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## **Labelling alcoholic beverages as an instrument of consumer health protection – legal aspects**

**Etichettatura delle bevande alcoliche  
e salvaguardia della salute dei consumatori – aspetti giuridici**

Alcoholic beverages are a special type of food as their consumption carries significant health and social risks. Given these risks, it is necessary to introduce instruments aimed at reducing this consumption. One such instrument is the regulations on the content and manner in which information on the labels of alcoholic beverages is conveyed to potential customers. The author presents EU and Polish regulations on the labelling of alcoholic beverages and provides a critical analysis of these regulations. He argues in the conclusion that the current rules governing the labelling of alcoholic beverages are insufficient to ensure that consumers can make informed choices about alcoholic beverages and in consequence, and fail to achieve successfully the key objective of food law, i.e. the protection of consumer health. *De lege ferenda* the author proposes changes to regulations at both the EU and national level to ensure that the labelling of alcoholic beverages contributes to raising public awareness of the negative health and social effects of alcohol consumption and enables consumers to make informed choices between alcoholic and non-alcoholic beverages. In the author's opinion, the content and aesthetics of alcoholic beverage labels should discourage alcohol consumption rather than promote alcoholic beverages and increase alcohol sales and, consequently, consumption, as is the case under the current legal framework.

**Keywords:** food labelling, warning labels, alcoholic beverages, health care, food law

Le bevande alcoliche sono un tipo particolare di alimento, il cui consumo comporta gravi rischi per la salute e la società. Per ridurre questi rischi, è necessario introdurre strumenti mirati a limitarne il consumo, tra cui regolazioni riguardanti il contenuto e la presentazione delle informazioni riportate sulle etichette. L'autore presenta le regolazioni europee e nazionali in materia di etichettatura delle bevande alcoliche e ne effettua un'analisi critica. Nella parte conclusiva, l'autore afferma che le disposizioni attuali sono insufficienti per garantire

scelte consapevoli ai consumatori e non riescono pienamente a realizzare l'obiettivo principale del diritto alimentare: la tutela della salute dei consumatori. De lege ferenda, l'autore propone di introdurre modifiche alle regolazioni sia a livello dell'Unione sia nazionale, affinché le etichette promuovano una maggiore consapevolezza sociale riguardo ai danni alla salute e agli effetti sociali del consumo di alcol. In questo modo si favorirebbero scelte informate tra bevande alcoliche e analcoliche. Secondo l'autore, le etichette delle bevande alcoliche dovrebbero scoraggiare il consumo di alcol sia con il loro contenuto che con la loro estetica, anziché promuovere le bevande alcoliche e aumentarne le vendite e, di conseguenza, il consumo, come avviene nell'attuale quadro giuridico.

**Parole chiave:** etichettatura alimentare, avvisi di sicurezza, bevande alcoliche, tutela della salute, diritto alimentare

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## Introduction

Alcohol is a psychoactive substance with intoxicating and addictive properties. Scientific evidence indicates that alcohol consumption, due to its intoxicating, toxic and addictive properties, is associated with many health risks (injuries, liver disease, cancer and cardiovascular disease), that may affect non drinkers as well.<sup>1</sup> Alcohol causes many diseases and has a negative impact on the nervous system, respiratory system, circulatory system, immune system, skeletal system, endocrine system and digestive system.<sup>2</sup> There is growing evidence that any level of alcohol consumption is associated with health risks.<sup>3</sup> Excessive consumption of alcoholic beverages leads to a disease called alcoholism, which is a set of repetitive self-destructive behaviours that have a powerful impact on social and health relationships and affect many other areas of life, causing its destruction.<sup>4</sup> Furthermore, alcoholism is a disease that affects the entire family and becomes a significant factor in its dysfunctionality.<sup>5</sup>

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<sup>1</sup> *Global alcohol action plan 2022–2030*, WHO, Geneva 2024, p. iv and 1, <https://iris.who.int/bitstream/handle/10665/376939/9789240090101-eng.pdf?sequence=1> [accessed on 2.09.2025].

<sup>2</sup> M. Skoczek, K. Grzyb, B. Wanot, *Alkoholizm. Leczenie i skutki*, in: B. Wanot, A. Biskup-pek-Wanot, A. Deryng-Dziuk (eds.), *Problemy zdrowia publicznego*, vol. 1, Częstochowa 2020, p. 107.

<sup>3</sup> *Global alcohol action plan...*, p. 4.

<sup>4</sup> M. Skoczek, K. Grzyb, B. Wanot, *Alkoholizm. Leczenie...*, p. 107.

<sup>5</sup> J. Berlińska, *Rodzina alkoholowa jako przykład rodziny dysfunkcyjnej*, in: J. Dziedzic, J. Klimek (eds.), *Wspomóc uzależnionych od alkoholu. Refleksja psychologiczno-teologiczna*, Kraków 2017, p. 74.

The harmful effects of alcohol consumption are widely known, especially for young and particularly vulnerable consumers.<sup>6</sup> It is noted that alcohol is the greatest risk factor – even greater than tobacco use – for diseases among people aged 15 to 49 worldwide.<sup>7</sup> The harmful effects of alcohol consumption are a significant public health issue in the EU.<sup>8</sup> Alcohol abuse, as a social phenomenon, increases the risk of domestic violence and is an indirect cause of more than 200 diseases and mental disorders. Approximately 40% of people addicted to alcohol also suffer from other mental disorders. The social costs associated with alcohol abuse in the European Union amount to approximately 125 billion EUR per year.<sup>9</sup>

The harmful effects of alcohol consumption on health are far-reaching and extend beyond drinkers to others, to include victims of drink-driving and interpersonal violence, as well as children with foetal alcohol spectrum disorders.<sup>10</sup> Psychoactive substance use and disorders are major causes of various types of injuries, including road traffic injuries and violence.<sup>11</sup>

Cultural norms and traditions associated with alcohol consumption, as well as powerful commercial interests, are obstacles to the implementation of effective measures which might reduce alcohol-related harm.<sup>12</sup> Dominant social norms that support drinking behaviour and ambiguous messages about the harms and benefits of drinking encourage alcohol consumption, delay appropriate health-seeking behaviour, and undermine community action.<sup>13</sup>

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<sup>6</sup> Council Conclusions on an EU strategy on the reduction of alcohol-related harm (2015/C 418/03) (OJ EU, 16.12.2015, C 418), p. 6; Council Conclusions on cross-border aspects in alcohol policy – tackling the harmful use of alcohol (OJ C 441, 22.12.2017), p. 3; Opinion of the European Committee of the Regions – The need for and way towards an EU strategy on alcohol-related issues (2017/C 207/12) (OJ C 207, 30.6.2017), p. 61; Report from the Commission to the European Parliament and the Council regarding the mandatory labelling of the list of ingredients and the nutrition declaration of alcoholic beverages COM/2017/058 final.

<sup>7</sup> Opinion of the European Committee of the Regions – The need for and way towards an EU strategy...

<sup>8</sup> Communication from the Commission to the European Parliament and the Council, Europe's Beating Cancer Plan, Brussels, 3 February 2021, COM(2021) 44 final, para. 3.3.

