document lodged at the Registry of the Court of Justice on 23 January 2024, the appellants requested that the present case be assigned to a chamber of the Court sitting in extended composition, or even to the Grand Chamber.

22 In that regard, it should be noted at the outset that no provision in the Statute of the Court of Justice of the European Union or in its Rules of Procedure sets out how a request of this type made by a party to the proceedings other than a Member State or an EU institution might be dealt with in the context of an appeal (see, to that effect, judgment of 17 July 2014, *Leone*, C-173/13, EU:C:2014:2090, paragraph 19).

23 It is true that, under Article 60(3) of the Rules of Procedure of the Court of Justice, the formation to which a case has been assigned may, at any stage of the proceedings, refer the case back to the Court of Justice in order that it may be reassigned to a formation composed of a greater number of judges, but that constitutes a measure which the formation to which the case has been assigned in principle decides on freely and of its own motion (see, to that effect, judgment of 17 July 2014, *Leone*, C-173/13, EU:C:2014:2090, paragraph 20).

24 In the present case, the First Chamber of the Court considers that there is no need to reassign the case to the Grand Chamber.

The appeal

25 In support of their appeal, the appellants put forward four grounds of appeal. The first ground of appeal alleges infringement of Articles 7 and 13 of Regulation No 1151/2012, in that the General Court allowed the Commission to reject an application for registration on the basis of Article 13 of that regulation. The second ground of appeal alleges infringement of Articles 49, 50 and 52 of that regulation, in that the General Court authorised the Commission to exceed its powers. The third ground of appeal alleges infringement of Article 50 of that regulation and breach of the general principle of sound administration, in that the General Court held that the Commission was not required to take into account the assessments of the national authorities and courts. The fourth ground of appeal alleges infringement of Articles 7 and 13 of Regulation No 1151/2012 and of the General Court's obligation to state the reasons on which its judgments are based.

26 Since, by their second ground of appeal, the appellants allege infringement by the General Court of the rules on the division of powers between the national authorities, on the one hand, and the Commission, on the other, in the context of the scrutiny of applications for registration of names as PGIs, it is appropriate to begin by examining that ground of appeal before ruling on the first, third and fourth grounds of appeal relating to the application of the conditions required for such registration.

The second ground of appeal

Arguments of the parties

27 By their second ground of appeal, the appellants submit that the General Court erred in law by holding, in paragraph 44 of the judgment under appeal, that the Commission had not exceeded the limits of its powers under Regulation No 1151/2012. According to the appellants, having regard to the rules on the division of powers between that institution and the national authorities, as laid down in Article 49(2) and Article 50(1) of that regulation, the Commission's powers are limited, contrary to what the General Court held in paragraphs 50 to 61 of the

judgment under appeal, to verifying that the national authorities sent it complete files without committing manifest errors of assessment regarding the eligibility conditions of the names referred to in those applications. However, the decision at issue is not based on such grounds.

28 In any event, according to the appellants, it is not for the Commission to substitute its assessment for that of the national authorities, a fortiori where the ground for refusal relied on by that institution has already been rejected by a national court by virtue of a final decision.

29 The Commission disputes those arguments.

Findings of the Court

30 In the first place, under the wording of Article 49(2) of Regulation No 1151/2012, where an application for registration of a name as a PGI relates to a geographical area in a Member State, it is addressed to the authorities of that Member State, which is to scrutinise it by 'appropriate means' to check that it is justified and meets the conditions for registration laid down in that regulation. That Member State must, in accordance with Article 49(3) of that regulation, initiate a national opposition procedure that ensures adequate publication of the application and that provides for a reasonable period within which any natural or legal person having a legitimate interest and established or resident on its territory may lodge an opposition to the application.

31 After examining the admissibility of the oppositions received, if the Member State considers that the application meets the requirements of Regulation No 1151/2012, it may, under Article 49(4) of that regulation, take a favourable decision by ensuring that it is published and that any person having a legitimate interest has access to legal remedies. At the end of that national stage, that Member State lodges an application dossier with the Commission and informs it of admissible objections.

32 Under Article 50(1) of Regulation No 1151/2012, the Commission is to scrutinise, by 'appropriate means', the application that it receives pursuant to Article 49 of that regulation, in order to check that it is justified and that it meets the conditions for registration of the name applied for.

