



## FLASH NEWS

5/24

# MONITORING OF PRELIMINARY RULINGS OVERVIEW OF THE MONTH OF OCTOBER 2024



### Germany – Federal Court of Justice

[dm-drogerie markt, [C-296/23](#)]

#### *Unfair competition - Biocidal products*

The Federal Court of Justice ruled that the use of the term ‘skin-friendly’ in an advertisement for a disinfectant product was unlawful within the meaning of the law against unfair competition. During the COVID-19 pandemic, the German pharmacy chain ‘dm’ sold a disinfectant labelled ‘skin-friendly, organic and alcohol-free’. In the context of proceedings brought by an association against unfair competition against ‘dm’, the Federal Court of Justice asked the Court of Justice about the concept of ‘any similar indication’ within the meaning of the second sentence of Article 72(3) of Regulation (EU) No 528/2012. On the basis of the criteria set out in the dm-drogerie markt judgment ([C-296/23](#)), the German high court concluded that the designation of a biocidal product as ‘skin-friendly’ constituted ‘any similar indication’ falling within the scope of the prohibition contained in the aforementioned provision. It considered that this indication highlighted a positive property of the disinfectant and was therefore likely to minimise the risks of this biocidal product. In addition, highlighting this positive property could lead to excessive use of the disinfectant, which would be contrary to the objective of reducing the use of biocidal products pursued by Regulation (EU) No 528/2012.

*Bundesgerichtshof, [judgment of 10/10/2024, I ZR 108/22 \(DE\)](#)  
Press release ([DE](#))*



### Czech Republic – Brno Regional Court

[Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky, [C-406/22](#)]

#### *Border controls, asylum and immigration - International protection - Concept of ‘safe country of origin’*

Relying on the judgment of the Grand Chamber of the Court of Justice in Case [C-406/22](#), the Brno Regional Court annulled the decision of the Ministry of the Interior rejecting a Moldovan national’s application for international protection on the grounds that Moldova was a safe country of origin. On the one hand, the high court considered, in light of the Court’s ruling, that the concept of safe country of origin provided for in the Czech regulations did not comply with EU law, insofar as, in essence, it made it possible to consider as manifestly unfounded an application submitted by an applicant from a safe country of origin, without assessing the circumstances of the application on its merits. On that basis, it decided to leave the national regulations unapplied. On the other hand, the high court also ruled that Moldova could not be considered a safe country of origin, given that certain parts of its territory do not meet the criteria set out in Directive 2013/32/EU on common procedures for granting and withdrawing international protection. Finally, the high court considered that it was not necessary in this case to examine the application of Article 15 of the European Convention on Human Rights.

*Krajský soud v Brně, [judgment of 16/10/2024, No 41 Az 14/2022-154 \(CS\)](#)*



### Spain – Supreme Court of Justice of Castile and León

[ASCEL, [C-436/22](#)]

#### *Environment - Conservation of natural habitats and wild fauna and flora - Conservation status of wolves*

Relying on the judgment of the Court of Justice in Case [C-436/22](#), the Supreme Court of Justice of Castile and León partially upheld the action brought before it by an association for the protection of animals. It declared null and void the regional decision approving the local wolf exploitation plan, authorising the hunting of wolves in the region north of the River Duero for the years 2019 to 2022. On the one hand, this decision was deemed to be contrary to EU law, in particular Directive 92/44/EC, given that the conservation status of the wolves in the region was described as ‘unfavourable and inadequate’. On the other hand, it was also deemed to be contrary to national regulations on environmental protection, as well as to the case-law of the Constitutional Court.

*Cour supérieure de justice de Castilla y León, [judgment of 24/10/2024 No 1245/2024 \(ES\)](#)*

## Previous decisions



### **Greece – Council of State**

[Kapniki A. Michailidis ([C-99/22](#))]

#### ***Agriculture - Regulation (EEC) No 2062/92 - Premium reductions granted to purchasers of leaf tobacco - Principles of non-retroactivity and protection of legitimate expectations***

In an appeal brought by Kapniki A. Michailidis AE, the Council of State upheld the contested judgment of the Athens Administrative Court of Appeal, which had dismissed the appeal against the decision at first instance of the Athens Administrative Tribunal. The high court dismissed the action seeking annulment of an act of the National Tobacco Board requiring repayment of part of the premium granted to the claimant company as a purchaser of leaf tobacco, on the grounds that it had been wrongly paid to it. The contested measure was based on Article 3(3) of Regulation (EEC) No 2062/92, which provides for the premium to be reduced in proportion to the quantity of tobacco of lower grades, categories or qualities purchased.

Endorsing the Court's argument in Case [C-99/22](#), according to which Article 3(3) of that regulation has retroactive effect, but does not infringe the principles of non-retroactivity of rules of law and the protection of legitimate expectations, the high administrative court dismissed the pleas for annulment put forward by the applicant to challenge the validity of that provision.

*Symvoulío tis Epikrateias, judgment of 18/6/2024, No 884/2024 (EL) (available on request)*



### **Germany – Federal Administrative Court**

[Weingut A, [C-354/22](#)]

#### ***Agriculture - Labelling and presentation in the wine sector - Indication of the winery carrying out the winemaking process***

The Federal Administrative Court ruled that a winery in Moselle, which had its grapes from a rented vineyard pressed in a rented pressing facility, was not authorised to use the terms 'domaine viticole' ['winegrowing estate'] and 'mise en bouteille au domaine' ['bottled at the estate'] in the presentation of its wine. In this context, the Federal Administrative Court had asked the Court of Justice about the condition of winemaking being carried out entirely at the eponymous winery, within the meaning of the second subparagraph of Article 54(1) of Delegated Regulation (EU) 2019/33. Bearing in mind the requirements laid down by the Court in the Weingut A judgment ([C-354/22](#)), the high administrative court considered that the winemaking process had not been carried out entirely at the eponymous winery, given that, under the rental contract, in the event of unforeseen problems during the pressing process, the winery renting the pressing plant could and should take decisions independently of the eponymous winery.

*Bundesverwaltungsgericht, judgment of 29/8/2024, 3 C 13.23 (DE)*