Message 103

Communication from the Commission - TRIS/(2023) 3274

Directive (EU) 2015/1535

Notification: 2023/0510/FR

Forwarding of the observations of a Member State (Denmark) (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 103 IND 2023 0510 FR EN 24-11-2023 22-11-2023 DK COMMS 5.2 24-11-2023

2. Denmark

3A. Ministères économiques et financiers
Direction générale des entreprises
SQUALPI
Bât. Sieyès -Teledoc 151
61, Bd Vincent Auriol
75703 PARIS Cedex 13

3B. Fødevarestyrelsen
Stationsparken 31-33
2600 Glostrup
Tlf. +45 72 27 69 00
Kemi og Fødevarekvalitet
Kontaktperson: Marianne Øhlenschläger Larsen
Tlf. 72 27 6406

4. 2023/0510/FR - C00A - AGRICULTURE, FISHING AND FOODSTUFFS

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

6. It is the Danish interpretation that Article 38 of Regulation 1169/2011 on the provision of food information to consumers prevents the adoption of national rules concerning the indication of the sales name in the marketing of prepacked foods to the final consumer.

According to Article 38 of Regulation No 1169/2011, Member States may not adopt or maintain national measures unless authorised by Union law as regards matters specifically harmonised by the Regulation

The requirement for the indication of the name is laid down in Article 9(1)(a) of Regulation 1169/2011, while Article 17 of Regulation 1169/2011 lays down the detailed requirements for the name. In addition, there is a prohibition on the use of misleading information in Article 7 of the Regulation. It is stated in Article 7(1)(a) that food information shall not be misleading, particularly: as to the characteristics of the food and, in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production.

Against this background, it is Denmark’s interpretation that the indication of the names in the marketing of prepacked foods is specifically harmonised by Regulation 1169/2011 and that Article 38 thus prevents the introduction of national rules in that regard.

In addition, Denmark considers that Article 7(1)(a) and Article 17(1) of Annex VI, Part A, point 4 of Regulation 1169/2011 are sufficient to ensure that consumers are not misled by such names of vegetarian/vegan products.

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European Commission
Contact point Directive (EU) 2015/1535
email: grow-dir2015-1535-central@ec.europa.eu