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Comparative analysis of consumer food complaints and returns regulations

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ABSTRACT

The article aims to analyze the legal regulation of food complaints and returns from the perspective of European Union law and the legal systems of selected Central European countries (the Slovak Republic, the Czech Republic, Austria, Poland, and Hungary). Special attention is paid to the relationship between consumer law, food law, and food safety rules, especially for perishable and hygienically sensitive foods. The article emphasizes that although Directive 2011/83/EU on consumer rights harmonizes the general 14-day right of withdrawal for distance contracts, foods often fall under the exceptions under Article. 16 letters d) and e), which, however, do not limit the consumer's rights from liability for defects and from general food law. The core of the work is a comparative analysis of the legal regulation in five countries, supplemented by a synthetic table. Based on the findings, specific de lege ferenda measures are proposed for Slovak legislation, in particular the introduction of a special food complaint regime in Act No. 108/2024 Coll., an explicit link between the recall of a batch and the individual consumer's right to a refund, as well as a clearer link between misleading food labeling and the right to a complaint and a refund of the purchase price.

Keywords: food law, consumer protection, complaint, food return, Directive 2011/83/EU, Regulation (EC) No. 178/2002, de lege ferenda.

INTRODUCTION

The issue of food complaints and returns constitutes a specific and legally complex interface among consumer law, general liability for defects, and food law, including food safety rules. Unlike durable consumer products (electronics, furniture), food is characterized by rapid deterioration, sensitivity to storage, and often hygiene risks, which is reflected in the legal regulation of complaints and returns regimes. Although they are a daily part of our lives, we rarely complain about them, mainly because the amounts involved are small, we do not keep the cash register, or we do not feel like returning to the store.

Withdrawal from the contract is not the same as a complaint about the goods, in the sense of the new terminology; it is an allegation of a defect. A complaint will be filed if the received product is defective. This also applies if the error/fault occurred within 14 days of the date of delivery. Currently, online shopping is everyday. Not all cases of online shopping allow withdrawal from the contract. This is not possible, for example, if the goods are not suitable for return due to health protection or hygiene reasons, or if the packaging was damaged after delivery [1].

A complaint can be made about food if defects are discovered before the expiry of the use-by date or minimum durability date, i.e., during the period during which the food is safe and sensory compliant according to the manufacturer's declaration. The seller is obliged to separate the food from others or to visibly mark it with information about the approaching use-by date when only 24 hours remain until its expiry. Food after the expiry date cannot be sold to consumers remotely, i.e., online [2].

Food products past their expiry date may no longer be placed on the market, as they are considered unfit for human consumption and potentially dangerous to consumers. Suppose a consumer purchases a product in a store whose expiry date has already passed at the time of purchase. In that case, he or she has the right to file a complaint

and request either an exchange for another suitable food product or a direct refund of the amount paid. The sale of food products after the expiry date constitutes a violation of food law, under which the official food control authority may impose sanctions on the relevant establishment, including the temporary suspension of its activities or a complete closure.

Suppose a consumer opens a food product after bringing it home that has not yet reached its minimum shelf life and identifies, for example, mold. In that case, this is a defect that clearly establishes grounds for a complaint. You have the right to make a complaint even if you bought a kilogram of lemons and one of them is rotten. A relevant reason can also be a situation in which the product's actual composition does not match the information on the packaging, or when the food contains foreign objects or other contaminants that are unacceptable under food law. The same applies if the goods weigh less than that stated on the packaging.

It is recommended to proceed without delay when making food complaints. As stated in the Civil Code, Act No. 40/1964 Coll. in § 626 paragraph 2, the rights of liability for defects in perishable goods must be exercised no later than the day following the purchase; otherwise, the rights will lapse. If the consumer hesitates to file a complaint, this may allow the seller to argue that the product was damaged due to the buyer's incorrect storage. From the point of view of consumer protection, it is therefore desirable that the complaint be filed immediately upon identifying the defect, ideally by returning to the place of sale, where the right to defective performance can be exercised immediately. To successfully process the complaint, it is necessary to prove the purchase of the product - usually with a cash receipt, but in the event of its loss, an account statement confirming a card transaction or a witness statement may also be accepted as evidence. However, for large purchases, identifying a specific item can be difficult.

The consumer may request an exchange for a defect-free item or withdraw from the contract and receive a refund of the purchase price if an exchange is not possible [3], [4]. The relevant legislation also requires that all food be marked with a use-by date or minimum durability date, except for specific categories such as alcoholic beverages, sugar, and packaged fresh fruit and vegetables. The use-by date is primarily used for foods at high risk of microbiological degradation, such as packaged fresh meat or products from refrigerated counters. After this date, the food cannot be placed on the market, as it is considered unsafe. If the consumer nevertheless purchases such a product, they have the right to file a complaint and request an exchange or refund.

On the contrary, foods marked with a best-before date do not deteriorate rapidly and can be sold even after the specified date has expired. However, the seller must properly label and separate these products from the rest of the assortment while they remain safe for consumption. If a consumer purchases such food and the seller has not fulfilled the obligations of correct labeling and separation, the consumer is entitled to file a complaint. In case of violation of the responsibility to provide accurate and complete information about foods, the consumer is entitled to file a complaint with the competent authority for official food control, which is the State Veterinary and Food Administration of the Slovak Republic.

Directive 2011/83/EU on consumer rights harmonises the 14-day right of withdrawal for distance and off-premises contracts in EU countries, but also introduces exceptions for goods subject to rapid deterioration or spoilage and for sealed goods that cannot be returned for hygiene reasons after opening. This applies in particular to food. However, the above exceptions do not limit liability claims for defects, including the right to request an exchange, discount, or refund for defective or unsafe food.

