

Note on "**Interpretative Statement concerning the indication of the origin of goods from the territories occupied by Israel since June 1967**" published in the European Union Official Journal on the 12.11.2015

This "Statement," which is defined as an interpretation of the relevant legislation of the Union, considers that the indication "*produced in Israel*" is false when it applies to products originating from the Golan Heights, the West Bank including "East-Jerusalem".

It considers it appropriate "*to use another expression taking account of the usual name of these territories.*"

Paragraph 10 of the "Statement» clarifies that the terms "Originating products from Golan Heights" or "Originating products from West Bank" - which are modes of usual designation of these territories - would be unacceptable on the grounds that "*the omission of the complementary geographic information according to which the product comes from Israeli settlements would mislead the consumer as to its true origin*", and should include for example the expression "Israeli settlement".

This provision seems to be open to criticism under French law.

The notion "of origin", as contained in article L121-1 of the consumer Code that defines deceptive marketing practices and in article L 213 - 1 of the same code that defines deception, is considered a geographical origin.

However, the expression proposed by the "Statement", namely the term "Israeli settlement" is not the geographical origin but rather political.

In the case of SODASTREAM, the Correctional Court of Nantes in its judgment of 24 March 2013, spoke on a nearby expression, proposed by the ASSOCIATION FRANCE PALESTINE SOLIDARITÉ, i.e. "*made in the West Bank in an industrial colony established by Israelis*".

The Court considered that «*However, there cannot... be affixed to products a mention of the type*» *manufactured in the West Bank in an industrial colony established by Israeli* «***which does not match the nomenclatures of the countries of origin.*** »

It will be up to national courts and to the Court of Justice of the European Union to assess the applicability of this provision.

Marc Levy