



ZWIĄZEK POLSKICH PRZETWÓRCÓW MLEKA

ZPPM/01/08/2024

Warsaw, 9th of August 2024

Directorate-General for Agriculture & Rural Development, Unit F.3

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Via email only:

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Concerns: *Opposition to the Swiss application for registration of "Emmentaler" in the International Register of Appellations of Origin and Geographical Indications (Geneva Act and Lisbon Agreement) published in the EU official journal on 12 April 2024 in accordance with EU Regulation 2019/1753*

Dear Madam, Dear Sir,

As Association of Polish Dairy Processors (PL: Związek Polskich Przetwórców Mleka – APDP/ZPPM: www.zppm.pl), registered under Polish Court of Law Registry (PL: KRS) number: 0000021514 we are the recognized voice of the dairy industry in Poland and as such we herewith lodge an opposition against the above-mentioned registration.

The undoubtable fact that "Emmental/er" is a generic name in the EU is according to **article 6 II f of Reg. (EU) 2019/1753** a ground for opposition.

In the EU Commission's response to the question raised by the EU Parliament on the 25th of June 2018 (EN E-001490/2018) it is clearly said, that "the EU Commission's position remains that the terms "Emmental" and "Emmentaler" are generic." And during the negotiations between the EU and Switzerland on an agreement regarding PDOs and PGIs, the EU Commission declared that "Emmental/er" is a generic name in the EU and therefore cannot be included in the list of PDOs for Switzerland.

The European Court of Justice has confirmed the generic character of 'Emmental/er' (T-2/21, 24.05.2023).

Further facts that clearly prove that "Emmental/er" is a generic name in the EU are the following:

- The export figures of "Emmental/er" (officially published by Eurostat) clearly show that "Emmental/er" is produced and marketed in 22 EU Member States and that there is significant trade of "Emmental/er" among EU Member States. The importance of "Emmental/er" is demonstrated firmly inter alia by the production figures of 234,507 tons in France and 111,602 tons in Germany in 2023.
- "Emmental/er" is defined as a generic name under national law.

- In a legally binding decision, dated June 30, 2005 EUIPO expressly stated that "Emmental/er" is a generic name (Decision No. 2387/2005). EUIPO again decided in the word(collective) mark dispute on October 28, 2020 (R2402/2019-2) that "Emmental" is a generic name and that this is an absolute ground for refusal to register "Emmental/er" as a word(collective)mark. In this decision you will find an excellent overview of all facts about the genericity of "Emmental/er". This decision was finally confirmed by the European Court on May 24, 2023 (T-2/21).
- According to the case law of the European Court of Justice (ECJ) and the European Court, further significant facts for the genericity of a name are the existence of a Codex standard and the listing of a name in Annex B of the International Convention for the Use of Appellations d'Origine and Denominations of Cheeses (so-called Stresa Convention, 1951). "Emmental/er" is a Codex standard since 1967 (Codex standard CXS 269-1967). Furthermore "Emmental/er" is listed in Annex B of the Stresa Convention. The relevant ECJ rulings in this context are T291/03 "Grana", C-448/96 "Guimont" and C-286/86 "Deserbais".
- Germany, France and Spain concluded bilateral agreements with Switzerland in the 60s and 70s. In these bilateral agreements, these countries are authorised to produce and market "Emmental/er" in their countries, a further clear indication of the generic nature of "Emmental/er".
- Also **art. 6 II b of Reg (EU) 2019/1753** serves as solid ground for the opposition: protecting "Emmental/er" for Switzerland in the EU would also have a very negative impact on the PDO "Allgauer Emmentaler" and the PGI's "Emmental francais est-central" and "Emmental de Savoie". We trust the EU Commission, as guardian of the treaties and Competent Authority within the framework of art 3 of the Geneva Act, will make the 'necessary notification' (see art 4 of Council Decision (EU) 2019/1754) and refuse the above-mentioned Swiss application in order to prevent the Swiss protection of origin for "Emmental/er" from being extended to the territory of the EU.

Should you have any further questions, please do not hesitate to contact us.

Sincerely Yours,



Marcin Hydzik
President of APDP Board

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