At the EU level, the key framework is Regulation (EC) No 178/2002 (General Food Law), which defines food safety, sets out the obligations of food business operators, and establishes mechanisms for the withdrawal and recall of unsafe food. Regulation (EU) No 1169/2011, in turn, sets out rules on the provision of food information to consumers and prohibits misleading labelling. National legal orders transpose or implement these frameworks alongside general civil and consumer legislation [5].

Objectives

1. Map and analyze the European legal framework relevant to food complaints and returns.
2. Compare the legal regulations in the Slovak Republic, the Czech Republic, Austria, Poland, and Hungary, with a focus on practical food complaints.
3. Identify gaps and ambiguities in the Slovak legislation and propose specific measures de lege ferenda.

MATERIAL AND METHODS

The article uses comparative legal analysis and textual analysis. At the European level, Directive 2011/83/EU [6], Regulation (EC) No. 178/2002 [7], and Regulation (EU) No 1169/2011 [8] are examined in particular. At the national level, the following are analysed:

- for the Slovak Republic: Act No. 108/2024 Coll. on Consumer Protection [9], Act No. 102/2014 Coll. on consumer protection in the distance selling of goods [10], Act no. 152/1995 Coll. on foodstuffs [11], and the relevant provisions of the Civil Code, Act No. 40/1964 Coll [12];
- for the Czech Republic: Civil Code (Act No. 89/2012 Coll.) [13], Act no. 634/1992 Coll. on consumer protection [14] and Act no. 110/1997 Coll. about food [15];
- for Austria: Allgemeines Bürgerliches Gesetzbuch (ABGB, JGS Nr. 946/1811) [16], Konsumentenschutzgesetz (BGBL. No. 140/1979) [17] and Lebensmittelsicherheits-und Verbraucherschutzgesetz (LMSVG - 2006 mit BGBL. I Nr. 13/2006) [18];
- for Poland: Kodeks cywilny (Ustawa z dnia 23 kwietnia 1964 r.) [19], Ustawa o prawach konsumenta (Dz.U.2024.0.1796 ie - Ustawa z dnia 30 maja 2014) [20] and the Ustawa o bezpieczeństwie wywiecz i żywienia (Dz.U. 2006 nr. 171 poz. 1225 Ustawa z dnia 25 sierpnia 2006) [21];
- for Hungary: Government Decree 45/2014 (II.26.) [22], Act CLV of 1997 on consumer protection [23], Act XLVI of 2008 on the food chain and its control, and 19/2014 (IV.29.) NGM Decree [24]

The results are synthesized into a coherent text and a comparative table that allows a clear comparison of individual legal systems. Based on the findings, *de lege ferenda* proposals for Slovak legislation are formulated.

RESULTS AND DISCUSSION

1 European law – framework for food complaints and returns

1.1 Right of withdrawal and exceptions for food

Directive 2011/83/EU on consumer rights introduces a fundamental 14-day right of withdrawal without giving any reason for distance and off-premises contracts. For food, the exceptions in Article 16 are relevant, in particular:

- Article 16(d) – exception for goods subject to rapid deterioration or perishability,
- Article 16(e) – exception for sealed goods which cannot be returned for health or hygiene reasons if they have been unsealed after delivery.

In practice, this means that fresh food generally does not fall under the 14-day withdrawal period for distance purchases. Similarly, sealed food, for which re-marketing after opening would endanger hygiene and health, cannot be returned under the right of withdrawal itself if the consumer has opened the packaging. It is essential, however, that these exceptions do not limit the consumer's right to complain about a defect in the food - if the food is of poor quality, dangerous, or otherwise in breach of the contract or legal requirements, the consumer can make claims under liability for defects.

1.2 Food safety, withdrawal, and recall

Regulation (EC) No 178/2002 (General Food Law) forms the basic legal framework for food safety in the EU. In the context of food complaints, the following provisions are particularly relevant:

- Article 14 – a food may not be placed on the market if it is unsafe; a food is dangerous if it is harmful to health or unfit for human consumption;
- Article 17 – the food business operator is responsible for compliance with the requirements of food law at all stages of the food chain;
- Article 19 – if the operator discovers that a food product that he has placed on the market does not comply with food safety requirements, he is obliged to withdraw the food product from the market (withdrawal) and, if the food product has already reached the consumer, to recall it, inform consumers and, if necessary, request the food product back from them.

These obligations constitute a harmonised framework that Member States implement through their national food laws. In individual terms, this means that if a batch of food is assessed as unsafe and is subject to withdrawal or recall, the consumer should be entitled to a refund of the purchase price without having to prove an individual defect in a specific unit of food.

1.3 Food information and misleading labelling

Regulation (EU) No 1169/2011 on the provision of food information to consumers lays down rules on the labelling, presentation, and advertising of food. The key principle is the prohibition of misleading information:

food information must not mislead the consumer, in particular as to the characteristics, nature, properties, composition, durability, origin, or method of production of the food. If a food is labelled or presented misleadingly, this is not only a breach of food law but also a breach of consumer law (unfair commercial practice). From a complaint perspective, it is essential that, in such cases, the consumer be able to claim liability for defects even if the food is physically in good condition. Still, its legally relevant property (information) is incorrect.

1.4 Doctrinal foundations and research gap

The European doctrine of food and consumer law deals relatively intensively with general issues of the structure of food law, models of operator liability, and the food labeling regime, but less explicitly with the connection between these regimes and individual consumer rights in making complaints and returning food.

