



The protection of the name ‘Aceto Balsamico di Modena’ does not extend to the use of the non-geographical terms of that name such as ‘aceto’ and ‘balsamico’

The name ‘Aceto Balsamico di Modena (PGI)’ (balsamic vinegar from Modena, Italy) has been registered since 2009¹ in the register of protected designations of origin (‘PDO’) and protected geographical indications (‘PGI’).

Balema is a German company that produces and markets vinegar-based products made from wines from the Baden region (Germany). It uses on the labels of those products the terms ‘balsamico’ and ‘deutscher balsamico’, which are included under the legends ‘Theo der Essigbrauer, Holzfassreifung, Deutscher balsamico traditionell, naturtrüb aus badischen Weinen’ (Theo the vinegar brewer, matured in wooden barrels, German balsamic vinegar, traditional, naturally cloudy, made from Baden wines) or ‘1. Deutsches Essig-Brauhaus, Premium, 1868, Balsamico, Rezeptur No 3’ (first German vinegar brewery, premium, 1868, balsamic, recipe No 3).

Consorzio Tutela Aceto Balsamico di Modena, a consortium of producers of products designated by the name ‘Aceto Balsamico di Modena (PGI)’, requested that Balema refrain from using the term ‘balsamico’. In response, Balema brought an action before the German courts seeking a declaration that it has the right to use that term for those products.

The Bundesgerichtshof (Federal Court of Justice, Germany), in the case currently before it, asks the Court of Justice to determine whether the protection of the name ‘Aceto Balsamico di Modena’, which is conferred by the regulation on the protection of geographical indications and designations of origin for agricultural products and foodstuffs² covers only that entire name, that is ‘Aceto Balsamico di Modena’, or extends to the use of the non-geographical terms of that name, that is ‘aceto’, ‘balsamico’ and ‘aceto balsamico’.

In today’s judgment, the Court declared that **the protection of the name ‘Aceto Balsamico di Modena’ does not extend to the use of the individual non-geographical terms** of that name.

The Court emphasises that the registration of the PGI at issue and the protection deriving from it cover the name ‘Aceto Balsamico di Modena’ as a whole, as it is that name that has an undeniable reputation on the national and international market. In contrast, the non-geographical terms of that PGI, that is ‘aceto’ and ‘balsamico’, and their use in combination and in translation cannot benefit from that protection, especially because the term ‘aceto’ is a common term³ and the term ‘balsamico’ is an adjective that is commonly used to refer to a vinegar with a bitter-sweet flavour.

¹ Commission Regulation (EC) No 583/2009 of 3 July 2009 entering a name in the register of protected designations of origin and protected geographical indications [Aceto Balsamico di Modena (PGI)] (OJ 2009 L 175, p. 7).

² Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ 2006 L 93, p. 12). That regulation was in turn largely repealed and replaced with effect from 3 January 2013 by 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).

³ Case [C-193/80](#), Commission v Italy

The Court also observes that the terms 'aceto' and 'balsamico' appear in the registered PDOs 'Aceto balsamico tradizionale di Modena' and 'Aceto balsamico tradizionale di Reggio Emilia' without their use infringing the protection conferred on the PGI at issue.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the national dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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