<sup>9</sup> M. Skoczek, K. Grzyb, B. Wanot, *Alkoholizm. Leczenie...*, p. 108; M. Kopera, M. Wojnar, *Epidemiologia problemów i zaburzeń związanych z używaniem alkoholu*, in: M. Wojnar (ed.), *Medyczne aspekty uzależnienia od alkoholu*, Warszawa 2017.

<sup>10</sup> *Global alcohol action plan...*

<sup>11</sup> *Global status report on alcohol and health and treatment of substance use disorders*, WHO, Geneva 2024, <https://www.who.int/publications/i/item/9789240096745> [accessed on 2.09.2025].

<sup>12</sup> *Global alcohol action plan...*, p. iv.

<sup>13</sup> *Ibidem*, p. 1.

One of the factors contributing to the decline in alcohol consumption is growing public awareness of the negative health and social consequences of alcohol consumption and its causal links not only to alcohol-induced mental disorders, interpersonal violence and suicides, but also to various types of cancer, liver disease and cardiovascular disease.<sup>14</sup> The lack of awareness of the negative impact of alcohol consumption on the health and safety of the population is influenced by insufficient regulation of the marketing of alcoholic beverages and the existence of positive commercial messages about alcoholic beverages.<sup>15</sup> It is therefore important to implement instruments which contribute to raising public awareness of the risks and harms associated with alcohol consumption and its impact on the health and well-being of individuals, families and society as a whole.

The aim of this article is to attempt to answer the question of whether the current regulations on the labelling of alcoholic beverages are sufficient to achieve the key objective of food law, i.e. the protection of consumer health, and to consider possible legislative changes that could contribute to raising public awareness of the negative effects of alcohol consumption and, consequently, to reduce its consumption. The article focuses exclusively on one of the instruments used to reduce the consumption of alcoholic beverages, i.e. the information provided on the labels of alcoholic beverages. However, what is beyond the scope of this discussion are the issues concerning restrictions on the availability (sale) of alcoholic beverages, excise duty, restrictions on advertising alcoholic beverages, and the impact of information campaigns and social media on shaping social attitudes towards alcohol consumption.

## **1. The definition of alcoholic beverages**

Before discussing issues related to the labelling of alcoholic beverages, it is reasonable to clarify the concept of “alcoholic beverage” itself, especially since there is no legal definition of this concept in EU law. Therefore, referring to everyday language, alcoholic beverages should be considered to be beverages that contain ethyl alcohol, a chemical substance obtained through alcoholic fermentation, which is a colourless liquid with a characteristic taste and smell. It must first be determined whether alcoholic beverages understood in this way can be considered foodstuffs. The definition of food

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<sup>14</sup> Ibidem, p. 6.

<sup>15</sup> Ibidem, p. 2.

contained in Article 2 of Regulation 178/2002<sup>16</sup> is extremely broad, as it covers all products and substances intended to be, or reasonably expected to be ingested by humans. The scope of this definition excludes, *inter alia*, medicinal products, narcotics and psychotropic substances, but does not exclude beverages containing alcohol intended for human consumption. There is therefore no doubt that such beverages constitute food.

However, bearing in mind the information provided at the outset about the harmful effects of alcohol on health (including the high risk of addiction and the associated health consequences), as well as the social effects of consuming alcoholic beverages, there is no doubt that for this reason alone, alcoholic beverages constitute a special category of foodstuffs. For this category, is necessary to introduce regulations and other measures at the national, EU and international levels to prevent and reduce alcohol consumption.<sup>17</sup> It is worth noting that alcohol remains the only psychoactive and addictive substance with a significant impact on the health of the global population which is not controlled at international level by legally binding regulatory instruments.<sup>18</sup> This makes the EU and national regulations all the more important.

Despite the lack of a legal definition of alcoholic beverages in EU law, the term is used in many legislative acts. From the point of view of the subject matter of this article, Regulation 1169/2011<sup>19</sup> and Regulation 1924/2006<sup>20</sup> deserve special attention. They refer to “beverages containing more than 1.2% alcohol by volume.” The specific requirements provided for in these regulations apply to this category of beverages (as discussed below). On the basis of these two regulations alone, it could therefore be concluded that under EU law, an alcoholic beverage is understood to be a beverage with an

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<sup>16</sup> Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ EU L 31 of 1.2.2002), p. 1.

<sup>17</sup> A set of global actions and proposals for measures which can be implemented at national level have been outlined in the WHO document *Global alcohol action plan...*

<sup>18</sup> Ibidem, p. 5.

<sup>19</sup> Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ EU L 304 of 22.11.2011), p. 18.

<sup>20</sup> Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (OJ EU L 404 of 30.12.2006), p. 9.

alcohol content of more than 1.2% by volume. However, when determining the meaning of the term “alcoholic beverage” in EU law, other legislative acts regulating various issues related to beverages containing alcohol, including those introducing specific categories of alcoholic beverages, must also be taken into account.

Regulation 2019/787<sup>21</sup> contains a definition of “spirit drinks” which are explicitly classified as a type of “alcoholic beverages” (although the definition of alcoholic beverages itself is not included in this Regulation), and one of the requirements for a beverage to be considered a spirit drink is a minimum alcohol content of 15% by volume.<sup>22</sup> In addition to spirit drinks,<sup>23</sup> alcoholic beverages also include wine and certain other categories of wine sector products, as well as aromatised wine sector products. The definitions of wine and other categories of wine sector products are set out in the Annex to Regulation 1308/2013.<sup>24</sup> Although the definition of wine and other categories of wine sector products (e.g. liqueur wine, sparkling wine, wine from dried grapes, wine from overripe grapes) does not mention the fact that these are alcoholic beverages, most of these definitions indicate a minimum alcohol content that significantly exceeds 1.2% vol.<sup>25</sup> This alone

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<sup>21</sup> Regulation (EU) No 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications of spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and also repealing Regulation (EC) No 110/2008 (OJ EU L 130 of 17.5.2019), p. 1.

<sup>22</sup> According to Article 2 of Regulation No 2019/787, a spirit drink is an alcoholic beverage which meets specific requirements (including a minimum alcohol content of 15% by volume, except for egg liqueur, which has an alcohol content of 14%).

<sup>23</sup> Regulation 2019/787, Annex I, identifies and defines in detail 47 categories of spirit drinks for which the minimum alcoholic strength by volume – with the exception of egg liqueur – has been set at well above 15% (including rum, whisky, brandy, vodka, flavoured vodka, gin, liqueur, egg liqueur, various types of spirit). These categories are legal names (and therefore these names are used on labels). However, a spirit drink that does not meet the requirements specified for any of these categories uses the legal name “spirit drink.”

<sup>24</sup> Regulation of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ EU L 340 of 20.12.2013), p. 671.

<sup>25</sup> In accordance with Annex VII, Part II, para. 2 of Regulation 1308/2013, for example, “‘Wine’ means the product obtained exclusively from the total or partial alcoholic fermentation of fresh grapes, whether or not crushed, or of grape must. Wine has [...] an actual alcoholic strength of not less than 8.5 % volume provided that the wine derives exclusively from grapes

allows them to be classified, without any doubt, as alcoholic beverages, in the light of the two key regulations on food labelling referred to above (i.e. 1169/2011 and 1924/2006).

