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The European Court of Justice confirms that Denmark failed to fulfill its obligations by not preventing the use of the designation “Feta” for cheese exported to third countries

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Primo July we published an article about the Advocate General’s opinion on the use of protected designations of origin (PDO) for export to third countries. Read the article [here](#). With the recent judgment from European Court of Justice (ECJ) in case C-159/20, it is established that the opinion has been followed in its substance.

The ECJ interpreted the wording of Article 13 of Regulation No 1151/2012 and concluded that products that are produced within the European Union and intended for export to third countries are not excluded from the prohibition in Article 13 of Regulation no 1151/2012, which prohibits the unlawful use of protected designations of origin and protected geographical indications, that are produced or marketed within the European Union.

According to ECJ the objective pursued by the regulation is to ensure that producers are fairly rewarded for their efforts, by securing correct product information enabling consumers to recognize specific products on the market. Another objective of the regulation is ensuring respect for intellectual property rights. The ECJ stated that it is clear that the use of the PDO “Feta” to designate products produced in the territory of the European Union, which do not correspond to the specifications of that PDO, would undermine both objectives, even if those products are intended to be exported to third countries.

Consequently, the ECJ concluded that it follows both from the wording of Article 13 of Regulation No 1151/2012 and from the context of that provision and from the objectives pursued by the regulation, that the use in question is covered by the conduct prohibited under the regulation, and that by failing to prevent and put an end to such use carried out on its territory, Denmark has failed to fulfil its obligations under Article 13 of Regulation No 1151/2012.

However, in relation to the fulfilment of the duty of sincere cooperation, the ECJ confirms that Denmark did not fail to fulfill its obligation under the principle of sincere cooperation within the meaning of Article 4(3) of TEU, since it has not been established that Denmark has, otherwise than by omission, taken any action or made any statement, which has encouraged the unlawful use of the PDO “Feta”.

The judgment clarifies that the reach of PDO’s goes beyond the borders of the European Union if

the products are produced within the European Union, and this will probably put an end to the almost never ending story about Danish-involved cases on the use of the name “Feta”.



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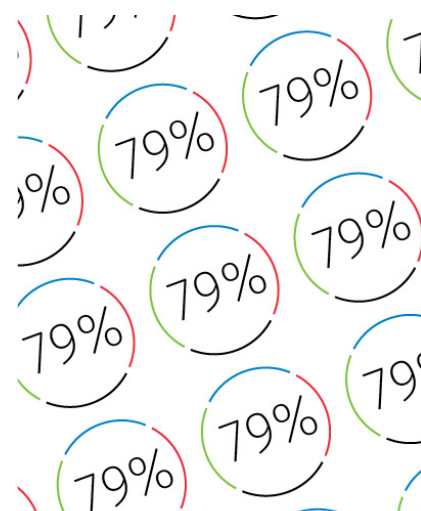
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