1.4.1 Structure of European food law and responsibility of operators

Van der Meulen systematically shows that the so-called "general food law" is built on the triad of authorities - businesses - consumer, with legal mechanisms primarily addressed to supervisory authorities and food business operators; the consumer is the object of protection rather than the direct holder of subjective rights arising directly from Regulation (EC) No. 178/2002. The individual claims of injured consumers thus arise mainly under the general liability regimes for defects, damage, and defective products in national law [25].

This line is also followed by Hejbudzki, who analyses the link between food safety and product liability in EU law. He points out that although the food safety framework under Regulation (EC) No 178/2002 contains strict obligations for operators (Articles 14, 17, and 19), individual consumer redress is essentially left to the Product Liability Directive and national regulations, while the link between food recalls and consumer redress is not fully resolved normatively or doctrinally [26].

Purnhagen and Molitoris distinguish between public and private enforcement in EU food law and state that the enforcement of food safety and labelling requirements focuses on public law control mechanisms (official controls, administrative sanctions, RASFF). In contrast, private enforcement by individuals is fragmented, dependent on national procedural and substantive law. It only rarely follows directly from the recall/withdrawal obligations under Article 19 of Regulation (EC) No 178/2002 [27].

Although the doctrine elaborates in detail the positive obligations of food business operators upon detection of non-compliant food (lot identification, market withdrawal, take-back, informing authorities and consumers), it only marginally reflects how these obligations are reflected in the individual contractual relationship between seller and consumer, especially concerning the automatic right to a refund of the purchase price for food from a recalled batch.

1.4.2 Recall, food safety, and product liability

The literature on product liability and food safety shows that recalls are primarily understood as tools for risk prevention and management, rather than as mechanisms that directly generate enforceable claims by individual consumers. Hejbudzki emphasizes that even if unsafe food generally meets the criteria of a "defective product" within the meaning of the Product Liability Directive, the practical enforceability of claims is limited by evidentiary problems (causality between consumption and harm, identification of the producer) and procedural costs [28].

Van der Meulen explicitly states that EU food law does not provide consumers with specific claims or remedies and that aggrieved consumers must rely on general consumer and tort regimes, including liability for defective products [29]. This opens up the possibility of a debate as to whether a batch recall under Article 19 of Regulation (EC) No 178/2002 should not be directly "linked" in national legislation to the consumer's right to a refund of the purchase price without the need to prove an individual defect of a specific piece – which is one of the key *de lege ferenda* proposals in this study.

1.4.3 Misleading labelling, the "average consumer" and food information

Much of the doctrine focuses on the interpretation of the concept of the "average consumer" and the boundary between permissible marketing and misleading food labelling under Regulation (EU) No 1169/2011. A key point of departure is the Court of Justice of the EU's case law in the Teekanne case, which has significantly influenced the doctrinal debate.

Cairo analyses this judgment and points out that even with a correct list of ingredients, the product's overall presentation (images of fruit, wording) may be misleading if it creates a false impression among the average consumer about the food's composition or properties. It is emphasized that the list of ingredients is not "immunity" against the charge of misleading labelling [30].

MacMaoláin had previously pointed out the tension between formal labelling requirements and actual consumer perceptions, stressing the need to assess label information in light of the overall impression of the packaging and actual consumer behaviour, not an idealised "rational reader" of all information [31].

Recent empirical work further deepens this tension. Based on an experiment in a supermarket context, De Jager and Dijkstra conclude that the legal presumption that the average consumer routinely reads the ingredients list when making a purchase does not align with actual consumer behavior – many consumers make decisions based on front-of-pack elements, visuals, and quick heuristics [32]. This means that even a “true” list of ingredients on the back may not correct the misleading overall impression of the packaging, which is of immediate relevance to the assessment of misleading labelling under Regulation 1169/2011.

In a systematic review of approaches to food labelling in the EU, Peonides et al. point out that the legal framework is complex and often unintuitive, making implementation and enforcement difficult. They particularly stress that the focus is on protecting the consumer’s “informed decision-making”, but that there are significant differences between the information formally available and how consumers actually use it [33].

Gokani analyses the shift from the concept of the “informed consumer” to the “empowered consumer” in EU law, highlighting the limits of purely informational obligations in an environment of cognitive constraints and complex decision-making situations [34]. In the food sector, this means that transparency of information alone (e.g., in accordance with Regulation 1169/2011) does not guarantee absolute protection against misleading practices if the legal framework does not take into account empirical knowledge about consumer behaviour.

For this study, it is significant that the doctrine elaborates in great **detail** the criteria for misleading labelling and the concept of the average consumer, but only marginally addresses the direct connection between misleading labelling and individual consumer claims for a refund or discount on food. This supports the proposal *de lege ferenda* that national legislation (e.g., Act No. 108/2024 Coll.) explicitly qualifies misleadingly labelled food as a defective product with a legally guaranteed consumer right to a refund.

1.4.4 Directive 2011/83/EU and the right of withdrawal for food

The doctrine devoted to Directive 2011/83/EU (Consumer Rights Directive) focuses mainly on the concept of (complete) harmonisation, the scope of information obligations, and the systematic position of the right of withdrawal in distance and off-premises contracts. Hall analyses the contribution of the Directive to the development of the consumer contract law *acquis* and emphasises its importance, in particular in the area of harmonisation of basic concepts (right of withdrawal, information obligations), while not paying particular attention to foodstuffs as a specific category of goods subject to derogations under Art. 16 [35].