However, in certain categories of wine products, the alcohol content is less than 1.2% by volume (e.g. grape must).<sup>26</sup> In addition, Regulation 2021/2117<sup>27</sup> introduced amendments to Regulation 1308/2013, including the possibility of de-alcoholising certain products in the wine sector (primarily wine). In accordance with the adopted regulation (Article 119(1)(a)(i) of Regulation 1308/2013), if, as a result of the dealcoholisation process, the actual alcoholic strength of the product is no more than 0.5 % by volume, such product shall be designated as “de-alcoholised.”<sup>28</sup> The term “de-alcoholised” (French: *désalcoolisé*, German: *entalkoholisierter*, Spanish: *desalcoholizado*, Italian: *dealcolizzato*, Polish: *odalkoholizowany*) clearly indicates that such a beverage is not an alcoholic beverage, as it has been deprived of alcohol. Therefore, among wine sector products (including wine), there may also be beverages that are not alcoholic beverages, but only if they are labelled as “de-alcoholised.” Aromatised wine products are defined in Regulation 251/2014<sup>29</sup> and refer to products obtained from wine sector products to which flavourings have been added.<sup>30</sup> The definitions of individual categories of aromatised wine products state that these are beverages with an actual alcohol

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harvested in wine-growing zones A and B referred to in Appendix I to this Annex, and of not less than 9 % volume in other wine-growing zones.”

<sup>26</sup> In accordance with Annex VII, Part II, para. 10, “‘Grape must’ means the liquid product obtained naturally or by physical processes from fresh grapes. An actual alcoholic strength of the grape must of not more than 1% volume is permissible.”

<sup>27</sup> Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021 amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and protection of geographical indications of aromatised wine products, and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ EU L 435 of 6.12.2021), p. 262.

<sup>28</sup> In the case of partial de-alcoholisation, the actual alcohol content of the product is greater than 0.5% vol. but is below the minimum actual alcohol content by volume for the category before dealcoholisation, and such a product is referred to as “partially de-alcoholised.”

<sup>29</sup> Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ EU L 84 of 20.3.2014), p. 14.

<sup>30</sup> Aromatised wine products are divided into the following categories: aromatised wines; aromatised wine-based drinks; aromatised wine-product cocktails.



content significantly exceeding 1.2% vol.<sup>31</sup> and therefore, in this case too, they should undoubtedly be considered alcoholic beverages.

Alcoholic beverages also include beer, which, however, has not only not been defined, but also has not been separately regulated in any EU food law legislation. In this regard, reference should be made to EU regulations laying down rules on excise duty imposed on the consumption of, *inter alia*, alcohol and alcoholic beverages.<sup>32</sup> These provisions indicate that the category of alcoholic beverages includes various types of products designated by specific CN codes.<sup>33</sup> (obtained by fermentation, including wine, beer, cider, perry and mead, as well as spirit drinks obtained by distillation) with an actual alcohol content exceeding 1.2% vol. (and in the case of beer with an actual alcohol content exceeding 0.5% vol.).<sup>34</sup> For the purposes of excise duty, “beer” has also been defined and is understood to mean any product classified under code CN 2203 or any product containing a mixture of beer and non-alcoholic beverages classified under code CN 2206, provided that in each case the actual alcohol content of these products exceeds 0.5% by volume.<sup>35</sup> The tariff codes referred to in this definition are included in the Combined Nomenclature contained in Annex 1 to Regulation 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (code 2203 covers “beer obtained from malt” and code 2206 covers “other fermented beverages” (for example, cider, perry, mead, saké and mixtures thereof). It is also worth noting that the Combined Nomenclature includes Chapter 22 entitled “non-alcoholic beverages, alcoholic beverages and vinegar” and the introductory notes to this chapter explain

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<sup>31</sup> For aromatised wines, not less than 14.5% vol., for aromatised wine-based drinks, not less than 4.5% vol., for aromatised wine-product cocktails, above 1.2% vol.

<sup>32</sup> Article 1(1)(b) of Council Directive 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ EU L 58 of 27.12.2020, p. 4) states that products subject to excise duty (excise goods) are alcohol and alcoholic beverages covered by Directives 92/83/EEC and 92/84/EEC, and, in addition, Article 32 of that Directive, which specifies the circumstances to be taken into account in determining whether excise goods are intended for the personal use of a private individual; it sets maximum quantities for spirit drinks, intermediate products, wines and beers.

<sup>33</sup> The Combined Nomenclature is contained in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ EU L 256 of 31.9.1987), p. 1.

<sup>34</sup> Articles 1–23 of Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages (OJ EU L 316 of 31.10.1992), p. 21.

<sup>35</sup> Article 2 of Directive 92/83/EEC.



that in heading 2202, the term “non-alcoholic beverages” means beverages with an alcohol content not exceeding 0.5% by volume.

An analysis of all the above-mentioned EU regulations therefore makes it possible to conclude that, despite the lack of a legal definition of an alcoholic beverage, under EU law, beverages with an actual alcohol content exceeding 0.5% by volume should be considered alcoholic beverages, with the obligation to provide information on the alcohol content arising only when its content in a beverage, including an alcoholic beverage, exceeds 1.2% vol.

In turn, in Polish law, the definition of an alcoholic beverage is contained in the Act of 26 October 1992 on Upbringing in Sobriety and Counteracting Alcoholism.<sup>36</sup> According to Article 46(1) of this Act, an alcoholic beverage is “a product intended for consumption, containing ethyl alcohol of agricultural origin in a concentration exceeding 0.5% by volume.”<sup>37</sup> In addition, the Excise Duty Act<sup>38</sup> also contains a definition of alcoholic beverages, assuming that alcoholic beverages within the meaning of this Act include ethyl alcohol, beer, wine, fermented beverages and intermediate products, and then in subsequent articles, it defines individual types of alcoholic beverages by referring to the Combined Nomenclature, while specifying the minimum alcohol content, which in the case of beer is 0.5% by volume, and in the case of other types is set at a significantly higher level (exceeding 1.2%). Originally, prior to the amendment introduced on 14 June 2002, an alcoholic beverage within the meaning of this Act was defined as a product containing ethyl alcohol in a concentration exceeding 1.5%.<sup>39</sup> In statutes passed in Poland during the interwar period, some restrictions explicitly stated that they applied to beverages “containing any amount of alcohol”<sup>40</sup> and other

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<sup>36</sup> Act of 26 October 1992 on Upbringing in Sobriety and Counteracting Alcoholism (consolid. text: Journal of Laws of 2023, item 215).

<sup>37</sup> Originally, prior to the amendment introduced on 14 June 2002, an alcoholic beverage within the meaning of this Act was defined as a product containing ethyl alcohol in a concentration exceeding 1.5%.

<sup>38</sup> Act of 6 December 2008 on Excise Duty (consolid. text: Journal of Laws of 2022, item 143).

<sup>39</sup> The Acts of 10 December 1959 and 27 April 1956 on combating alcoholism prohibited the sale of alcoholic beverages, e.g. in educational and childcare facilities, as well as in hospitals and sanatoriums. However, most of the restrictions provided for in these acts concerned beverages containing more than 4.5% alcohol (e.g. there was a ban on selling such beverages to minors under the age of 18).

