

Allergen labelling for non-prepacked food

A view from Austria

Current legislation

- Food Labelling Regulation 1993 (LMKV)
 - based on the Food Safety and Consumer Protection Act (LMSVG)
 - only for prepacked food
 - labelling of 14 allergens
- Nutrition Labelling Regulation (NWKV)
 - nutrition declaration only in case a nutrition claim is labelled („small four“ oder „big eight“)

Future legislation

- EU-Food Information Regulation No 1169/2011 (englisch 'FIC', German 'LMIV')
- Applicable from 13 December 2014
- Exemption:
 - mandatory nutrition declaration from 13 December 2016
- Q & A

http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/docs/qanda_application_reg1169-2011_en.pdf

Scope of the Regulation

- The Regulation shall apply
 - to all foods intended for the final consumer
 - foods delivered by mass caterers
 - foods intended for supply to mass caterers
 - to catering services provided by transport undertakings when the departure takes place on the territories of the Member States to which the Treaties apply

Mass Caterer

- *‘Mass caterer’ means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer (Art. 2 (2) d of FIC)*
- *‘Union rules should apply only to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation. Operations such as the occasional handling and delivery of food, the serving of meals and the selling of food by private persons, for example at charity events, or at local community fairs and meetings, should not fall within the scope of this Regulation’ (Recital 15 of FIC)*

Responsibilities (I)

- *‘Food business operators, within the businesses under their control, shall ensure that information relating to non-prepacked food intended for the final consumer or for supply to mass caterers shall be transmitted to the food business operator receiving the food in order to enable, when required, the provision of mandatory food information to the final consumer.’ (Art. 8 Abs. 6 of FIC)*

Responsibilities (II)

- *‘In the following cases, food business operators, within the businesses under their control, shall ensure that the mandatory particulars required under Articles 9 and 10 shall appear on the prepackaging or on a label attached thereto, or on the commercial documents referring to the foods where it can be guaranteed that such documents either accompany the food to which they refer or were sent before or at the same time as delivery:
(a)
(b) where prepacked food is intended for supply to mass caterers for preparation, processing, splitting or cutting up.’
(Art. 8 Abs. 7 LMIV)*

Non-prepacked food - Art. 44

- Where foods are offered for sale to the final consumer or to mass caterers without prepackaging, or where foods are packed on the sales premises at the consumer's request or prepacked for direct sale, Member States may adopt national measures
 - for some or all of the elements of Art. 9 and 10
 - concerning the means through which the elements are to be made available and, where appropriate, their form of expression and presentation
- Allergens → Labelling is mandatory (Member States may adopt national measures)

Draft Implementing Regulation in Austria (I)



- Questions and Answers on the application of the Regulation (EU) N° 1169/2011 on the provision of food information to consumers (European Commission, 31 January 2013)
- Information on non-prepacked food which contains substances or products causing allergies or intolerances
- Written or oral information shall be possible
- Written information
 - responsibility of the FBO that the information is available and easily accessible. The information must be provided unrequested to the consumer.