In the broader context of the development of the European consumer contract, Twigg-Flesner draws attention to the tension between complete harmonisation and respect for national specificities, characterising the Consumer Rights Directive as a “half-harmonisation” – a directive that harmonises certain core elements but leaves room for national variations in many areas [36]. From a food perspective, this means that although Article 16 of the Directive provides exceptions to the right of withdrawal (perishable goods, sealed hygiene goods), the specific implications for food complaints and their relationship to liability for defects are left to national legislation and doctrine.

The doctrine therefore lacks a more detailed elaboration of the question of to what extent Member States can or should compensate for the absence of a right of withdrawal in food (due to the exceptions under Article 16) by strengthening the complaint and liability regime for defects. This aspect is the core of the study's contribution and represents an identified research gap.

1.4.5 Synthesis and identification of research gap

Summarizing the existing doctrine, three basic lines can be identified:

1. EU food law as a public law framework - regulations, in particular Regulation (EC) No. 178/2002, place emphasis on the obligations of operators (safety, traceability, recall), while individual consumer claims are rather implicitly referred to general consumer and tort regimes [37].
2. Food labelling and the average consumer – case law (Teekanne) and doctrine (MacMaoláin, Cairo, de Jager & Dijkstra, Peonides et al.) address in detail when the overall presentation of a food is misleading, but they analyze less what specific contractual rights arise from this for the individual consumer (refund, discount, withdrawal in the case of food) [38].
3. Consumer contract law and the right of withdrawal – interpretative literature on Directive 2011/83/EU (Hall, Twigg-Flesner) focuses on the harmonisation technique and the general framework of the right of withdrawal, without detailed elaboration of the specifics of food and the relationship between the exceptions under Article 16 and the strengthening of the complaints regime [39].

The research gap that this article seeks to fill lies precisely in the connection of these three lines: it examines how the recall/withdrawal obligations under Regulation (EC) No. 178/2002, the rules on misleading labelling under Regulation (EU) No. 1169/2011 and the exceptions to the right of withdrawal under Directive 2011/83/EU should be reflected in specific contractual and complaint claims of consumers regarding food in national law, in particular in the legal order of the Slovak Republic and comparable Central European states.

2 Slovak Republic

2.1 Act No. 108/2024 Coll. on Consumer Protection

Act No. 108/2024 Coll. represents a new recodification of consumer protection in the Slovak Republic. It regulates consumers' general rights and traders' obligations while adhering to the Civil Code and special regulations, including food law. Section 3(1) grants the consumer, among other things, the right to protection of health, safety, and economic interests, the right to information in accordance with this Act and EU acts, and the right to assert claims for product liability. Section 4(1) imposes obligations on the trader when selling, including the obligation to sell goods at the agreed price, to sell goods with defects separately or with a special marking, and to provide information in Slovak. Section 4(2) explicitly prohibits the trader from denying the consumer the rights to liability for defects under the Civil Code and from circumventing obligations when exercising these rights. Food complaints are formally governed by the general provisions on liability for defects in the Civil Code, while in the case of foods, their nature is taken into account, and the need for immediate notification of the defect.

2.2 Act No. 102/2014 Coll. on distance contracts

Act No. 102/2014 Coll. transposes Directive 2011/83/EU in the field of distance and off-premises contracts. It introduces a 14-day right of withdrawal for the consumer without giving any reason, but also takes into account exceptions to this right in accordance with Article 16 of the Directive, including goods subject to rapid deterioration or perishability and sealed goods that cannot be returned after opening the packaging for hygiene reasons. In practical terms, this means that most fresh food is not subject to the 14-day withdrawal period without reason when purchased at a distance, but may be subject to a complaint if it is defective.

2.3 Act no. 152/1995 Coll. on foodstuffs

Act No. 152/1995 Coll. implements the basic requirements of EU food law and regulates the safety, health, labelling, and official control of food in the Slovak Republic. It sets out the obligations of food business operators to promote and protect human health. However, it does not explicitly regulate consumer claims arising from defective or dangerous food; such claims are derived from the combination of the Civil Code and Act No. 108/2024 Coll. In practice, this means food complaints are often resolved by analogy to general goods, although food is specific in nature.

3 Czech Republic

3.1 Civil Code (Act No. 89/2012 Coll.)

The new Czech Civil Code regulates the seller's liability for defects in goods (including food) in the purchase provisions and in special provisions on consumer purchases. The seller is responsible for ensuring that the goods are free from defects upon receipt, comply with the contract and the expected properties, including durability and standard quality. Defective food gives rise to consumer claims for removal of the defect, exchange, discount, or withdrawal from the contract in the event of a substantial defect.

3.2 Act no. 634/1992 Coll. on consumer protection

Act No. 634/1992 Coll. supplements the Civil Code and regulates the rights of consumers when making complaints about defective goods, the seller's obligation to handle complaints within 30 days, and supervision by the Czech Trade Inspection. The law does not specify a period for filing food-related complaints. Still, supervisory authorities and consumer organizations recommend filing complaints about fresh food immediately, typically on the same or the next day after the defect is discovered. In practice, perishable foods are handled on the spot, without using the 30-day rule.

3.3 Act no. 110/1997 Coll. about food

Act No. 110/1997 Coll. regulates the obligations of entrepreneurs in the production and placing on the market of food, as well as state supervision over food. It addresses safety, labelling, and the liability of operators, while specific consumer claims arising from defective food are addressed under the Civil Code and the Consumer Protection Act.