<sup>40</sup> In the Act of 21 March 1931 on Restrictions on the Sale, Serving and Consumption of Alcoholic Beverages (an anti-alcohol act), most of the restrictions applied to beverages containing more than 4.5% alcohol, and in the Act of 23 April 1920 on Restrictions on the Sale and Consumption of Alcoholic Beverages -beverages containing more than 2.5% alcohol,

concerned beverages containing a specific percentage of alcohol (e.g. above 2.5% or 4.5%), which allowed for the assumption that an alcoholic beverage is a beverage containing any amount of alcohol, while various restrictions depended on the alcohol content in such beverages.

The current solutions adopted in both EU and Polish law lead to the conclusion that contrary to what would follow from the linguistic meaning of the term ‘alcoholic beverage’ based solely on colloquial language, in legal terms an alcoholic beverage does not mean any beverage containing alcohol, but only a beverage with an actual alcohol content exceeding 0.5% by volume. In the context of the labelling of alcoholic beverages, this means that beverages with a lower alcohol concentration should remain outside the scope of the discussion.

However, bearing in mind the harmful effects of alcohol, the adopted solution may raise doubts, particularly with regard to beverages consumed by children, young people and pregnant women. Numerous scientific studies confirm that alcohol adversely affects the developing brain, causes irreversible changes in the brain structure itself, and disrupts cellular, neurochemical and molecular processes, which is particularly important during adolescence.<sup>41</sup> Research also shows that there is no safe limit for alcohol consumption by pregnant women (even small amounts of alcohol contained in alcoholic beverages consumed by pregnant women damage and kill developing foetal cells).<sup>42</sup> Excluding beverages containing less than 0.5% alcohol from the scope of alcoholic beverages means that children, young people and pregnant women in particular, but also consumers who, for health or other reasons (e.g. related to a profession requiring extreme concentration) do not want to consume alcohol, are exposed to the risk of consuming beverages that contain small amounts of alcohol, without knowledge or ability to find out about it. Furthermore, the exclusion of beverages containing alcohol but with a concentration of less than 0.5% from the definition of “alcoholic beverage” leads to the conclusion that such beverages may be labelled as “non-alco-

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with both Acts imposing an absolute ban on the sale and serving of “beverages containing any amount of alcohol” to persons “under the age of 21 or students of all types of lower and secondary schools, regardless of their age.”

<sup>41</sup> J. Sadowska-Mazuryk, A. Tomczuk-Ismer, A.J. Jakubczyk, M. Wojnar, *Picie alkoholu przez młodzież w kontekście okresu dojrzewania*, “Alkoholizm i Narkomania” 2013, vol. 26, no. 2, p. 177.

<sup>42</sup> M. Dulęba, M. Chądryńska, B. Kozakiewicz, *Wpływ picia alkoholu na zdrowie kobiet w ciąży i ich dzieci – przegląd badań*, “Pediatria i Medycyna Rodzinna” 2021, vol. 17, no. 3, pp. 205 and 207.

holic” or “alcohol-free” (since they are not alcoholic beverages), which, particularly in the case of beverages that are usually alcoholic (e.g. beer or wine), may make it difficult for consumers to make a fully informed choice, especially in the absence of warnings indicating the possible low alcohol content of these beverages.

## 2. Labelling requirements for alcoholic beverages

Moving on to the fundamental issue addressed in this article, i.e. the labelling of alcoholic beverages, it should first be noted that, as alcoholic beverages are foodstuffs, they are subject to the food labelling requirements set out in Regulation 1169/2011, with the exception that several specific solutions have been introduced for this category of food. It should be emphasised that Regulation 1169/2011 recognises ensuring a “high level of health protection” as one of the fundamental objectives of labelling. As indicated in this Regulation, the provision of food information shall pursue a high level of protection of consumers’ health by providing a basis for final consumers to make informed choices and to make safe use of food, with particular regard to health conditions.<sup>43</sup> It should be underlined that ensuring a high level of protection for human health and life is the most important objective of current food law.<sup>44</sup> This special position of protecting human life and health stems primarily from the nature of the goods protected by this objective – life and health are values of the utmost importance – and is confirmed both in the provisions of the Treaty on the Functioning of the European Union (mainly Article 9 and Article 168 of the TFEU, but also Article 169(1) and Article 191(1), second indent of the TFEU) and directly in the content of legislative acts in the field of food law.<sup>45</sup> Taking into account the harmful effects of alcohol on consumers’ health, the rules on the labelling of alcoholic beverages should therefore primarily serve to protect the health

<sup>43</sup> Article 3 of Regulation 1169/2011.

<sup>44</sup> K. Leśkiewicz, *Prawo żywnościowe*, Warszawa 2020, p. 38; P. Wojciechowski, *Unijne prawo żywnościowe*, in: M. Korzycka, P. Wojciechowski, *System prawa żywnościowego*, Warszawa 2017, p. 125; B. van der Meulen, M. van der Velde, *European Food Law Handbook*, Wageningen 2008 p. 266; M. Korzycka-Iwanow, *Prawo żywnościowe. Zarys prawa polskiego i wspólnotowego*, Warszawa 2007, p. 94; and also the judgment of the CJEU of 5 May 1998 in Case C-180/96 *United Kingdom of Great Britain and Northern Ireland v. Commission of the European Communities*, [1998] ECR, p. 2265.

<sup>45</sup> P. Wojciechowski, *Znakowanie żywności jako instrument realizacji celów prawa żywnościowego wybrane problemy*, “Przegląd Prawa Rolnego” 2021, no. 2, s. 512.

and life of consumers. This is all the more important given that Article 14(1) of Regulation 178/2002 prohibits the placing on the market of unsafe food, i.e. food that is injurious to health or unfit for human consumption, and undoubtedly, in the light of Article 14(4) 4 of Regulation 178/2002, alcohol should be considered harmful to health.<sup>46</sup> At the same time, Article 14(3) of Regulation 178/2002 specifies that when deciding whether a foodstuff is unsafe, consideration should be given, *inter alia*, to the information provided to consumers, including the information on the label. Therefore, it is the information provided to the consumer, and above all the content of the label, which, despite the harmful effects of alcohol on health, may determine that food containing alcohol is not considered unsafe.

It should also be noted that, pursuant to Article 14(7) and (9) of Regulation 178/2002, food is considered safe if it complies with the specific provisions of EU and national food law. Therefore, given the existence of a number of legislative acts at both EU and national level laying down requirements for the production and marketing of alcoholic beverages and for the provision of information about them, including their labelling, it is reasonable to assume that alcoholic beverages may be placed on the market, due to the existence of specific provisions on alcoholic beverages, despite the fact that alcohol is harmful to health, which, taking into account only Article 14(1) and (4) of Regulation 178/2002, could lead to the conclusion that alcoholic beverages cannot be marketed. The way they are labelled should, however, be designed to enable consumers to make fully informed choices and, above all, should not mislead consumers as to the presence of alcohol in the product or the properties of alcohol, in particular its effects on health. It should be remembered that the general principle of food law in the field of labelling is to provide consumers with a basis for making informed choices about the food they consume and to prevent any practices that could mislead consumers.<sup>47</sup> From the consumers' point of view, it can be said that consumers have the right to information about the food they consume.<sup>48</sup>

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<sup>46</sup> Pursuant to this provision, when deciding that a foodstuff is harmful to health, the following factors, *inter alia*, should be taken into account: the probable immediate and/or short-term and/or long-term effects of that food on the health of the person consuming it and on future generations; the possible effects of cumulative toxicity. Alcohol consumption has immediate effects (disruption of bodily functions), long-term effects (leading to addiction), and affects the foetus when consumed by pregnant women.

