

Message 104

Communication from the Commission - TRIS/(2022) 03262
 Directive (EU) 2015/1535
 Translation of the message 103
 Notification: 2022/0441/IRL

Forwarding of the observations of a Member State (Poland) (article 5, paragraph 2, of Directive (EU) 2015/1535).
 These observations do not have the effect of extending the standstill period.

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1. MSG 104 IND 2022 0441 IRL EN 22-12-2022 12-09-2022 COM 5.2 22-12-2022
2. Poland

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4. 2022/0441/IRL - B00

5. article 5, paragraph 2, of Directive (EU) 2015/1535

6. With reference to the Irish draft Regulations Under Section 12 of the Public Health (Alcohol) Act 2018 notified under number 2022/441/IRL, Poland would like to make the following comment.

According to Poland, the provisions contained in the draft will constitute a trade barrier hindering the access of products from other Member States to Ireland. If alcoholic beverages are not additionally marked with health warnings, health information and health symbols, manufacturers and distributors outside Ireland will not be able to offer their products on the Irish market and thus will be excluded from it. The draft does not take into account the principles of mutual recognition of goods lawfully marketed in another Member State.

The introduction of additional mandatory information on the labelling of alcoholic beverages by Ireland will also result in an exception to the harmonised rules on the labelling of foodstuffs. It should be noted that the European Commission has committed itself to reviewing its policy on the promotion of alcoholic beverages and will propose an obligation to include a list of ingredients and nutrition information on the labelling of alcoholic beverages before the end of 2022 and health warnings on such labels by the end of 2023. All consumers have the right to reliable and accurate information about the health risks associated with the products they consume. The introduction of such requirements in one country can result in consumer confusion. The objective of protecting public health should be achieved at EU-wide level, inter alia, through precise and proportionate harmonised requirements based on scientific evidence.

The labelling of foodstuffs, including alcoholic beverages, is currently harmonised at EU level in Regulation (EU) No 1169/2011. Article 39 of that EU regulation specifies when a Member State may introduce additional labelling requirements, including related to the protection of public health. National rules should be evidence-based, proportionate and implemented in a non-discriminatory manner.

Trade barriers in the form of restrictions on the placing on the market of certain goods may be established by a Member State if it is justified, inter alia, on grounds of protection of human health and life. The Irish Government has not provided sufficient evidence that the additional labelling requirements for alcoholic beverages are proportionate and that such a measure is appropriate for the protection of human health and does not go beyond what is necessary to achieve that objective. The draft is not accompanied by a justification containing an analysis to assess the effectiveness of health warning labels on the decrease in alcohol consumption. Evidence-based solutions should be pursued in order to effectively address the problem of harmful alcohol consumption.

Furthermore, according to Poland:

- The obligation to provide information on the energy value of a product in a given container (bottle) may result in consumers from different EU countries not being equally informed about the characteristics of the product, given that EU legislation stipulates that for foodstuffs other than beverages with an alcoholic strength of more than 1.2 % vol., the energy value on the labels of such products must be expressed per 100 g or 100 ml of the product.
- The provision on the placing of a pictogram prohibiting the consumption of alcoholic beverages by pregnant women should provide for the possibility of using pictograms with a similar message laid down in the legislation of other Member States.
- The obligation to refer a website containing information on alcohol consumption on each packaging of an

alcoholic beverage does not appear proportionate in view of the possibility of communicating such information in a way that does not interfere with the principle of free movement of goods, e.g. through educational activities or social campaigns.

European Commission

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