4 Austria

4.1 ABGB and KSchG

In Austria, liability for defects (Gewährleistung) is regulated by the General Civil Code (ABGB), in particular §§ 922 et seq., and is reinforced in consumer relations by the Konsumentenschutzgesetz (KSchG). When purchasing defective goods (including food), the consumer has the right to have the defect removed or replaced, to an appropriate price reduction, or to withdraw from the contract in the event of a substantial defect. Official information emphasizes that the consumer is not obliged to conduct a detailed inspection of the item, but it is advisable to report any defects without delay. In the case of food, a complaint is usually made immediately after the defect is discovered, while in practice, retail chains are very benevolent and often provide a refund of the purchase price while waiting.

4.2 Lebensmittelsicherheits- und Verbraucherschutzgesetz (LMSVG)

The LMSVG regulates the requirements for food, water, everyday objects, and cosmetics at all stages of production, processing, and distribution, with an emphasis on health protection and consumer protection against deception. Consumer claims for defective food are enforced under the ABGB/KSchG, while the LMSVG primarily regulates and imposes sanctions on operators, including measures for the withdrawal and recall of food.

5 Poland

5.1 Kodeks cywilny and Ustawa o prawach konsumera

The Polish Civil Code regulates the institution of rękojmi (liability for defects) in the provisions on the seller's liability for defects in goods. In the case of defective goods, the consumer has the right to request repair or replacement, a price reduction, or withdrawal from the contract if the defect is substantial. The Consumer Rights Act introduces a 14-day right of withdrawal for distance contracts. Still, Article 38 explicitly excludes goods subject to rapid deterioration or a short shelf life, as well as sealed goods that cannot be returned for hygiene reasons after opening. Historically, Poland provided for 3 days to file complaints about food; today, a general 2-year period is formally applied, but due to the nature of food, complaints must be made very quickly, so in practice, there remains a short period for filing claims about food.

5.2 Ustawa o bezpieczeństwie przyfki i żywienia

The Food and Nutrition Safety Act implements the food safety framework, including Regulation (EC) No 178/2002, and regulates the conditions for placing food on the market, official controls, and sanctions. As in other countries, specific consumer claims regarding defective food are handled under general civil and consumer law.

6. Hungary

6.1 Government Decree 45/2014 (II. 26.)

Government Regulation 45/2014 (II. 26.) on detailed rules for contracts between consumers and businesses implements Directive 2011/83/EU. It introduces a 14-day right of withdrawal for consumers. At the same time, Section 29(1) includes exceptions for goods subject to rapid deterioration or with a shortened shelf life, and for sealed, hygienically sensitive goods that cannot be returned after opening. In Hungarian practice, these provisions are reflected in the terms and conditions of e-shops, which state that food and products of a special hygienic nature cannot be returned under the regime of unreasoned withdrawal after the packaging has been opened.

6.2 Guarantee and food chain

The procedural rules for handling liability claims arising from defects in goods sold to consumers are set out in the 19/2014 (IV.29.) NGM Decree. Act CLV of 1997 on consumer protection sets out general principles and the supervision of compliance with consumer rights, while Act XLVI of 2008 on the food chain and its control centralises food chain safety policy and emphasises operators' responsibility for food safety. Complaints about defective food are handled under the general liability for defects framework, while official measures (withdrawal, recall) are based on Act XLVI/2008 and Regulation (EC) No. 178/2002. In practice, Hungarian retail chains often offer a benevolent food-return policy, including refunds even in cases of subjective dissatisfaction.

7 Comparative analysis – synthetic table

The following Table 1 summarizes the key elements of the legislation in the five countries analyzed. The comparison of consumer protection mechanisms in the analyzed jurisdictions reveals notable differences in how individual countries regulate food complaints, product returns, and the associated consumer rights. Although all five states apply the common EU framework, especially Regulation (EC) No. 178/2002 and Directive 2011/83/EU, their national laws vary in terminology, deadlines, enforcement mechanisms, and practical procedures for handling defective food. Some countries rely primarily on general consumer legislation, while others maintain separate and more detailed food-specific acts. Differences also emerge in the rules for remote withdrawal, the definition of urgent notification for perishable goods, and the types of claims consumers may assert. The following table summarizes these key legislative elements and provides a structured overview that highlights both harmonized principles and country-specific distinctions.

Table 1 Key elements of legislation in Slovakia, the Czech Republic, Austria, Poland and Hungary.

Element / State	Slovakia	Czechia	Austria	Poland	Hungary
General Consumer Law	Act No. 108/2024 Coll. on Consumer Protection	Law no. 634/1992 Coll. on consumer protection	KSchG (Konsumentenschutzgesetz)	Consumer Rights Act	Government Decree 45/2014 (II.26.) + Act CLV/1997
Special Food Act	Law no. 152/1995 Coll. on foodstuffs	Law no. 110/1997 Coll. about food	LMSVG	Ustawa o bezpieczeństwie żywienia i żywienia	Act XLVI/2008 on food chain and control
14-day remote withdrawal	Yes, according to Act 102/2014 Coll.; food often falls under the exceptions	Yes; food - exemptions under Directive 2011/83/EU	Yes; food - exemptions under Article 16(d),(e) of Directive 2011/83/EU	Yes; exceptions in Art. 38 of the Consumer Rights Act	Yes; exceptions in § 29(1) Government Decree 45/2014
Special deadline for food complaints	No, just urgency by nature	No fixed deadline; recommendation immediately	No specific deadline; immediate withdrawal is recommended	Historically 3 days; today a short period within general liability	No specific deadline; virtually immediate notification
Basic claim for defective food	Exchange, refund, discount	Exchange, refund, discount, repair	Repair/replacement, discount, withdrawal	Repair/replacement, price reduction, withdrawal	Repair/replacement, discount, withdrawal
Safety and recall	Regulation 178/2002 + Act 152/1995 Coll.	Regulation 178/2002 + Act 110/1997 Coll.	Regulation 178/2002 + LMSVG	Regulation 178/2002 + Ustawa o bezpieczeństwie żywienia i żywienia	Regulation 178/2002 + Act XLVI/2008

8 De lege ferenda proposals for Slovak legislation

Based on the European framework and comparison with neighboring countries, several areas can be identified where Slovak legislation could be supplemented or clarified.