<sup>47</sup> Article 8(1) of Regulation 178/2002 and also recital 4 and Article 3(1) of Regulation 1169/2011.

<sup>48</sup> Recital 3 and Article 1(2) of Regulation 1169/2011.

In order to implement the above principle, EU law specifies and regulates in detail the list of mandatory information that must be included on labels, and also allows for the inclusion of additional information, referred to as voluntary information.<sup>49</sup>

### 3. Information on the percentage of alcohol content

In the case of alcoholic beverages, from the point of view of consumer health protection, it is of key importance to introduce the obligation to include information on the actual alcohol content by volume on the label for beverages with an alcohol content of more than 1.2% by volume.<sup>50</sup> Information about the alcohol content of a given product provided on the label allows consumers to make an informed choice about consuming alcoholic beverages.

However, there are serious concerns about the fact that there is no obligation to provide information on the alcohol content of alcoholic beverages with an alcohol content of less than 1.2% by volume (or at least a warning about the possible alcohol content). The lack of such information deprives consumers of the opportunity to make an informed choice, or indeed any choice at all, about beverages that do not contain alcohol, which is particularly important for people for whom alcohol consumption has far-reaching health or other consequences (this includes children, young people, pregnant women, people taking medication, ill people, addicts, or those in certain professions).

### 4. Warnings about the harmful effects of alcohol (warning labels)

In addition to the obligation to include information on the alcohol content, it might be worth considering an obligation to include warnings on alcoholic beverage labels regarding alcohol consumption and its health risks to the consumer (indicating alcoholism and diseases whose risk increases in connection with the consumption of alcoholic beverages) and to the health of others (with particular emphasis on the consequences of alcohol consumption by pregnant women or alcohol as a cause of traffic accidents and victims of those accidents), as well as the social consequences (e.g. domestic violence) arising from alcohol consumption or excessive alcohol consumption.

<sup>49</sup> P. Wojciechowski, *Informacja o braku zawartości określonych substancji w żywności w regulacjach prawa żywnościowego*, "Przegląd Prawa Rolnego" 2018, no. 1, p. 104.

<sup>50</sup> Article 9(k) of Regulation 1169/2011.

The introduction of such warnings could have a positive impact on raising consumer awareness of the health and social consequences of alcohol consumption. There is a WHO report on alcohol-related problems that indicates that the introduction of warning labels on alcoholic beverages is one of the instruments which could be implemented by countries to reduce alcohol consumption (alongside instruments used to increase the price of alcohol in the form of excise duty, restrictions on the availability of alcohol, or bans on advertising and promoting alcoholic beverages).<sup>51</sup> The development and implementation of requirements for the labelling of alcoholic beverages by individual countries, with information provided in a manner that is understandable to consumers and containing health warnings, is also listed as one of the measures in the WHO global alcohol action plan 2022–2030.<sup>52</sup>

As has been pointed out, these warnings may concern various issues, primarily alcohol consumption by pregnant women and minors, or drink-driving. Increasingly, attention is also being drawn to the need to warn about the link between alcohol consumption and cancer incidence.<sup>53</sup> It was in the context of the fight against cancer in 2021 that the European Commission announced that it would present proposals for mandatory health warnings on alcoholic beverage labels by the end of 2023.<sup>54</sup> Referring to this announcement in a working document published in February 2025,<sup>55</sup> the Commission pointed to the EVID-ACTION project,<sup>56</sup> implemented in cooperation with the WHO, which is also intended to support countries to provide health warnings. The European Committee of the Regions also drew attention to the need to include additional mandatory warnings on alcoholic beverage labels to inform about the risks associated with alcohol consumption, includ-

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<sup>51</sup> *Global status report on alcohol...*, pp. 64 and 11.

<sup>52</sup> *Global alcohol action plan...* This plan was approved at the 75<sup>th</sup> World Health Assembly in May 2022. It aims to strengthen the implementation of the global strategy by accelerating action at all levels, including at the national level, to reduce public health problems caused by harmful alcohol consumption.

<sup>53</sup> *Global status report on alcohol...*, p. 71.

<sup>54</sup> Communication from the Commission to the European Parliament and the Council, Europe's Cancer Beating Plan, COM(2021) 44 final, p. 11.

<sup>55</sup> Commission Staff Working Document, Review of Europe's Beating Cancer Plan, SWD(2025) 39 final, [https://commission.europa.eu/document/download/d3f309c6-bf9e-47a6-b63c-14e4e22b3ebc\\_en?filename=SWD\\_2025\\_39\\_1\\_EN\\_document\\_travail\\_service\\_part1\\_v3.pdf](https://commission.europa.eu/document/download/d3f309c6-bf9e-47a6-b63c-14e4e22b3ebc_en?filename=SWD_2025_39_1_EN_document_travail_service_part1_v3.pdf) [accessed on 2.09.2025].

<sup>56</sup> More informations: [https://www.who.int/europe/news-room/events/item/2023/11/22/default-calendar/youth-voices-in-alcohol-policy--launch-of-the-who-eu-evidence-into-action-alcohol-project-\(evid-action\)-youth-alcohol-network](https://www.who.int/europe/news-room/events/item/2023/11/22/default-calendar/youth-voices-in-alcohol-policy--launch-of-the-who-eu-evidence-into-action-alcohol-project-(evid-action)-youth-alcohol-network) [accessed on 2.09.2025].

ing those for pregnant women, young people and drivers.<sup>57</sup> Both WHO and EU documents suggest that Member States should take measures to reduce alcohol consumption, and one such measure could be the introduction of mandatory warnings on alcoholic beverages. The possibility of Member States to introduce national regulations is expressly provided for in Regulation 1169/2011, but is limited to matters that have not been specifically harmonised by Regulation 1169/2011.<sup>58</sup> Placing warnings on alcoholic beverages is not regulated in any way in Regulation 1169/2011, and therefore, as a non-harmonised matter, may be subject to national regulation (unlike the issue of introducing the obligation to include nutritional information or a list of ingredients on alcoholic beverages, which is explicitly regulated in Article 16(4) of Regulation 1169/2011).<sup>59</sup>

However, the introduction by Member States of national provisions imposing an obligation to provide additional mandatory particulars for specific types or categories of foodstuffs is only permissible if it is justified, *inter alia*, by the protection of public health or consumer protection and requires notification to the European Commission.<sup>60</sup> With regard to warnings on alcoholic beverages, the basis for their introduction would primarily be the protection of public health, although, given the functioning of the single market and the principle of mutual recognition, the introduction of national regulations citing the protection of public health (as any other reason) would require an assessment of that regulation in the light of the principle of proportionality, and it would therefore be necessary to demonstrate that the introduction of mandatory warnings is actually necessary to ensure the protection of public health and is proportionate to the objective pursued, which could not be achieved by means less restrictive of intra-Community trade.<sup>61</sup> Although public health protection through reduced alcohol consumption can be achieved using a number of instruments (including excise duty, sales restrictions, information campaigns), warnings on alcoholic beverages serve a specific

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<sup>57</sup> Opinion of the European Committee of the Regions – The need for and way towards an EU strategy on alcohol-related issues. (2017/C 207/12) (OJ EU C 207 of 30.06.2017, para. 44–47).