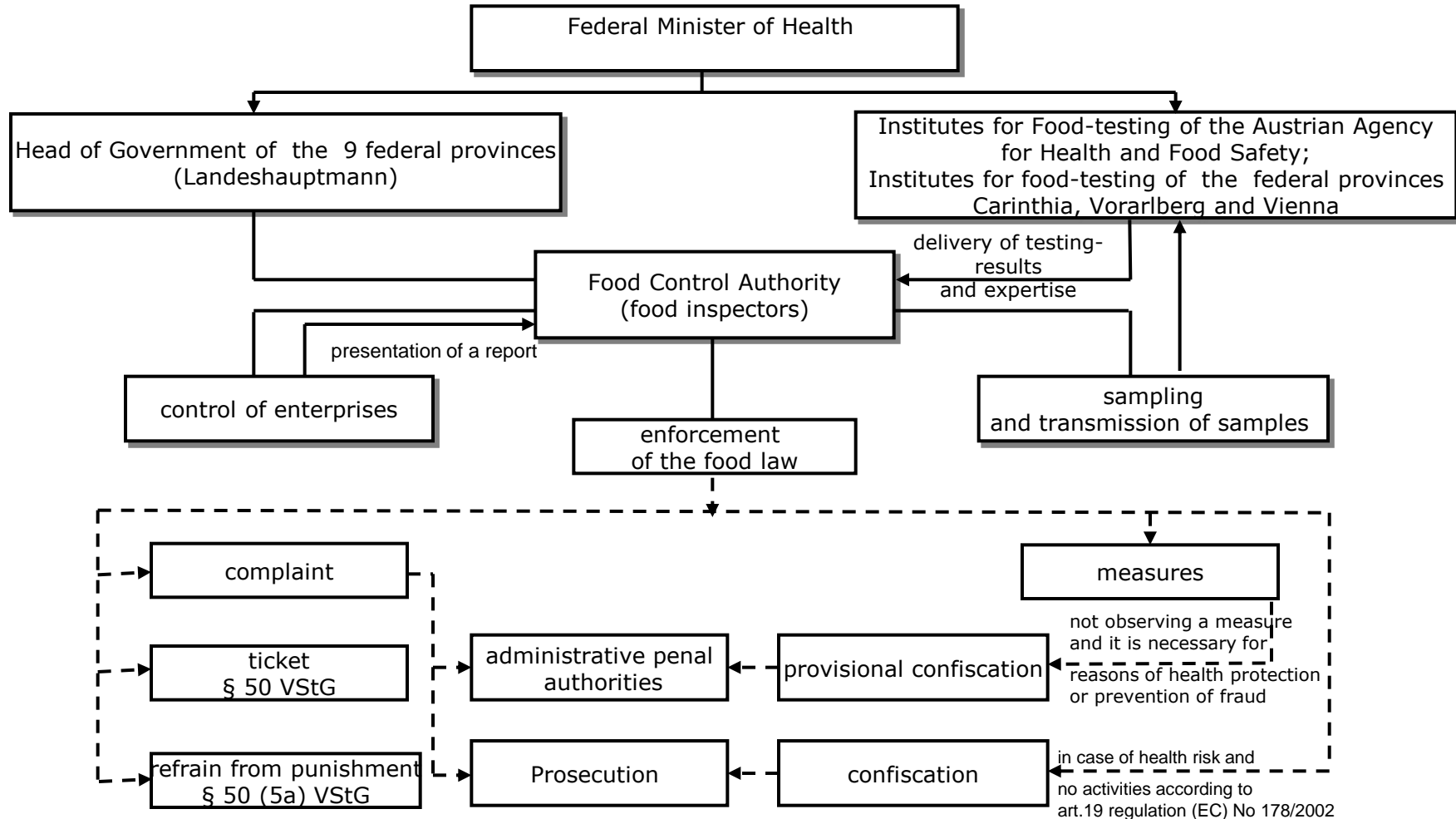
Draft Implementing Regulation in Austria (II)

- Oral information will be allowed provided a statement is indicated that the information is available upon request
 - in a conspicuous place and in such a way as to be easily visible, clearly legible and, where appropriate, indelible
- Information on allergens shall be given
 - by a trained staff
 - based on a file (Guidance to be adopted in the frame of the Codex Commission)
- Entry into force: 13 Dezember 2014

Implementing Regulation in Austria (III)

- Information on non-prepacked food which contains sweeteners
 - aspartame/aspartame-acesulfame salt
 - statement „contains a source of phenylalanine“
- Information on non-prepacked food which contains more than 10% of polyhydric alcohols
 - statement „may have a laxative effect if taken excessively“
- Signboard, schedule of prices, menu, a notice that can be seen by the consumer
- Labelling of food prepacked for direct sale and offered in self service (Art. 9 a – h, Art. 10 (1) of FIC)
- Provision on the expiry of the date of minimum durability

Official food control in Austria



Measures - § 39 LMSVG

- In case of an infringement of the food law
- Action to be taken to ensure that the operator remedies the situation (transposition of Art. 54 of Regulation No 882/2004 on food and feed control)
 - removal on the spot
 - written demand
 - decree
- Right of appeal to the Administrative Courts of the Länder

Penalties

- Judicial penalties in case a product is injurious to health
- Administrative penalties up to 50.000 Euro
- In case of repeat up to 100.000 Euro
- Right of appeal to the Administrative Courts of the Länder

Thank you for your attention