Information release

The Court of Justice of the EU protects consumers by clarifying when chemical product packaging may be mistaken for food packaging

The Court of Justice of the European Union has clarified the criteria that national authorities must apply when determining whether the packaging of a chemical product may be confused with that of a food product.

Madrid, 11 de November 2026. The Court of Justice of the European Union has clarified the criteria that national authorities must apply when determining whether the packaging of a chemical product is liable to mislead consumers due to its similarity to packaging used for food products. This way, the judgment reinforces the principle of protecting consumers' health and safety, particularly that of the most vulnerable groups.

The ruling arises from a dispute between the Swedish company Orkla Care AB and the Swedish Chemicals Agency, which prohibited the marketing of several laundry detergents sold in cardboard packaging that, according to a number of consumer complaints, bore a strong resemblance to certain food products.

In its judgment, the Court states that the assessment of a potential risk of confusion must be based on the overall impression created by the packaging and on all of its perceptible characteristics. Relevant factors may include the shape, size, volume, design, colour, labelling, materials used, texture, smell, or a combination of several of these elements.

The Court emphasises that the assessment must be carried out on a case-by-case basis, with the objective of ensuring a high level of consumer health protection. It further clarifies that the existence of additional safety features, such as seals or tamper-evident labels, does not in itself eliminate the risk of confusion if those features do not permanently alter the overall appearance of the packaging.

The judgment also establishes that national authorities must take into account the characteristics of the market and consumer perceptions in the Member State where the product is marketed. In addition, it clarifies that the concept of a consumer encompasses not only the average consumer who is reasonably well informed, but also children and other vulnerable individuals who may use the product after purchase and who may be particularly exposed to the risk of confusion.

Another significant aspect of the ruling is that it is not necessary to demonstrate that an accident has already occurred or that a consumer has in fact been misled. It is sufficient that there is a more than negligible risk of confusion between the packaging of a chemical product and that of a food product.

The Court also considers that the hazard classifications or specific risks associated with individual products should not influence the assessment of the similarity between packaging. Accordingly, the criteria for determining similarity must be applied consistently, regardless of the nature of the hazard or the circumstances in which the product is used.

Source: Curia.

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