<sup>58</sup> Article 38 of Regulation 1169/2011.

<sup>59</sup> A. Szymecka-Wesołowska, *Objaśnienia do art. 39*, in: K. Jędrych, P. Szczypkowska, A. Szymecka-Wesołowska, *Znakowanie, prezentacja, reklama żywności. Komentarz do rozporządzenia Parlamentu Europejskiego i Rady (UE) nr 1169/2011*, Warszawa 2018, Lex/el., para. 3.

<sup>60</sup> Article 39 of Regulation 1169/2011.

<sup>61</sup> The judgment of the CJEU of 15 November 2007, Case C-319/05, *Commission v the Federal Republic of Germany*.



function, as they allow specific information to be conveyed at the moment of purchase or even consumption of an alcoholic beverage, which cannot be achieved by any other means. It therefore seems possible to demonstrate that the introduction of such a regulation at the national level is fully justified. It should therefore be proposed that the EU legislator, in particular, introduce an obligation to place warnings about alcohol consumption on alcoholic beverages, and in the absence of EU regulations, measures should also be taken at the national level to make the use of warnings on alcoholic beverages mandatory.

In Poland, in 2018, the Senate<sup>62</sup> (as a result of a petition<sup>63</sup>) began work on introducing mandatory warnings on alcoholic beverages. Consequently, in 2024 the Senate Petitions Committee presented a draft amendment to the Act on Upbringing in Sobriety and Counteracting Alcoholism,<sup>64</sup> proposing that alcoholic beverages be required to carry information about the harmful effects of alcohol consumption by pregnant or breastfeeding women. The justification to the draft points out that under current legislation there are no provisions introducing an obligation to include such warnings, while a warning message with the text: “I do not drink alcohol during pregnancy” or a cautionary graphic symbol included on the labels of certain alcoholic beverages (mainly beer) is only a voluntary one. According to the draft, the minister responsible for health would determine, by way of a regulation, the size, scope, design and manner of placing information about the harmfulness of alcohol to pregnant and breastfeeding women, which could take the form of either informative text or a pictogram.

However, this draft focuses exclusively on a single warning aimed at pregnant and breastfeeding women. It would be reasonable to consider a much broader spectrum of health warnings. It is not sufficient to refer to the messages that have been voluntarily placed on beer by the brewing industry since 2008 (“I don’t drink alcohol when pregnant,” “Alcohol only for adults” and “I never drink and drive”), which have since 2023 been replaced by pictograms.<sup>65</sup> In addition to these messages (pictograms), which

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<sup>62</sup> *Senatorowie ws. szkodliwości picia alkoholu przez kobiety w ciąży*, “Gazeta Prawna”, 30.01.2018, <https://www.gazetaprawna.pl/wiadomosci/artykuly/1101131,senatorowie-ws-szkodliwosci-picia-alkoholu-przez-kobiety-w-ciazy.html> [accessed on 2.09.2025].

<sup>63</sup> Individual petition P 9-36/17 submitted to the Senate on 20 September 2017.

<sup>64</sup> Senate of the 11<sup>th</sup> Term, Document No. 166, <https://www.senat.gov.pl/download/gfx/senat/pl/senatdruki/13344/druk/166.pdf> [accessed on 2.09.2025].

<sup>65</sup> <https://www.browary-polskie.pl/spoleczna-odpowiedzialnosc/dobrowolne-znaki-odpowiedzialnoscowe/> [accessed on 2.09.2025].

should be displayed on all alcoholic beverages, consideration should also be given to introducing additional warnings (which could be displayed interchangeably on alcoholic beverages) referring to the negative effects of alcohol consumption, i.e. diseases caused by alcohol consumption (including cancer) and other health effects of alcohol consumption (e.g. causing irreversible changes in the structure of the brain) or social effects (e.g. domestic violence). Such messages, pointing to the effects of alcohol consumption, can be an important factor in increasing consumer awareness regarding the choice of beverages consumed (they may influence the choice of non-alcoholic beverages). Furthermore, the introduction of such warnings may negatively affect the aesthetics of the label, which in itself may contribute to reducing the attractiveness of alcoholic beverages when compared with non-alcoholic beverages and, consequently, to reducing the consumption of the former.

As an aside, it should be noted that in the case of young people, the message “alcohol only for adults” or a corresponding pictogram may, upon reaching the age of majority, actually serve as a “justification” rather than a deterrent to alcohol consumption. Therefore, only by reinforcing the negative message about the consequences of alcohol consumption, and even more so alcohol abuse, can the desired effect be achieved in the form of consumers making informed choices about beverages and reducing alcohol consumption.

## **5. Exemption from the obligation to provide nutritional information**

Another specific solution in the area of mandatory labelling of alcoholic beverages, which is important from the point of view of consumer health protection, is the exemption from the obligation to provide a list of ingredients (with the exception of ingredients that may cause allergies, which must be provided) and nutrition declaration<sup>66</sup> that applies to beverages containing more than 1.2% alcohol. Taking into account the fact that the indication of nutritional value on the label (including information on energy value and the amount of fat, saturated fatty acids, carbohydrates, sugars, protein and salt) is considered one of the ways of providing information to consumers to support health-promoting decisions when purchasing food and beverages,<sup>67</sup> and that knowledge of basic nutrition principles and adequate nutrition information on

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<sup>66</sup> Article 16(4) of Regulation 1169/2011.

<sup>67</sup> White Paper on a Strategy for Europe on nutrition, overweight and obesity related health issues, Brussels, 30 May 2007 COM(2007) 279 final, p. 6.

food products contributes to enabling consumers to make informed choices,<sup>68</sup> the exemption from the obligation to provide nutritional information must be viewed critically. It should be noted that the EU legislature recognised this problem when adopting Regulation 1169/2011, and therefore in recital 42 of the preamble to Regulation 1169/2011 it is explicitly stated that in order to encourage food business operators to voluntarily provide nutrition information on foodstuffs such as alcoholic beverages, it should be possible to provide only certain elements of nutrition information.

Furthermore, Article 16(4) of Regulation 1169/2011 requires the Commission to submit a report on the application of the requirements for the labelling of alcoholic beverages and nutrition declaration, in order to answer the question of whether alcoholic beverages should in future be subject to specific labelling requirements, in particular with regard to energy value, and the reasons justifying any exemptions. In its 2017 report on the mandatory provision of ingredient lists and nutritional information on the labels of alcoholic beverages, the Commission indicated that it had not identified any objective grounds that would justify the lack of information on the ingredients and nutritional value of alcoholic beverages, whilst recognising that, given that the alcoholic beverage industry is increasingly prepared to respond to consumer expectations to know what they are drinking, it is appropriate to allow the further development of existing voluntary initiatives to ensure the provision of ingredient and nutrition information on a self-regulatory basis.<sup>69</sup>

In 2021, the Commission announced that it would present a proposal for mandatory labelling of ingredients and nutritional information on alcoholic beverage labels by the end of 2023.<sup>70</sup> Addressing this announcement in the 2025 working document<sup>71</sup> the Commission pointed out that Regulation 2021/2117 had been issued with regard to the requirement to include a list of ingredients and nutritional information on wine products and aromatised wine products, while the beer and spirits sectors had signed two memoranda of understanding on ingredient lists and nutrition information,<sup>72</sup> which are

<sup>68</sup> Recital 10 of Regulation 1169/2011.