8.1 Special food complaint regime in Act No. 108/2024 Coll.

Currently, food complaints are primarily governed by the general provisions of the Civil Code and Act No. 108/2024 Coll., without a special regime for perishable and hygienically sensitive foods. This leads to legal uncertainty about when a complaint is still timely and what constitutes a reasonable time for food. It is proposed to add a separate provision "Complaints about food" to Act No. 108/2024 Coll., which would define the term perishable food with reference to the Food Codex and Regulation (EC) No. 178/2002, impose an obligation on the consumer to file a complaint immediately after discovering a defect, no later than within a short objective period (e.g. 2–3 days) and impose an obligation on the trader to handle complaints about perishable food immediately, ideally on site.

8.2 Explicit link between batch recall and individual refund claim

In the case of dangerous food, it is often controversial to what extent the consumer must prove that the specific item they purchased was dangerous. In practice, the Public Health Office of the Slovak Republic receives a notification from the State Veterinary and Food Administration of the Slovak Republic (ŠVPS SR) about a dangerous/non-compliant food through the Rapid Alert System for Food and Feed RASFF.

The logic of Regulation (EC) No. 178/2002 and food practice suggests that if a batch is unsafe, the entire batch is at risk. It is proposed to add a provision to Act No. 108/2024 Coll. or Act No. 152/1995 Coll., according to which if a food product was from a batch subject to withdrawal or recall under Article 19 of Regulation (EC) No. 178/2002, the consumer has the right to a refund of the purchase price without the obligation to prove an individual defect in a specific piece.

8.3 Explicit link between misleading labelling and rights of complaint

Misleading food labelling is currently addressed mainly through food supervision and unfair commercial practices. The direct link between the detection of deceptive labelling and the individual consumer's right to a refund is less clear. It is proposed to explicitly stipulate in Act No. 108/2024 Coll. that a misleadingly labelled food (in violation of Regulation (EU) No. 1169/2011 and the Food Code) is considered a defective product. The consumer is directly entitled by law to a refund of the purchase price or an appropriate discount, even if the food does not have a physical, sensory, or microbiological defect.

8.4 Procedural rules and consumer information

A further step could be to introduce an obligation for traders to publish clear rules for food complaints in the store, on the cash register or on the website, including information that perishable foods are immediately reported and dealt with without delay. It would also be appropriate to create a central online portal, linked to the national system and RASFF, that provides a standardised procedure for consumers to claim a refund or exchange for each food recall.

8.5 More coherent methodological guidelines

Ministries and supervisory authorities (e.g. MPRV SR, ŠVPS SR, SOI) should prepare methodological guidelines that explain the relationship between exceptions to the right of withdrawal for food and the unlimited right to claim a defect, and recommend uniform practice for traders in food claims, for example, the obligation to accept obviously spoiled food before the date of minimum durability or consumption and provide a refund or exchange without unnecessary delay.

9 Case law and practical examples

The case law of Slovak courts and European judicial institutions also confirms the importance of the legal regulation of food complaints and safety, in its decision no. 2S/276/2014 [40], the Regional Court in Bratislava reviewed a fine imposed by the Regional Veterinary and Food Administration for the sale of moldy foods (Olomouc cheeses, tangerines, red oranges, strawberries, and sugar melon) unfit for human consumption. The court emphasized that foods that do not meet the safety requirements under Regulation (EC) No. 178/2002 and the Food Act constitute unsafe foods that may not be placed on the market, and for their sale, a penalty may be imposed.

In a decision of the Supreme Court of the Slovak Republic (Administrative Judiciary) [41] concerning incorrect food labelling, the court stated that food labelling represents the consumer's first contact with the food and provides basic information about its nature, properties, and composition. Incorrect, incomplete or misleading labelling may mislead the consumer and constitutes a breach of the Food Act and EU food law, justifying the imposition of a penalty on the operator.

District Court Žilina in a civil dispute file no. 8C/8/2013, [42] concerning the dietary supplement CardiCOzym, addressed the issue of presentation of a dietary supplement and the scope of liability for claims about the effect of coenzyme Q10. The court addressed, among other things, the boundary between a dietary supplement and a medicinal product and the extent to which a trader is obliged to verify the scientific evidence for the declared effects of the product. Although the subject matter was not a classic complaint about defective food, the decision is significant for interpreting liability in the context of the presentation of the properties of foods and supplements.

The Collection of opinions of the Supreme Court and decisions of courts of the Slovak Republic (1/2020) [43] contains a case concerning the quality of dry nuts (peanuts), which addressed the correct application of an implementing regulation setting out requirements for the quality and the presence of damaged kernels. The court highlighted the importance of proper examination and documentation of non-conforming foods by supervisory authorities.