33 It follows that the provisions of Regulation No 1151/2012 establish a system of division of powers, under which the Commission may decide to register a name as a PDO or as a PGI only if the authorities of the Member State concerned have submitted an application to that effect; those authorities are to have checked that that application is justified and that it meets the conditions for registration laid down by that regulation (see, by analogy, judgment of 6 December 2001, *Carl Kühne and Others*, C-269/99, EU:C:2001:659, paragraph 53). It is from that perspective that the Court noted, in paragraph 36 of the judgment of 29 January 2020, *GAEC Jeanningros* (C-785/18, EU:C:2020:46), that the Commission's decision on registration is subject to the prior decision taken by the competent national authorities on the application for registration.

34 Furthermore, although the Court has already held that the Commission may base its assessment on that previously made by the national authorities where that assessment is not vitiated by a manifest error (see, by analogy, judgments of 6 December 2001, *Carl Kühne and Others*, C-269/99, EU:C:2001:659, paragraph 60, and of 2 July 2009, *Bavaria and Bavaria Italia*, C-343/07, EU:C:2009:415, paragraphs 90, 93 and 99), it did not rule that the Commission was bound by the assessment of those authorities as regards, inter alia, the compatibility of the name at issue with EU law.

35 In that regard, in the context of that division of powers, it should be noted, first, that both the wording of Article 49(2) of Regulation No 1151/2012 and that of Article 50(1) of that regulation state that applications for registration must be scrutinised, both by the national authorities and by the Commission, by 'appropriate means'. As the General Court held in paragraph 43 of the judgment under appeal with regard to Article 50(1) of that regulation, that provision does not define the concept of 'appropriate means', but leaves it to the Commission to assess the nature and scope of those means, so that the appellants cannot claim that the scrutiny carried out by the national authorities under Article 49(2) of that regulation is binding on the Commission.

36 Second, Article 50(1) of Regulation No 1151/2012 states that the Commission is to check whether applications for registration are justified and meet the conditions laid down in that regulation.

37 It is in no way apparent from that provision that the scrutiny of the conditions for registration by the Commission is limited, in any way, by the initial scrutiny carried out by the national authorities.

38 The General Court was therefore fully entitled to hold, in paragraph 44 of the judgment under appeal, that the Commission is not bound by the assessment of the national authorities and that it has a margin of independent discretion as regards its decision to register a name as a PGI. As is apparent from paragraph 59 of that judgment, the Commission has 'limited, if any' discretion only as regards the assessment of the legality of the documents constituting the file relating to the application for registration gathered by the national authorities (see, to that effect, judgment of 29 January 2020, *GAEC Jeanningros*, C-785/18, EU:C:2020:46, paragraphs 25, 26 and 36).

39 In the second place, that independent discretion on the part of the Commission is supported, first, by a reading of recital 19 of Regulation No 1151/2012, which states that ensuring uniform respect throughout the European Union for intellectual property rights related to names protected in the European Union is a priority that can be achieved more effectively at EU level. As the Advocate General observes in point 63 of his Opinion, the Commission is vested, in the context of the attainment of that objective, with the power to ensure the uniform application of the conditions for registration, so that, in the absence of independent discretion in that regard, the Commission would not be able to prevent those conditions for registration from being applied differently within the Member States.

40 Second, recital 58 of Regulation No 1151/2012 states that the applications should be examined by the national authorities, in compliance with minimum common provisions, including a national objection procedure. According to that recital, the Commission should subsequently scrutinise applications to ensure that there are no manifest errors and that EU law and the interests of stakeholders outside the Member State of application have been taken into account.

41 If the scrutiny of applications for registration by the Commission were to be limited, as the appellants claim, to verifying that the files are complete and that there are no manifest errors, that institution would be unable to 'scrutinise' the applications as provided for by recital 58 of Regulation No 1151/2012. In the context of scrutinising the applications, the Commission cannot be prevented from verifying whether that application complies with the conditions for registration laid down by that regulation, as required by Article 50(1) of that regulation. That is borne out by the significance which the wording of that recital attaches to compliance both by the application for registration and by the national authorities with the minimum common requirements resulting in particular from that regulation.