<sup>69</sup> Report from the Commission to the European Parliament and the Council regarding the mandatory labelling of the list of ingredients and the nutrition declaration of alcoholic beverages COM/2017/058 final.

<sup>70</sup> Communication from the Commission to the European Parliament and the Council, Europe's Beating Cancer Plan, COM(2021) 44 final, p. 11..

<sup>71</sup> Commission Staff Working Document, Review of Europe's Beating Cancer Plan, SWD(2025) 39 final.

<sup>72</sup> Memorandum of Understanding on the Provision of Nutrition Information and Ingredients Listing of Spirit Drinks Sold in the EU, <https://spirits.eu/upload/files/publications/>

currently being implemented. As explained by the Commission, the spirits sector provides energy values on labels and ingredient lists via digital labels, while the beer sector voluntarily provides both types of information on labels.

Pursuant to the aforementioned Regulation 2021/2117, as of 8 December 2023,<sup>73</sup> Regulation 1308/2013 and Regulation 251/2014 were amended and the obligation to include nutritional information and a list of ingredients on the labels of wine sector products and aromatised wine sector products were introduced. This obligation was, however, alleviated at the same time because as it happens the nutritional information on the packaging or on the label attached to it may be limited to the energy value which can be expressed by the symbol 'E' for energy. In such cases, the full nutritional information shall be provided by electronic means indicated on the packaging or on a label attached to it.<sup>74</sup> The list of ingredients may also be provided by electronic means indicated on the packaging or on the label attached to it.<sup>75</sup> To sum up, under current legislation, the obligation to provide nutritional information, and even then only to a limited extent (i.e. only the energy value must be stated directly on the label), applies only to products in the wine sector and aromatised wine products. There is no such obligation for other types of alcoholic beverages. However, producers of these alcoholic beverages may voluntarily include nutritional information. There are no rational reasons why only some alcoholic beverages are covered by the Regulation. It would be reasonable to apply the same regulation on the obligation to provide nutritional information to all alcoholic beverages, as this would make it easier for consumers to make more informed choices between different types of alcoholic beverages.

Above all, however, the inclusion of nutritional information on alcoholic beverages may provide a significant incentive for more informed choices between alcoholic and non-alcoholic beverages and, as a result, may contribute to reducing alcohol consumption, which would be beneficial both from a public health perspective and in terms of social consequences. In

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CP.MI-098-2019-MoU-Final%20Version%20on%20website%20without%20signature-%204%20June%202019.pdf [accessed on 2.09.2025]

<sup>73</sup> Under the transitional provision, wine that complies with the labelling requirements applicable before 8 December 2023, set out in Article 119 of Regulation 1308/2013, and aromatised wine products that comply with the labelling requirements set out in Regulation 251/2014 applicable before 8 December 2023 may continue to be placed on the market until stocks are exhausted, provided that they were produced before that date.

<sup>74</sup> Article 119(4) of Regulation 1308/2013 and Article 6a(2) of Regulation 251/2014.

<sup>75</sup> Article 119(5) of Regulation 1308/2013 and Article 6a(3) of Regulation 251/2014.

this context, it is unclear why, in the case of alcoholic beverages for which nutritional information must be included on the label, only “indirect” inclusion of full nutritional information is permitted, i.e. only the energy value is indicated on the label (and there is no obligation to use the term “energy value”; the letter E is sufficient). The same arguments which support the use of such a solution for alcoholic beverages also support its introduction for other beverages. The use of different solutions for different beverages, depending on whether they are alcoholic or not, makes it difficult for consumers to make a fully informed choice, especially as there is an increasing number of non-alcoholic beverages intended to fulfil the cultural functions attributed to alcoholic beverages (examples include de-alcoholised wine, but also other beverages labelled as non-alcoholic, which are mainly alternatives to beer and which, unlike alcoholic beverages, must include a list of ingredients and nutrition declaration on their labels). From the point of view of consumer health protection, the provision of full information, including ingredients and nutritional value, on beverages containing more than 1.2% alcohol is fully justified.

## 6. Prohibition on making health claims

With regard to alcoholic beverages, EU law also introduces a special solution concerning certain types of voluntary information. Namely, there is a strict ban on placing health claims on beverages with an alcohol content of more than 1.2% by volume.<sup>76</sup> This means that labels for such beverages may not include any statement that asserts, suggests or implies that such beverages have specific properties due to the relationship between these beverages or their ingredients and health.

It should be emphasised that this prohibition also applies when there are studies confirming the truth of a particular claim, because even if there are indications that a single property of a particular alcoholic beverage may show a positive link between its consumption and health, there are still risks associated with the consumption of alcoholic beverages. Drawing attention to such a positive aspect of a particular alcoholic beverage may encourage the consumption of that alcoholic beverage and ultimately lead to an increase in the health risks to consumers associated with the immoderate consumption of any alcoholic beverage.<sup>77</sup> The Court of Justice of the European Union,

<sup>76</sup> Article 4(3) of Regulation 1924/2006.

<sup>77</sup> The judgment of the CJEU of 6 September 2012, C-544/10, *Deutsches Weintor Eg v Land Rheinland-Pfalz*, para. 52.

assessing the admissibility of such an absolute ban in the light of Article 15(1) of the Charter of Fundamental Rights, according to which everyone has the right to engage in work and to pursue a freely chosen or accepted occupation, and in the light of Article 16 of the Charter of Fundamental Rights, which guarantees the freedom to conduct a business, drew attention to the second sentence of Article 35 of the Charter of Fundamental Rights, according to which a high level of human health protection is ensured in the definition and implementation of all Union policies and activities. It pointed out that the compatibility of an absolute ban on the use of health claims on alcoholic beverages must be assessed not only from the point of view of the principles of freedom to choose an occupation and to conduct economic activity, but also with regard to health protection. The CJEU emphasised that, due to the risk of addiction and abuse and the complex harmful effects associated with alcohol consumption, in particular the serious diseases associated with it, alcoholic beverages constitute a special category of foodstuffs subject to particularly restrictive requirements (point 48) and consequently concluded that a total ban on health claims on alcoholic beverages may be considered necessary to ensure compliance with the requirements of Article 35 of the Charter of Fundamental Rights and that such a ban must be considered compatible with the requirement to reconcile individual fundamental rights and to ensure an appropriate balance between them.<sup>78</sup> It should be emphasised that this prohibition does not apply to health claims which support information from national or European Union authorities on the harmful effects of alcohol abuse.<sup>79</sup>

As regards nutrition claims, only claims referring to low alcohol content, reduced alcohol content or reduced energy content of beverages containing more than 1.2% by volume of alcohol are permitted.<sup>80</sup>

The scope of restrictions on the use of nutrition and health claims on beverages containing more than 1.2% alcohol by volume deserves full approval.

