



Information note

21st ordinance amending the Consumer Goods Ordinance (German "Printing Ink Ordinance")

On 26 November 2021, the so-called German "Printing Ink Ordinance" passed the Bundesrat (the representation of the German Federal States) and was published in the Official Journal on 7 December (BGBl. I 2021 p. 5068 (No. 82)). Despite massive criticism from the entire food packaging chain and although the EU Commission has already taken action, the regulation was thus launched as a unilateral national measure for which there was no need from industry's point of view. The regulation jeopardises the functioning of the EU internal market and does not contribute to a uniform level of consumer protection throughout Europe. Furthermore, it is not practicable in its current form and hence the relevant provisions are only applicable after a transitional period of four years. Therefore, the following remains valid: Printing inks intended to be printed on food contact materials and manufactured or distributed in accordance with the guidelines of the European Printing Ink Association, EuPIA, comply with all relevant European legislation on food contact materials. This applies regardless of whether their components are listed in the still incomplete positive list of the German regulation or not.

Background:

Printed food contact materials, such as food packaging, are regulated in principle at EU level, however, specific provisions are lacking. Therefore, the European Printing Ink Association (EuPIA) has developed comprehensive concepts, which have been successfully implemented. They support the converters and distributors of food contact materials in their compliance work. Independently of this, the entire food packaging chain in Europe has long been in favour of a harmonised European regulation for printed food contact materials. In the course of the notification of the "Printing Ink Ordinance" to the EU Commission and in appreciation of the objections raised by various member states, the EU Commission announced in 2016 that it intended to adopt an EU legislation on printed food contact materials and invited Germany to postpone its national measure. However, in the course of the work on the EU legislation on printed food contact materials and articles, the Commission identified fundamental deficiencies in the existing legal framework, which are first examined in the context of a broad-based evaluation. Due to the changed timetable at European level, the German regulatory initiative was taken up again in 2020 and completed in 2021.

Key provisions of the regulation:

Although the term "Printing Ink Ordinance" has become popular, the Ordinance does not regulate printing inks as such, but **printed food contact materials**, for which a transfer of substances from the printing ink layer to the food cannot be excluded. The primary addressee of the ordinance is therefore the commercial manufacturer of printed food contact materials. The scope includes food contact materials where the printing ink layer is in direct contact with the foodstuff as well as those where the printing ink layer is applied on the non-food contact side of the material.



The core of the German ordinance is a **positive list** of substances (Annex 14 Tables 1 and 2), which may be used for the manufacture of printing inks for food contact materials. Furthermore, there is a dynamic reference to the positive list of regulation (EU) No. 10/2011 on plastic materials and articles intended to come into contact with food. It should be noted that this reference only applies to substances which are listed without group restrictions and without restrictions and specifications.

For the printing of food contact materials where the printing ink layer is in **direct contact with the foodstuff**, only those printing inks may be used, which are fully composed of substances that are listed in the positive list (Table 1) or are covered by the dynamic reference to Regulation (EU) No 10/2011. In the case of food contact materials where the printing ink layer comes into direct contact with food during normal or foreseeable use, although they are not intended for this purpose (e. g. printed napkins), the printing inks used may additionally contain the pigments listed in Table 2; however, this only applies until 1 January 2027.

For the printing of food contact materials where the printing ink layer is **not in direct contact with foodstuff**, printing inks may be used which also contain non-listed substances; these substances must not be classified as CMR under chemical legislation (CLP Regulation); in addition, a migration must not be detectable at a detection limit of 10 ppb.

For the purposes of the ordinance, "use" is defined as the planned usage of substances for the manufacture of printing inks, i.e. it refers to **intentionally added substances**. **Unintentionally added substances (NIAS)** must be evaluated in accordance with internationally recognised scientific principles of risk assessment, as is in EU legislation.

In the positive list, **specific migration limits, group limits or restrictions** are partially laid down, which must be observed. If no migration limit or other restrictions are defined, the global migration limit of 60 milligrams per kilogram of the foodstuff applies.

The regulation does not contain any requirements for the information exchange along the supply chain. Therefore, ink manufacturers will continue to use the well-established "Statement of Composition" developed by the European Printing Ink Association EuPIA to provide adequate information.

As the ordinance can only be practicable if the positive list is complete, the legislator has set a transitional period. **The relevant provisions are thus only applicable after a transitional period of four years, from 1 January 2026.**

General assessment and practical implications:

The regulation in its current form is **not practicable**, as the positive list is still incomplete and essential substances are missing. Currently, raw material manufacturers continue to work on the completion of this list; they are supported by the printing ink industry. The incompleteness of the list has also been acknowledged by the legislator and a corresponding transition period has been set. **Therefore, there is currently no basis for requesting confirmations of compliance with the requirements of the Printing Ink Ordinance.**



In addition to the composition of the printing ink, **compliance with the migration limits** depends on various factors such as the layer thickness, the packaging geometry or the packaging material and is thus subject to the **compliance work of the manufacturer of the final food contact material**. Even though the Printing Ink Ordinance does not specify how information is to be exchanged along the supply chain, close cooperation between the various players within the chain is crucial. Here, the already established concepts such as the "Statement of Composition" are suitable.

Outlook:

VdL and the entire food packaging chain strongly believe that only a European regulation can satisfy the functioning of the European internal market and ensure a uniform level of consumer protection. This view is also shared by the Bundesrat. In an accompanying resolution, the Bundesrat calls on the Federal Government to support the Commission in its review of the EU legal framework *"and to strongly advocate the development of a uniform European regulation"*. In their explanatory statement, the Federal States conclude that the *"established concepts of the European printing ink industry EuPIA ensure the safety of printed packaging"* and thus confirm the successful EuPIA concepts for safe food packaging.

VdL therefore welcomes the resolution adopted by the federal states. In principle, the German Federal Government also recognises the priority of a European regulation. Thus, an extension of the transitional period is envisaged should the EU Commission present a corresponding specific measure on printed food contact materials within this period. **VdL together with its partners advocates the adoption of a European measure within the transitional period**, as only a harmonised regulation can preserve the integrity of the internal market and ensure a uniform level of consumer protection.

Finally, it should be emphasised once again that printing inks for food contact materials, which are manufactured or distributed in accordance with the guidelines of the European Printing Ink Association, EuPIA, comply with all relevant European legislation on food contact materials. This also applies for Germany until the transitional period has expired and is applicable regardless of whether their components are listed in the still incomplete positive list of the German regulation or not.