If there is a suspicion that the product is unsafe (for example, due to the composition stated in expert articles), you have the right to file a complaint. However, you need to provide evidence that the product is indeed harmful to health. For example, provide tests or an opinion from the public health authority. If the product meets current standards, the seller may reject your complaint. The seller has the right to refuse to accept the return of the goods if the packaging has been damaged, which may affect the product's hygiene. On the other hand, if there are serious doubts about the product's safety, the seller may be obliged to refund the money or resolve the issue in another way (e.g., by exchanging it). If you disagree with the seller, you can file a complaint with the Slovak Trade Inspection (SOI). If necessary, you can contact a lawyer who will help you enforce your rights.

At the European level, the Court of Justice's ruling of 13 January 2022 in Case C-881/19, Tesco Stores ČR as v Ministerstvo zemědělství [44], concerning the interpretation of the requirements of Regulation (EU) No 1169/2011 on the labelling of compound ingredients, is significant. The Court of Justice emphasised that an economic operator may be exempted from the obligation to list all the ingredients of a compound ingredient only under strictly defined conditions and that the aim is to ensure a high level of consumer information. The ruling confirms that Regulation 1169/2011 must be interpreted to preserve the transparency of information on the composition of foodstuffs.

DISCUSSION

Recall and withdrawal mechanisms for unsafe foods are considered essential tools in legal doctrine for protecting public health and food safety. However, the literature on consumer behavior and risk perception suggests that consumer trust plays a key role in the acceptance of this mechanism and in the willingness to exercise the right to a complaint or refund: transparent information about food (origin, batch, traceability) significantly increases trust in food safety [45].

For example, the study adopts a model in which information provided to consumers through traceability systems or social media can significantly increase their perceived risk and motivation to take protective actions [46].

This means that legal proposals de lege ferenda (e.g., linking a batch recall to an individual right to a refund) could be not only legally justified but also socially acceptable — provided that the consumer information system operates transparently and effectively.

On the contrary, an incorrectly or insufficiently communicated food recall can lead to a loss of trust in the brand or retailer, as confirmed by empirical studies on the impacts of product recalls — they are associated with declines in confidence and brand reputation, as well as long-term loss of consumer loyalty [47].

This underscores that the legal regulation of food complaints and returns should not be strictly formal but should also account for psychological and behavioral factors, including information, transparency, procedural clarity, trust, and evidentiary barriers.

Practical limitations in food complaints and proposed solutions

Existing practice and literature reveal several obstacles that may make it challenging to exercise consumer rights in the event of defective or unsafe food:

- the consumer may not be informed that the food was subject to a recall (if he was not informed), or may not be able to prove that he has a piece from the batch in question;
- packaging, packaging, and batch identification may not always be preserved — making it challenging to prove purchase and the link to the dangerous batch;
- Consumer claims (exchange, discount, refund) may not be accepted in practice if the mechanism is not clearly defined in the law or terms and conditions.

These barriers are also supported by research on consumer complaints, where frequent problems are related to packaging, labeling, or the presentation of food — even when the physical quality may have been fine. Still, the consumer perceived the product as poor quality or misleading [48].

In the literature on recall management for goods (although not always food), it has been shown that a complete remedy (e.g., refund, exchange, or reasonable compensation) significantly increases customer satisfaction compared to partial solutions or excuses by sellers [49].

For food, this means that if legislation is to effectively protect consumers, it must ensure not only a legal claim, but also a real possibility of claiming it — including mechanisms for batch identification, document retention, consumer information in the event of a recall, and a straightforward complaint procedure.

Potential for change – towards more inclusive and consumer-friendly legislation

Recent discussions in food law highlight that the traditional model based solely on food safety and information obligations (the "safety + information" principle) may no longer be sufficient to address modern challenges, including sustainability, transparency, and environmental and health pressures [50].

The authors propose a broader approach: a "truly sustainable food law" that would emphasize the food environment — that is, not only informing but also regulating the availability, production, distribution, and responsibility for the entire life cycle of food [51].

In this context, your proposal for explicit regulation of food complaints, linking recalls to consumer rights, and defining a "food defect" in the case of misleading labeling or safety risks has high potential — it could be seen as a step towards modernizing food law, adapted to reality: perishable foods, online sales, globalized supply chains, vulnerable consumers.

At the same time, if methodological guidelines and transparent processes (notification of recalls, information, and uniform practices) were adopted, consumer confidence could be significantly increased, thereby supporting public health, reducing food waste, and improving the food sector's reputation.

Risks and challenges of the proposed changes

There are several potential problems when implementing such changes:

- administrative and financial burden for traders and producers (traceability of batches, records, communication of recalls), especially for small and medium-sized enterprises;

- risk of abuse of complaints — consumers could demand a refund en masse despite the absence of a real defect (which could lead to commercial chaos or price increases);
- lack of consumer awareness or passivity: if recalls are not well communicated, a large proportion of consumers will not even know that their food was unsafe;
- legal difficulties in proving the claim — batch identification, proof of purchase, and return of packaging and documents.

It is therefore important that any changes in legislation are accompanied by systematic mechanisms of communication, transparency, and accountability of operators, not just formal clauses.

Legal instruments for recalls and liability for unsafe or misleadingly labelled foods have the potential to be a significant tool for consumer protection — especially if complemented by mechanisms that enable their real application. Empirical evidence on consumer trust, the importance of transparency, the impact of “full remedy” on satisfaction, and consumer behaviour in food complaints provides a strong justification for *de lege ferenda* proposals. On the other hand, implementation challenges and risks cannot be ignored — but if the aim is to increase legal certainty, health protection, consumer confidence, and the overall quality of the food market, such a transformation of legislation is justified and desirable.