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<sup>78</sup> Ibidem, para. 53 and 59. The case before the CJEU concerned the description of wine as 'easily digestible' (*bekömmlich*) in connection with information about its low acidity. The CJEU pointed out, inter alia, that such a statement – assuming that it can be considered true in terms of the reduced acidity indicated therein – is nevertheless incomplete. This statement emphasises a certain characteristic that may facilitate digestion, but the risks associated with the consumption of alcoholic beverages have not been excluded or even reduced in any way. In addition, by emphasising only the ease of digestion, the disputed statement may encourage the consumption of the wine in question and ultimately lead to an increase in the health risks to consumers associated with the immoderate consumption of any alcoholic beverages.

<sup>79</sup> Recital 4 to Regulation 1924/2006.

<sup>80</sup> Article 4(3) of Regulation 1924/2006.

Weighing up the individual benefits that may be associated with the consumption of certain types of alcoholic beverages against the risks associated with alcohol consumption shows that if alcoholic beverages are promoted with information suggesting a positive link between alcohol consumption and health, such information might mislead consumers, particularly when it is not accompanied with mandatory warnings on the effect of alcoholic beverages on human health.

## Conclusions

The analysis conducted in the article leads to several conclusions. First, the very concept of an alcoholic beverage within the meaning of EU and national regulations, where an alcoholic beverage is defined as a beverage containing more than 0.5% alcohol, differs from the meaning that this term has in everyday language, where an alcoholic beverage simply means a beverage containing alcohol (any amount of alcohol, as reflected in the regulations adopted in Poland in the interwar period). Restricting the concept of an alcoholic beverage to beverages with an alcohol content of more than 0.5% vol. means that, *a contrario*, beverages with a lower alcohol content should be considered non-alcoholic, and as a result, consumers may unknowingly consume small amounts of alcohol by consuming beverages labelled as non-alcoholic (e.g. non-alcoholic beer and de-alcoholised wine).

Second, in the case of beverages with an alcohol content of between 0.5% and 1.2%, although they are alcoholic beverages, there is no obligation to include information about the alcohol content on the label. Therefore, also in the case of these types of beverages, consumers may be exposed to the risk of alcohol consumption without knowing or being aware that alcohol is present in the beverage they are consuming. In the case of these types of beverages (which are nevertheless classified as alcoholic beverages), the use of the term “non-alcoholic” should be considered unacceptable. The very absence of the obligation to include information about their alcohol content does not mean that they may be labelled as non-alcoholic.

The adoption of a legal regulation according to which an alcoholic beverage is a beverage with an alcohol content of more than 0.5% by volume and according to which the obligation to provide information on alcohol content applies to products containing more than 1.2% is contrary to the fundamental objective of food law, i.e. to ensure a high level of protection of the health and life of consumers. Children and young people (alcohol has a negative effect on brain development) and those undergoing medical treatment as



well as pregnant and breastfeeding women are particularly at risk, as they may unknowingly consume alcohol which, even in small quantities, may pose a health threat. Given the harmful effects of alcohol, the rules on the labelling of alcoholic beverages should therefore primarily serve to protect the health and life of consumers, and the basic factor enabling consumers to make an informed choice about the food they consume is the inclusion of information on the alcohol content, even if that content is low.

Third, under current legislation, there is no obligation to place any warning labels on alcoholic beverages. *De lege ferenda*, it would be most advantageous to introduce appropriate regulations at the EU level. In the absence of EU regulations (neither Regulation 1169/2011 nor any other EU legislative act regulate the placing of warning labels) and therefore, as not being harmonised, this may be subject to national regulation, provided that the introduction of national solutions is justified, among other things, by the protection of public health or consumer protection (which seems justified in the case of alcoholic beverages) and requires notification to the European Commission.

It is therefore necessary to propose legislative work at the national level. Introducing the obligation to include such warnings could have a positive impact on raising consumer awareness of the health and social consequences of alcohol consumption and, consequently, lead to a reduction in alcohol consumption. The messages that have been voluntarily displayed on beer by the brewing industry since 2008 (“I don’t drink alcohol when pregnant,” “Alcohol only for adults” and “I never drink and drive”) and since 2023 replaced by pictograms are not enough. Apart from those, displayed on all alcoholic beverages (and not just beer), additional warnings (alternatively displayed on alcoholic beverages) might be considered. Those warnings could indicate the negative effects of alcohol consumption, such as diseases (including cancer) and other adverse health effects (e.g. irreversible changes in the structure of the brain) or social effects (e.g. domestic violence). Only by reinforcing the negative message about the consequences of alcohol consumption, and even more so alcohol abuse (to the detriment of the aesthetics of the label itself), can the desired effect be achieved, the effect being consumers making informed choices and a reduced consumption of alcohol.

Fourth, the obligation to include a list of ingredients and nutritional declaration on labels of alcoholic beverages has in principle been excluded, which should be viewed critically, particularly given that nutritional information on labels serves to increase consumer awareness and protect consumer health. The EU legislature already recognised this problem when adopting Regula-

tion 1169/2011, as a result of which the Commission was required to submit a report on the application of the requirements for providing information on the ingredients of alcoholic beverages and nutrition information. In its report presented in 2017, the Commission indicated that it had not identified any objective grounds that would justify the lack of information on the ingredients and nutritional value of alcoholic beverages. Despite this, in 2023, the obligation to include nutrition declaration and a list of ingredients on labels was introduced only for products in the sector of wine and aromatised wine products, and even then only to a limited extent, as the nutrition declaration on the packaging or on the label attached to it may be limited to the energy value, which can be expressed by the symbol 'E' for energy. *De lege ferenda*, the obligation to provide full nutritional information should apply to all alcoholic beverages as there are no rational arguments for omitting this information with regard to alcoholic beverages. Furthermore, the lack of an obligation to include such information on alcoholic beverages makes it difficult, and in fact impossible, to make an informed choice between an alcoholic and a non-alcoholic beverage (e.g. between beer and non-alcoholic beer, or wine and de-alcoholised wine).

Fifth, EU law now includes an absolute ban on health claims for beverages containing more than 1.2% alcohol by volume, even if there are studies confirming the truth of a particular claim. This solution deserves full acceptance, because even if a single property of a specific alcoholic beverage demonstrating a positive link between the consumption of such a beverage and health can be identified, there are still risks associated with the consumption of alcoholic beverages. Information indicating a positive link between the consumption of alcoholic beverages and health may mislead consumers, particularly in the absence of mandatory warnings on alcoholic beverages.

In summary, an analysis of the regulations concerning the labelling of alcoholic beverages leads to the conclusion that the current provisions on the labelling of alcoholic beverages are insufficient to ensure that consumers can make informed choices about alcoholic beverages. Above all, this analysis allows to conclude that the regulations on the labelling of alcoholic beverages are not sufficient to achieve the key objective of food law, i.e. the protection of consumer health.

*De lege ferenda*, changes to regulations should be proposed, both at the EU and national level, so that the labelling of alcoholic beverages will contribute to raising public awareness of the negative health and social effects of alcohol consumption and will enable informed choices to be made, distinguishing between alcoholic and non-alcoholic beverages. The content and

aesthetics of alcoholic beverage labels should serve as a deterrent to alcohol consumption, rather than as a means of promoting alcoholic beverages to increase alcohol sales which in consequence leads to increased consumption, as is the case under the current legal framework.

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