

2. If the first question is answered in the negative:

For the purposes of Article 15(1) and Article 34 of Regulation (EU) No 640/2014, do the administrative penalties provided for in Chapter IV of Regulation (EU) No 640/2014 apply to the application for coupled support referred to in the first question where the farmer makes a notification in writing to the competent authority in accordance with Article 2(2) and (4) of Commission Decision 2001/672/EC of 20 August 2001, in conjunction with Article 7(1) and (2) of Regulation (EC) No 1760/2000, concerning the movement of the animals to a mountain pasture, where it is evident from the notification that it is late with regard to the 15-day period laid down in those provisions, in so far as the competent authority has not previously informed the applicant of an intention to carry out an on-the-spot check and has also not already informed that applicant of any non-compliances in the aid application?

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- (¹) Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance (OJ 2014 L 181, p. 48).
- (²) Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance (OJ 2014 L 227, p. 69).
- (³) 2001/672/EC: Commission Decision of 20 August 2001 laying down special rules applicable to movements of bovine animals when put out to summer grazing in mountain areas (OJ 2001 L 235, p. 23).
- (⁴) Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ 2014 L 181, p. 1).
- (⁵) Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation (OJ 2014 L 181, p. 1).

**Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 26 June 2023 —
Novel Nutriology GmbH v Verband Sozialer Wettbewerb e.V.**

(Case C-386/23, Novel Nutriology)

(2023/C 338/13)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Defendant and appellant in the appeal on a point of law: Novel Nutriology GmbH

Applicant and respondent in the appeal on a point of law: Verband Sozialer Wettbewerb e.V.

Questions referred

The following question is referred to the Court of Justice of the European Union for a preliminary ruling on the interpretation of Article 10(1) and (3) and Article 28(5) and (6) of 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, (¹) as last amended by Commission Regulation (EU) No 1047/2012 (²) of 8 November 2012, and recitals 10 and 11 of Commission Regulation (EU) No 432/2012 of 16 May 2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health, (³) and recitals 4 and 5 of Commission Regulation (EU) No 536/2013 (⁴) of 11 June 2013 amending Regulation (EU) No 432/2012:

May plant or herbal substances ('botanicals') be advertised with health claims (Article 10(1) of Regulation [EC] No 1924/2006) or with references to general, non-specific benefits of the nutrient or food for overall good health or health-related well-being (Article 10(3) of Regulation [EC] No 1924/2006) without those claims being authorised under that regulation and included in the list of authorised claims pursuant to Articles 13 and 14 of the Regulation (Article 10(1) of the Regulation) or without those references being accompanied by a specific health claim contained in one of the lists referred to in Articles 13 or 14 of the Regulation (Article 10(3) of the Regulation), pending completion of the evaluation by the Authority and the examination by the Commission of the inclusion of the claims notified in respect of 'botanicals' in the Community lists referred to in Articles 13 and 14 of Regulation [EC] No 1924/2006?

⁽¹⁾ OJ 2006 L 404, p. 9.

⁽²⁾ Commission Regulation (EU) No 1047/2012 of 8 November 2012 amending Regulation (EC) No 1924/2006 with regard to the list of nutrition claims (OJ 2012 L 310, p. 36).

⁽³⁾ OJ 2012 L 136, p. 1.

⁽⁴⁾ Commission Regulation (EU) No 536/2013 of 11 June 2013 amending Regulation (EU) No 432/2012 establishing a list of permitted health claims made on foods other than those referring to the reduction of disease risk and to children's development and health (OJ 2013 L 160, p. 4).

**Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 27 June 2023 —
Rzecznik Finansowy**

(Case C-390/23, Rzecznik Finansowy)

(2023/C 338/14)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Applicant: Rzecznik Finansowy

Other parties to the proceedings: Bank AG S.A., M.S., A.K.

Question referred

Does the second [subparagraph] of Article 19(1) of the Treaty on European Union, in conjunction with the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union, preclude national legislation which provides that a court of last instance (the Sąd Najwyższy) hearing an extraordinary appeal (extraordinary action) against a final judgment of an ordinary court is to sit in a panel which includes a person (a lay judge of the Sąd Najwyższy) who:

1. is not a judge of the Sąd Najwyższy;
2. has been appointed to perform his or her function:
 - (a) directly by the legislature — by a simple majority,
 - (b) on the basis of general and unverifiable selection criteria,
 - (c) in a procedure which does not allow judicial review of the appointment,
 - (d) for a term of four years;
3. and may be dismissed by the legislature, which is also not subject to judicial review?