42 In addition, it should be noted that, according to recital 61 of that regulation, the Commission should be responsible for decision-making on registration. The Commission can assume final responsibility for decision-making on registration only if it has independent discretion, without being bound by the outcome of the preliminary scrutiny of the conditions for registration carried out by the national authorities.

43 Accordingly, the General Court did not err in law in holding, in paragraph 44 of the judgment under appeal, that the Commission did not disregard the limits of its powers when it checked, pursuant to Article 50 of Regulation No 1151/2012, whether the conditions for registration of a name were met.

44 It also held, correctly, in paragraphs 63 and 64 of the judgment under appeal, that, since the Commission has independent discretion, a decision of a national court which has the force of *res judicata* cannot be relied upon in order to call into question the Commission's assessment.

45 The second ground of appeal must therefore be dismissed as unfounded.

The first ground of appeal

Arguments of the parties

46 By their first ground of appeal, the appellants submit that the General Court erred in law in holding that Article 13(1)(b) of Regulation No 1151/2012 could serve as a basis for a Commission decision rejecting an application for registration.

47 First, in paragraph 35 of the judgment under appeal, the General Court wrongly held that the Commission is competent to determine whether there has been an infringement of the protection of registered names against any evocation provided for in Article 13(1)(b) of Regulation No 1151/2012, even though Article 13(3) of that regulation reserves that power to the Member States.

48 Second, by proceeding in that way, the General Court extended the number of eligibility conditions for registration laid down in Article 7 of that regulation, by incorrectly including in that number the examination of the requirement referred to in Article 13(1)(b) of that regulation, namely that the name in respect of which registration as a PGI is sought does not infringe the protection against evocation.

49 Third, the General Court confined itself, in paragraphs 38 and 39 of the judgment under appeal, to endorsing the Commission's erroneous assertion that the use in trade of the names concerned by the applications for registration was unlawful, even though the Commission did not have the evidence to enable it to assess the conditions in which the products concerned by those names are marketed. The error of law thus committed by the General Court also results in any coexistence between a PDO and a PGI being prohibited.

50 The Commission disputes those arguments.

Findings of the Court

51 Under Article 13(1)(b) of Regulation No 1151/2012, registered names are to be protected against any misuse, imitation or evocation, even if the true origin of the products or services is indicated or if the protected name is translated or accompanied by an expression such as 'style', 'type', 'method', 'as produced in', 'imitation' or similar.

52 It is apparent from Article 7(1) and Article 8(1)(b) of that regulation that the preparation of the specification, which a PGI must comply with, constitutes a necessary step in the registration procedure. That specification must, inter alia, pursuant to Article 7(1)(a) of that regulation, include the name in respect of which protection is sought as it 'is used, whether in trade or in common language'.

53 As the General Court held, in essence, in paragraph 36 of the judgment under appeal, a name cannot be registered as a PGI if it is found that that name is evocative of a name which is already registered as a PDO. As the Advocate General observes in point 75 of his Opinion, such registration would necessarily render ineffective the protection granted to the previously registered name.

54 It is true that Article 13(3) of that regulation stipulates that Member States are to prevent and stop the use of names that evoke a name registered as a PDO or a PGI, and which are produced or marketed in their territory. Accordingly, evocation can be established only after the national authorities have carried out an overall assessment, including all the relevant factors in the case (see, by analogy, judgment of 9 September 2021, *Comité Interprofessionnel du Vin de Champagne*, C-783/19, EU:C:2021:713, paragraph 60).

55 However, as the General Court pointed out in paragraph 42 of the judgment under appeal, Article 50(1) of Regulation No 1151/2012 requires the Commission to check that the application for registration meets the conditions of that regulation.

56 Since a name that evokes a name that has already been registered does not comply with Article 13(1)(b) of Regulation No 1151/2012, it cannot enjoy the protection provided for by that regulation. The requirement arising from Article 7(1)(a) and Article 8(1)(b) of that regulation, according to which, in order to be eligible for registration, the name must be mentioned in the specification contained in that application as that name 'is used, whether in trade or in common language', necessarily implies use that is free of any infringement of the provisions of that regulation.

57 Furthermore, Article 6(3) of Regulation No 1151/2012 expressly provides that a name proposed for registration which is wholly or partially homonymous with a name already entered in the register established under Article 11 of that regulation may not be registered unless there is sufficient distinction in practice between the conditions of local and traditional usage and presentation of the homonym registered subsequently and the name already entered in the register. In accordance with that provision, respect for the protection granted to a previously registered name is one of the conditions for registration which the Commission is required to check under Article 50(1) of that regulation.

