



## PRESS RELEASE No 57/25

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Judgment of the Court in Case C-386/23 | Novel Nutriology

### Advertising using health claims relating to botanical substances is currently prohibited

*That general prohibition applies until the Commission has completed its examination of those claims and has included them in the lists of authorised health claims, unless their use is already permitted under a transitional regime*

The German company Novel Nutriology markets a food supplement containing extracts of saffron and melon juice. In its advertisement, it claimed that those extracts improved mood or reduced feelings of stress and fatigue.

A German trade association brought an action against Novel Nutriology before the German courts seeking an order prohibiting it from using those claims. That association considers that they are contrary to EU law.

The German Federal Court of Justice has referred a question to the Court of Justice on this issue.

The Court finds that, according to a 2006 regulation,<sup>1</sup> the use of health claims in the advertising<sup>2</sup> of foods and food supplements is, in principle, prohibited. It may be permitted provided that those claims have been authorised by the Commission and included in the lists of authorised health claims.<sup>3</sup>

However, the Commission has not yet completed its examination of health claims relating to botanical substances.<sup>4</sup> It has therefore not yet included them in the lists of authorised health claims.

The purpose of the examination<sup>5</sup> and requirement of authorisation by the Commission is to ensure that a health claim is scientifically substantiated and, in so doing, to protect consumers and human health.

Therefore, **health claims relating to botanical substances cannot, at this stage, be used to promote food supplements.**<sup>6</sup>

**This may be different if the claims used are covered by a transitional regime** provided for by the 2006 regulation.

According to the information provided by the Federal Court of Justice, that is not the case here. This case concerns health claims relating to psychological functions which, before the entry into force of the regulation, were not evaluated and authorised in Germany. For such claims, an application for authorisation should have been submitted to the competent national authority before 19 January 2008, which Novel Nutriology failed to do.

**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 EU law or the validity of an EU act. The Court of Justice does not decide the 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 and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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<sup>1</sup> [Regulation \(EC\) No 1924/2006](#) of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods, as amended by [Regulation \(EC\) No 109/2008](#) of the European Parliament and of the Council of 15 January 2008.

<sup>2</sup> Also in the labelling and presentation.

<sup>3</sup> The regulation distinguishes between two categories of health claims: specific health claims and general health claims. The use of a specific health claim is only permitted if it appears on one of the lists of authorised health claims. Any general health claim must, however, be accompanied by such a specific claim. The present case concerns specific health claims.

<sup>4</sup> These are plant or herbal substances.

<sup>5</sup> In collaboration with the European Food Safety Authority (EFSA).

<sup>6</sup> According to the Court, that prohibition, which allows for exceptions under a transitional regime, does not disproportionately restrict the freedom to conduct a business.