

Customs & Trade in Israel

A Legal Newsletter

The European Court of Justice's Ruling - Goods Produced Over the 'Green Line' Must be Labeled

We wish to bring to your attention the ruling of the European Court of Justice (ECJ) from November 12, 2019, regarding the obligation to label goods produced over the 'Green Line', and the possible legal ramifications of the ruling.

Case Facts

The ECJ's ruling was given following a claim filed by the French winery "Psagot" (Vignoble Psagot Ltd.), in light of the requirement by the French Minister for the Economy and Finance to indicate the origin of goods produced in Israeli settlements over the 'Green Line' (including the Golan Heights, East Jerusalem, Judea and Samaria and any area outside the '67 borders) with a label emphasizing that the product was produced in an "Israeli Settlement" (or "Colonie Israélienne"). The French Court turned to the ECJ in order to clarify whether such an indication of origin is required under European law regarding product labeling.

According to the ECJ's ruling, under European law, specifically regulations concerning food labeling¹, the intent behind precise product labeling is to prevent consumer misdirection. According to the ECJ, the place of provenance may be important to the consumer's considerations as to whether to purchase the product, be it for religious, health or moral considerations. Therefore, it must be determined whether foodstuffs labels may mislead consumers into believing that that foodstuff has a country of origin or a place of provenance different from its true country of origin or place of provenance, thus infringing upon the consumer's autonomy.

According to the ECJ, as international decisions were made declaring the territories beyond the 'Green Line' as under occupation, and Israeli settlements in these territories a violation of international law, the consumer may reach a conscious and moral decision not to purchase foodstuffs originating there.

In light of the above, the ECJ determined that there is a concern for consumer misdirection if the labels of foodstuffs originating in Israeli settlements do not explicitly note that fact, as a label which only notes that the product was produced beyond the 'Green Line' may mislead consumers into believing the product is from a Palestinian settlement, which is not the case. In addition, the ECJ determined that in cases in which the official address of the manufacturer is not beyond the 'Green Line', but the foodstuff itself was produced there, noting the manufacturer's official address and the origin of the product will mislead consumers. The ECJ therefore ruled that under European law, a

¹ Regulation 1169/2011 of 25 October 2011 on the provision of food information to consumers.

label of foodstuff originating from an Israeli settlement should note that fact explicitly, otherwise there is a concern for consumer misdirection.

The state members of the EU must now examine how to implement the ECJ's decision, among others determining whether the labeling requirement will be placed upon the manufacturer, the European customs authorities, or the local distributors.

Reservations & Implications

It should be emphasized that the EU does not apply similar requirements to foodstuff originating from other occupied territories, such as North Cyprus (under Turkish control) or Western Sahara (under Moroccan control). Therefore, the ECJ's ruling sets a discriminatory double standard, contrary to the basic principles of the EU and other international standards, a fact which may support a request for a retrial.

The ruling's impact is not limited to the local wine industry - it appears to apply to any foodstuff produced beyond the 'Green Line' that is exported to the EU. The ruling may also impact other products and services originating in the territories beyond the 'Green Line', with regard to both labeling requirements and other requirements, such as contractual obligations, due diligence and reporting. In addition, the ruling may impact the activity or investment opportunities of corporations active in these territories, or whose products are manufactured beyond the 'Green Line'.

Please feel free to contact us with any queries or requests for additional information, as well as appropriate solutions for your commercial activity if applicable.

Adv. Tom Gal of our Corporate Administrative and Class Action Litigation Department specializes in humanitarian law, human rights and international criminal law. Adv. Gal possesses significant experience in representing clients vis-à-vis UN agencies and international tribunals, including Geneva, Paris and the Hague. She regularly advises organizations, corporations and private clients regarding international law. Adv. Gal is currently studying for a PhD at the Law Faculty of the University of Geneva, and received her LL.M. (magna cum laude) from The Geneva Academy of Humanitarian Law and Human Rights.

The above review is a summary. The information presented is for informative purposes only, and does not constitute legal advice.

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