

Message 116

Communication from the Commission - TRIS/(2022) 03450
 Directive (EU) 2015/1535
 Translation of the message 115
 Notification: 2022/0441/IRL

Forwarding of a detailed opinion received by a Member State (Hungary) (article 6, paragraph 2, second indent of Directive (EU) 2015/1535). This detailed opinion extends the standstill period until 22-12-2022.

Comunicado detallado - Podrobné vyjádření - Udførlig udtalelse - Ausführlichen Stellungnahme - Üksikasjalik arvamus - Εμπειροπαιγμένη γνώμη - Detailed opinion - Avis circonstancié - Parere circostanziato - Detalizēts atzinums - Detali nuomonė - Részletes vélemény - Opinioni dettaljata - Uitvoerig gemotiveerde mening - Opinia szczegółowa - Parecer circunstanciado - Podrobný úsudok - Podrobno mnenje - Yksityiskohtainen lausunto - Detaljerat yttrande - Подробно становище - Aviz detaliat - Aviz detaliat.

Amplia el plazo del estatu quo hasta 22-12-2022. - Prodlužuje lhůtu pro stávající stav až do 22-12-2022. - Fristen for status quo forlænges til 22-12-2022. - Die Laufzeit des Status quo wird verlängert bis 22-12-2022. - Praeguse olukorra tähtaega pikendatakse kuni 22-12-2022. - Παρατείνει την προθεσμία του status quo μέχρι την 22-12-2022. - Extends the time limit of the status quo until 22-12-2022. - Prolonge le délai de statu quo jusqu'au 22-12-2022. - Proroga il termine dello status quo fino al 22-12-2022. - Pagarina "status quo" laika periodu līdz 22-12-2022. - Pratešia status quo laiko limitą iki 22-12-2022. - Meghosszabbítja a korábbi állapot határidejét 22-12-2022-ig. - Jestendi t-terminu ta' l-istatus quo sa 22-12-2022. - De status-quo-periode wordt verlengd tot 22-12-2022. - Przedłużenie status quo do 22-12-2022. - Prolonga o prazo do statu quo ate 22-12-2022. - Časový limit momentálneho stavu sa predĺži až do 22-12-2022. - Podaljša rok nespremenjenega stanja do 22-12-2022. - Jatkaa status quo määräaika 22-12-2022 asti - Förlänger tiden för status quo fram till: 22-12-2022 - Удължаване на крайния срок на статуквото до 22-12-2022 - Prelungește termenul status quo-ului până la 22-12-2022.

Die Kommission hat diese ausführliche Stellungnahme am 22-09-2022 empfangen.
 The Commission received this detailed opinion on the 22-09-2022.
 La Commission a reçu cet avis circonstancié le 22-09-2022.

(MSG: 202203450.EN)

1. MSG 116 IND 2022 0441 IRL EN 22-12-2022 22-09-2022 COM 6.2(2) 22-12-2022

2. Magyarország

3A. Igazságügyi Minisztérium
 EU Jogi Megfelelésvizsgálati Főosztály - Műszaki Notifikációs Központ
 H-1055 Budapest, Nádor utca 22.
 E-mail: technicalnotification@im.gov.hu

3B. Agrárminisztérium
 Jogalkotási Főosztály

Budapest
 Apáczai Csere János u. 9.
 H-1055
 HUNGARY
 Tel: (361) 795-3995
 e-mail: notification@am.gov.hu

4. 2022/0441/IRL - B00

5. Article 6(2) of Directive (EU) 2015/1535, second indent

6. The Irish Public Health (Alcohol) (Labelling) Regulations 2022 (hereinafter: draft regulations) aim to reduce the harm caused by alcohol consumption and alcohol abuse, to reduce the consumption of alcohol among children and young people and to delay the start date by influencing the supply. In order to achieve the desired objectives, Ireland will extend the set of mandatory labelling elements and require the health warnings set out in the draft to be affixed to the label or presentation.