Empirical evidence on consumer reactions to food recalls and labeling

Empirical studies on food recalls show that consumer behavior during food safety crises is complexly conditioned by trust in the food safety system, perceived risk, and the form of communication and corrective response by businesses. Liao, Luo, and Zhu (2020) analyzed how trust in food safety and risk perception affect consumers’ “protective behavior” (e.g., product avoidance, information search, and compliance with recall recommendations) among Chinese consumers. Their model shows that lower trust in food safety increases risk perception, stimulates information search, and increases the likelihood of protective behavior during food recalls [52].

The study by Liao, Luo, and Zhu (2020) also compares two strategies for “restoring trust” by companies: self-sanction (autonomous self-sanctioning – admitting a mistake, apologizing, and voluntary compensation) and information-sharing (sharing scientific evidence on the causes and solutions to the problem). The results suggest that sharing scientific evidence itself increases perceived risk, coping effectiveness, and willingness to act protectively, but can be perceived ambivalently by consumers – either as helpful facts or as “self-justifying” communication by the company. On the contrary, self-sanction strengthens the perceived fairness and moral responsibility of the company. Therefore, the optimal strategy seems to be a combination of both approaches – a transparent explanation supported by scientific evidence, supplemented by explicit assumption of responsibility and compensation [53].

These findings have a direct impact on *de lege ferenda* considerations in the field of food complaints: if legislation explicitly links batch recall with the consumer's right to a refund or exchange, it should also reflect that the legal obligation alone is not enough - the form of the seller's communication and corrective response is also essential. Normative regulation could therefore support “good practice” that combines information transparency (including references to scientific conclusions and the opinions of supervisory authorities) with an apparent assumption of responsibility and the offer of a complete remedy.

Mafael, Raithel, and Hock (2022) develop this line from the perspective of marketing and post-recall satisfaction management. In three studies (one field study and two experimental studies), they examine how the type of remedy chosen, brand equity, and failure severity affect long-term customer satisfaction. Their results consistently show that “full remedy” (complete replacement, exchange, or free repair without shifting the burden to the consumer) significantly better restores satisfaction than “partial remedy” (only partial compensation or alternative solutions requiring consumer action). The effect of complete remedy is particularly pronounced for brands with low and high brand equity and for high failure severity [54].

From the perspective of food complaints, this supports the idea that the normatively preferred standard should be a complete and rapid replacement (refund or immediate exchange), especially in the case of unsafe food or a recall of the entire batch. Suppose Slovak legislation (e.g. in Act No. 108/2024 Coll. or Act No. 152/1995 Coll.) explicitly stipulates that for food from a batch subject to recall, the consumer has the right to a refund without the obligation to prove an individual defect. In that case, this will be in line not only with the logic of Regulation 178/2002, but also with empirical evidence on what best restores consumer satisfaction and trust after food crises.

An essential dimension of the discussion is also added by Smith (2018), who focuses on food labelling issues and trends in Europe, with particular attention to recalls due to incorrect or incomplete allergen information. The author shows that the European legal framework (in particular Regulation 1169/2011) has led to a significant tightening of labelling rules and that recalls due to allergen labelling errors represent a significant proportion of

all food recalls on the EU market. She also points out that third-country producers must adapt their labelling and traceability systems to European requirements, and that unclear or inconsistent labelling can have immediate consequences, such as recalls and sanctions [55].

The implications for the Slovak context are twofold. First, misleading or inadequate labelling (especially concerning allergens) is not just an administrative problem, but poses a real threat to the health and safety of consumers. Second, if in practice recalls for incorrect allergen labelling automatically lead to product replacement or refund, it is logical that Slovak law explicitly reflects this – for example, by explicitly considering a misleading or incorrectly labelled food as a defective product giving rise to a claim for a complaint and refund, even if the food itself is not microbiologically or sensorially unsatisfactory. Such a link between the information obligations under Regulation 1169/2011 and liability for defects in consumer relations would enhance legal certainty and correspond to the trends identified by Smith (2018).

In summary, it can be stated that the empirical literature on consumer reactions to food recalls and the role of food labeling supports the central premises of this study:

- i. Effective enforcement of consumer rights in the case of defective and unsafe food requires a clear legal link between recalls, misleading labelling, and individual contractual claims;
- ii. Legislation should motivate sellers and manufacturers to use full remedies, which are empirically more effective in restoring satisfaction and trust;
- iii. Information obligations and the quality of food labeling are not just a "formal" requirement, but a key determinant of safety, trust, and the use of complaint mechanisms.

CONCLUSION

Food complaints and returns stand at the intersection of consumer and food law. The European framework – in particular Directive 2011/83/EU, Regulation (EC) No. 178/2002 and Regulation (EU) No. 1169/2011 – provides basic rules that Member States transpose and supplement. A comparative analysis of Slovakia, the Czech Republic, Austria, Poland, and Hungary shows that although the structure of the legislation is essentially similar, there are differences, especially in the degree of explicitness and procedural clarity in food complaints. Slovak legislation in its current state provides the consumer with a legal basis for making a complaint about defective or unsafe food, but lacks a specific provision tailored to food. *De lege ferenda*, therefore, seems appropriate to supplement Act No. 108/2024 Coll. on special regulation of food complaints by explicitly linking batch recall to the consumer's right to a refund and by strengthening the legal link between misleading labelling and individual consumer claims. Such steps would increase legal certainty, enhance consumer protection, and at the same time create a more transparent and predictable environment for food business operators.

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