

TEA & HERBAL INFUSIONS EUROPE

Formerly: European Tea Committee (ETC) and European Herbal Infusions Association (EHIA)



22nd January, 2020

THIE comments to the Notification 2019/524/D (Germany) - Fourth Ordinance amending the Fruit Juice and Drinks Ordinance

Tea & Herbal Infusions Europe (THIE) is the European association representing the interests of producers and traders of tea (*Camellia sinensis*) and herbal infusions as well as extracts thereof in the EU.

THIE has serious concerns regarding the draft ordinance notified by Germany as it is not compliant with EU legislation and will cause barriers to trade. Therefore, THIE opposes the adoption of the draft ordinance notified.

The EU Food Information Regulation (EU) 1169/2011 has the objective to inform consumers about the composition of foods and to help them to make an informed choice. The draft German ordinance foresees in particular an obligation for business operators to put an additional information on the label of herbal teas for infants and young children indicating that the consumer should not add sugar to the brew. This information does not refer to the composition of the concrete product but is an attempt to educate consumers regarding nutrition and health in general. But there is no common EU nutritional policy.

The additional information required on the label for the German market is a barrier to trade, since such products are sold in different EU member states and the rule shall apply independent of the origin of the product.

Although the proposed regulation only applies to herbal teas for infants and young children, it means a change in the current system of food law. According to Regulation (EC) No. 178/2002, the food business operator has to make sure that the food he has imported, produced, processed, manufactured or distributed is compliant with the food safety requirements (see in particular Art. 19). Art. 3, No. 3 defines that "food business operators" are the natural or legal persons who are responsible for ensuring that the requirements of food law are met within the food business under their control. The indication that the consumer should not add sugar to the tea infusion is not related to the specific product and goes beyond the control of the food business operator. This is a general question of product-independent nutritional and health policy. Thus, the products are misused as advertising boards for German nutrition and health policy. Accordingly, other appropriate ways need to be found by Germany to promote its nutritional policy independent of product labelling.

This applies all the more so since an impact of consumption of herbal teas is generally favourable as they do not contain sugar by nature.