Hungary would like to draw attention to the fact that the provisions of the draft regulations relate to the provisions of the Irish Public Health (Alcohol) Act No 24 of 2018, without which the content of the draft regulations cannot be fully understood. At the same time, the draft legislation raises the following problems.

1. According to the draft regulations, the alcoholic strength must be expressed in grams of alcohol. In this regard, I would like to point out that Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and

(EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (hereinafter: Labelling Regulation) in Article 9(1)(k) stipulates that with respect to beverages containing more than 1,2% by volume of alcohol, the actual alcoholic strength by volume shall be expressed as a percentage volume, in accordance with the Annex XII. In addition, Article 119(1)(c) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 also stipulates that the actual alcoholic strength by volume shall be indicated on the labelling and presentation of wine products.

2. The draft regulations provide for the inclusion of health claims on containers of alcohol products, including the placing of the warning "There is a direct link between alcohol and fatal cancers" mentioned in Part 2, Section 5(3).

I would like to draw attention to the fact that, according to Article 7 of the labelling regulation, food information shall not be misleading and shall be accurate, clear and easy to understand for the consumer. However, Ireland has not provided scientific evidence or data pertaining to the claims on health warnings specified in the draft, and the wording of the draft regulations appears to be inaccurate and the requirements seem to be disproportionate to the objective pursued. This is particularly true given that food shall not be placed on the market if it is unsafe within the meaning of Article 14 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

Therefore, Hungary is of the opinion that the warnings contained in the draft regulations do not accurately inform consumers, and that awareness-raising actions and consumer education could be more effective in combating excessive alcohol consumption.

Ireland has not submitted any assessment that would have compared the expected effects of the measure with the expected outcome of less trade-disturbing solutions, and therefore, in our view, Ireland has not provided any evidence to demonstrate that the marking requirements according to the draft are necessary, appropriate and proportionate.

3. In addition, the draft raises the problem of Ireland's intention to adopt provisions in an area for which the Commission intends to adopt rules at EU level. The European Commission (hereinafter referred to as: Commission) adopted Europe's Beating Cancer Plan on 3 February 2021, in which a specific action point covers prevention through measures that address key risk factors such as smoking, harmful alcohol consumption, environmental pollution and hazardous substances. Point 3.3 of Commission Communication COM(2021) 44 final states: 'Furthermore, the Commission will review its promotion policy on alcoholic beverages and in addition propose a mandatory indication of the list of ingredients and the nutrition declaration on alcoholic beverage labels before the end of 2022 and of health warnings on labels before the end 2023'.

The Commission's ongoing revision of the labelling regulation concerns front-of-pack nutrition labelling, the indication of provenance and date marking, which are key actions of the 'Farm to Fork' Strategy, as well as the labelling of alcoholic beverages (introducing the mandatory indication of ingredients and nutrition information for all alcoholic beverages) as set out in Europe's Beating Cancer Plan.

In view of the above, the draft which Ireland intends to adopt may be considered as a unilateral initiative which does not take into account the fact that legislative steps are being taken at EU level to regulate this area, the final outcome of which needs to be considered by Member States when reviewing and adapting their national legislation.

4. Furthermore, the draft regulations do not contain a mutual recognition clause that would also require food businesses from other Member States to comply with the marking requirements mentioned in the draft, obliging them to modify their labels. The COVID-19 pandemic and the ongoing armed conflict in Ukraine have already led to significant cost increases for food producers. Additional specific requirements would further make the situation of the sector, in particular that of small and medium-sized enterprises, more difficult and could even impede access to the market for alcoholic beverages from other Member States.

Based on the above, the proposed legislation infringes the fundamental principle of the free movement of goods in accordance with Article 34 of the Treaty on the Functioning of the European Union (hereinafter: TFEU), and Ireland has failed to prove that the measure is appropriate to ensure the protection of human health, which is an exception to the prohibition under Article 36 TFEU.

European Commission

Contact point Directive (EU) 2015/1535
Fax: +32 229 98043
email: grow-dir2015-1535-central@ec.europa.eu