58 Therefore, the Commission is required, before adopting a decision on registration, to verify that the name for which registration is sought does not undermine the protection enjoyed throughout the European Union by another name which has already been registered.

59 Consequently, the General Court did not err in law in holding, in paragraphs 36 and 37 of the judgment under appeal, that it was, in the present case, for the Commission to verify that the use of the names for which registration is sought did not infringe the protection against evocation provided for in Article 13(1)(b) of Regulation No 1151/2012 enjoyed by a name registered as a PDO.

60 That conclusion is not called into question by the appellants' argument that that assessment by the General Court amounts to calling into question the principle of coexistence between a name registered as a PDO and a name registered as a PGI.

61 First, it is common ground that the Court has held that the principles developed in each system of protection may be applied horizontally so as to ensure the consistent application of the provisions of EU law relating to the protection of names and geographical indications (judgment of 9 September 2021, *Comité Interprofessionnel du Vin de Champagne*, C-783/19, EU:C:2021:713, paragraph 32).

62 Second, there may be a risk of evocation irrespective of the rules applying to names already registered and those applying to names for which registration is sought. It is common ground that the concept of 'evocation' covers a situation in which the sign used to designate a product incorporates part of a protected designation so that when the consumer is confronted with the name of the product, the image triggered in his or her mind is that of the product whose designation is protected (judgment of 9 September 2021, *Comité Interprofessionnel du Vin de Champagne*, C-783/19, EU:C:2021:713, paragraph 55 and the case-law cited).

63 In those circumstances, the General Court also did not err in law in finding, in paragraph 39 of the judgment under appeal, that there was a risk of evocation between a name protected as a PDO and the names for which registration as a PGI is sought.

64 In so far as the appellants challenge the General Court's findings, in paragraphs 38 and 39 of the judgment under appeal, relating to the comparison between names registered as PDOs and the names for which registration is sought, it should be borne in mind that those factual assessments cannot be called into question, save where the facts are distorted, at the appeal stage (see, to that effect, judgment of 14 September 2017, *EUIPO* v *Instituto dos Vinhos do Douro e do Porto*, C-56/16 P, EU:C:2017:693, paragraph 126). Since the appellants have not alleged such distortion, their arguments in that regard must be rejected as inadmissible.

65 It follows that the first ground of appeal must be rejected as being in part unfounded and in part inadmissible.

The third ground of appeal

Arguments of the parties

66 By their third ground of appeal, the appellants claim that the General Court infringed Article 51 of Regulation No 1151/2012 and breached the principle of sound administration by refusing to recognise, in paragraph 76 of the judgment under appeal, that, when scrutinising applications for registration, the Commission is required to take into account the assessments of the national authorities and courts.

67 The Commission contends that that ground of appeal must be rejected.

Findings of the Court

68 First, as has been held in paragraph 43 of the present judgment, the General Court was fully entitled to rule that the Commission has independent discretion when scrutinising applications for registration.

69 In addition, it is apparent from Article 52(1) of Regulation No 1151/2012 that, when the Commission adopts implementing acts rejecting an application for registration, it relies not only on the scrutiny carried out in accordance with Article 50(1) of that regulation, but also 'on the basis of the information available [to it]', the latter clarification necessarily including the information provided by the Member State.

70 It must be stated that the appellants, under the guise of claiming that the Commission had not taken into consideration the assessments of the national authorities when adopting the decision at issue contrary to the principle of sound administration, in reality claim that the Commission was bound by those assessments and should, consequently, have granted registration of the names applied for. That line of argument overlaps with that put forward in support of the second ground of appeal, which has not been upheld.

71 Second, the appellants dispute the General Court's assessments of the risk of evocation in order to confirm the Commission's rejection of the applications for registration, without, however, demonstrating that, in so doing, the General Court distorted the facts and the evidence.

72 As has been recalled in paragraph 64 of the present judgment, those factual assessments cannot be called into question at the appeal stage.

