

Case C-309/89 Codorníu v Council of the European Union [1994] ECR I-01853

Facts: A Council regulation reserved the use of the word 'crémant' for sparkling wines manufactured in France or Luxembourg. A Spanish manufacturer holding that trademark challenged the regulation. The Council argued the manufacturer could not be individually concerned as they were simply a producer like any other. The applicant, on the other hand, contended that the provision regarded only a highly-esteemed group of producers using that term, and that in any event this regulation would cause a detrimental impact on it.

Held: The regulation prevented the Spanish manufacturer from using its trademark. It could not be questioned that this was a legislative measure as it applied to manufacturers in general – the fact that it was possible to determine the number or identity of the affected manufacturers to whom it applied at any given time did not renege its legislative identity. But it could still be of individual concern to some of those manufacturers: the applicant simply had to be differentiated from all other persons. On the facts, by preventing other manufacturers the right to use the word 'crémant', the contested provision prevented the applicant from using its graphic trade mark, which therefore differentiated it.