Message 103

Communication from the Commission - TRIS/(2025) 0143

Directive (EU) 2015/1535

Notification: 2024/0583/PL

Forwarding of the observations of a Member State (Austria) (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 2024 0583 PL EN 21-01-2025 21-01-2025 AT COMMS 5.2 21-01-2025

2. Austria

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4. 2024/0583/PL - C50A - Foodstuffs

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

6. The aim of the draft regulation is to restrict the placing on the market of spirit drinks in pack sizes of up to 200 ml. The ban specifically applies to spirit drinks in sales packaging with a capacity of up to 200 ml, in packaging forms other than bottles or cans.

Austria opposes the draft regulation for the following reasons:

In Poland, spirit drinks carry an excise duty banderol, regardless of their packaging and capacity. Thus, spirit drinks are distinguishable from non-alcoholic beverages. Furthermore, the label of a spirit drink must bear a legal name in accordance with Regulation (EU) 2019/787. These two elements unambiguously identify spirit drinks as such and clearly distinguish them from other foods, in particular from foods intended for consumption by minors.

Regulation (EU) No 1169/2011 on the provision of food information to consumers already lays down provisions prohibiting deception, including as regards the appearance and packaging of food. In order to lawfully place a spirit drink on the EU market, it is necessary to comply with these legal provisions. Therefore, the Polish requirements go beyond the labelling provisions of EU food law.

Spirit drinks are legally produced and marketed in other EU Member States. The draft regulation impedes the free movement of goods and contravenes the principle of mutual recognition.

The notified draft regulation therefore constitutes a prohibited measure having equivalent effect pursuant to Article 34 TFEU. The measures envisaged restrict the internal market and must therefore be rejected.

EUROPEAN COMMISSION
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

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