73 Consequently, the third ground of appeal must be rejected as being in part unfounded and in part inadmissible.

The fourth ground of appeal

Arguments of the parties

74 By their fourth ground of appeal, the appellants claim, in the first place, that by holding, in paragraphs 88, 89 and 94 of the judgment under appeal, that two designations being synonymous necessarily entails evocation within the meaning of Article 13(1)(b) of Regulation No 1151/2012, the General Court erred in law. Accordingly, designations being synonymous is not in itself sufficient to give rise to a risk of evocation, since such a finding is possible only on the basis of an overall assessment of the facts set out in the file.

75 In the second place, in paragraphs 78 and 81 of the judgment under appeal, the General Court wrongly endorsed the Commission's assessment that only a particularly well-informed public would be aware of the qualitative differences between the products whose names are protected as PDOs and those whose names are the subject of an application for registration as PGIs. The difference in price between the products concerned enables consumers to distinguish between them.

76 The Commission disputes those arguments.

Findings of the Court

77 As regards the first complaint, it should be noted that, in paragraph 93 of the judgment under appeal, the General Court recalled that, for the purposes of assessing whether there is a risk of evocation, it is necessary to take into account the entire name as registered and the entire name for which registration is sought.

78 Since the appellants argued at first instance that the examination of evocation related only to the geographical terms of the names at issue, the General Court merely found, in paragraph 94 of that judgment, that, having regard to the fact that the geographical elements of the names concerned were synonymous, to uphold that argument would necessarily lead to a finding of evocation and would serve the case put forward by the appellants. It follows that the first complaint is based on a misreading of paragraph 94 of that judgment.

79 As regards the second complaint, the appellants criticise the General Court for having confirmed, in paragraphs 78 and 81 of the judgment under appeal, that only a particularly well-informed public knows the qualitative differences between the names protected as PDOs and the names for which registration as PGIs is sought, whereas the price difference between the products at issue is an indication of the difference in quality.

80 It should be borne in mind that the risk of evocation is established where the use of a name creates a sufficiently clear and direct link between that name and the PDO in the mind of an average European consumer who is reasonably well informed and reasonably observant and circumspect. In that regard, the existence of such a link may arise from several factors, namely, in particular, the partial incorporation of the protected designation, the phonetic and visual resemblance of the two names and the resulting similarity, and, even in the absence of those factors, the conceptual proximity between the PDO and the name at issue or the similarity between the products covered by that PDO and the products or services covered by that name. In the context of the assessment carried out by the Commission, it must take account of all the relevant factors surrounding the use of the name in question (judgment of 9 September 2021, *Comité Interprofessionnel du Vin de Champagne*, C-783/19, EU:C:2021:713, paragraph 66).

81 Therefore, the General Court was fully entitled to find, in paragraph 83 of the judgment under appeal, that the price difference between the products protected as a PDO and the products in respect of which registration of a name as a PGI is sought is not, in itself, decisive for the purpose of eliminating evocation which may result from the assessment of the factors referred to in the preceding paragraph of the present judgment.

82 In any event, by claiming that the General Court did not correctly identify the public which should be taken into account in order to rule out any risk of evocation, the appellants seek, in essence, to call into question the General Court's findings relating to the characteristics of the relevant public. It follows from settled case-law that such findings are findings of fact in respect of which the General Court has exclusive jurisdiction (order of 29 October 2020, *Kerry Luxembourg* v *EUIPO*, C-305/20 P, EU:C:2020:882, paragraph 18 and the case-law cited).

83 Accordingly, the fourth ground of appeal must be rejected as in part ineffective and in part inadmissible.

84 Since none of the grounds put forward in support of the appeal has been upheld, the appeal must be dismissed in its entirety.

Costs

85 Under Article 138(1) of the Rules of Procedure, which applies to appeal proceedings by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

86 Since the appellants have been unsuccessful, they must, having regard to the form of order sought by the Commission, be ordered to bear their own costs and to pay those incurred by the Commission.

On those grounds, the Court (First Chamber) hereby:

1. **Dismisses the appeal;**

2. **Orders Cunsorziu di i Salamaghji Corsi – Consortium des Charcutiers Corses, Charcuterie Fontana, Costa et Fils, L'Aziana, Charcuterie Passoni, Orezza – Charcuterie la Castagniccia, Salaisons Réunies, Salaisons Joseph Pantaloni, Antoine Semidei and L'Atelu Corsu to bear their own costs and to pay those incurred by the European Commission.**

[Signatures]