

FOOD SAFETY - A CONSTITUTIVE ELEMENT OF SECTORAL COMMUNITY POLICY

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Abstract: *Retrieving its legal basis in article 43, article 114, article 168 paragraph 4 and article 169 of the Treaty on the Functioning of the European Union, food safety constitutes together with the consumer protection and public health policy, key areas of the sectoral policy regarding consumer protection and public health, as in terms of food safety, the two EU sectoral policy objectives are established and pursued: protecting human health and the consumer interests and promoting a smooth functioning of a competitive, single food market. Supporting and encouraging organic sales, the European Union follows the implementation and compliance throughout the production process of the regulations on food hygiene, animal and plant health, to the ones concerning food labelling.*

Key words: *food safety, consumer, labeling, food additives, food products.*

1. Introduction

Since the establishment of the European Community, for the successful functioning of the single market, certain economic policies of common interest were established, such as the common agricultural policy and the competition policy, while in other sectors, such as the environmental policy or the cohesion policy, the European Community's role has developed over time, against the growing need to establish fair competition conditions and common rules for all market sectors, as well as rules for government intervention.

In supporting the development of the single market in recent decades, the European Union has developed policies in

the most diverse areas, adopting the rules with a different degree of harmonization, from genuine common policies, which assumed general targets to simple collaborations.

Equally, approaches within the initial sectoral policies were developed by initiating sector reforms and establishing new targets of congruence regarding the sustainable development, changing fundamental principles and introducing new financing instruments and protection systems so that each sector policy developed more competition domains.

In turn, it was intended to develop these areas for the purposes of sectoral policy stability, but also by harmonizing the measures adopted in each area in line with the objectives of the other sectoral policies.

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For example, in order to achieve the goals of the Treaty regarding the Functioning of the European Union (TFEU), within the common agricultural policy, successive reforms have been implemented, ensuring the adaptation of the mechanisms used to achieve the new targets in line with those set by the Treaty, such as : economic objectives of food security through sustainable agricultural production, improving the competitiveness and distribution of value in the food supply chain; environmental objectives on the sustainable use of natural resources and combating climate change or territorial objectives such as ensuring economic and social dynamism in rural areas for their development.

Representing the demand of the common market, the position of consumers on the market and the need to protect their interests in order to stimulate the product demand, prompted within the European policy of consumer protection the consolidation of their position by guaranteeing the rights of consumers against traders and ensuring an additional protection as regards the categories of vulnerable consumers, and protect the health safety and economic interests.

Under the harmonization measures in the internal market, the European Commission must start from the prerequisite of a high level of consumer protection, according to paragraph 3 of article 114, reported under paragraph 1 TFEU, level to be ensured both by the individual Member States and at the Union level.

Assuming the implementation of special measures in the internal market, but also of congruent measures within sectoral policies, the Union is assuming executive powers in the consumer protection area, as according to article 169, paragraph 1 and paragraph 2 TFEU, *the Union contributes to the protection of health, safety and economic interests of consumers, as well*

as the promotion of their right to information, education and organization in order to defend their own interests [12].

Thus, besides the measures taken within the internal market under Article 114 TFEU, the scope of the consumer protection extends, under Article 169 paragraph 2 letter b) TFEU beyond the single market, thus including the access to goods and services, access to courts, the quality of public services, and certain aspects regarding nutrition, food, housing and consumer health policy.

Therefore, consumer policy constitutes part of the Union's strategic objective of improving the quality of life for its citizens. Apart from the direct actions intended to protect their rights, the Union ensures that consumer interests are included into the EU legislation in all relevant policy areas [6].

2. Consumer protection measures

European measures for consumer protection target the protection of the health, safety, economic and legal interests of the European consumers, regardless of where they live, travel or shop in the EU [6] and the competence of the Community institutions to adopt measures in order to protect consumers is stated in Article 114 and Article 169 TFEU.

Being established in this sector policy of consumer protection as objectives on the one hand, ensuring a high level of protection against risks and threats to the safety and economic interests of all EU consumers, on the other hand increasing the ability of consumers to acknowledge and defend their own interests, coordinated measures in the public health area have been adopted, in terms of consumers' health and safety and measures regarding the general safety of food products and market surveillance for the food supply.

Directive 2001/95 / EC of the European Parliament and of the Council of 3 December 2001 regarding the general product safety [4], applicable only to products irrespective of the selling method and excluding all services, establishes a system for the general product safety, system that provides that any consumer product sold on the market, even if not covered by a specific sectoral legislation must nevertheless respect certain standards in terms of consumer information, the measures required in order to avoid threats to the general safety of food products and monitoring food products market.

The establishment and implementation by the Member States of this system of protection was justified given that the horizontal legislation of the Member States on product safety, imposing in particular a general obligation on economic operators to market only safe products, might differ in the level of protection afforded to consumers.

Such disparities, and even absence of horizontal legislation in some Member States could create barriers to trade and distort competition in the internal market, for which the Community horizontal law pursues by Directive 2001/95/EC [4] ensuring a high level of safety for the consumers when buying goods on sale in the EU.

Directive 2001/95 / EC [4] addresses the concept of products *lato sensu*, i.e. any item sold to consumers or which may be used by them, whether new, used or reconditioned, for which the European Parliament adopted 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 the procedures in matters of food safety [9].

3. The need for a European policy on food safety

Given that the food marketed in the Union originate from different countries, ensuring food safety has become a cross-border issue.

If initially protecting the human health in the production of food was among the priorities of economic, agricultural and public health policies in 2000, amid the crises relating to food and fodder (for example, the epidemic of bovine spongiform encephalopathy and the PCBs crisis), has developed within the consumer protection policy, as an independent subdomain, the food safety policy, the legal basis existing in the text of Articles 43, 114, 168 and 169 of TFEU.

Thus, although indirectly through the rules and support measures regarding the agricultural producers in EU Member States adopted within the common agricultural policy, the Union was able to influence and maintain the quality and safety of food, in the current context of the global modern market, the maintenance of high standards on food safety imposed the development of a EU food policy and the adoption of a general legislation in the food domain in 2002, in conjunction with ensuring the food trade in the single market.

Addressing the 'farm to fork' principle, considering that the common agricultural policy is one of the core policies of the EU, whether the traded food is produced in the EU or imported from third countries, the policy of food security is supported by a body of law and integrated by complex rules covering all links in the food chain [6].

Finally, the need for shaping EU's own food policy is also sustained statistically, while the food sector is the second largest economic sector in terms of size in the EU, with a total of 48 million employees and an

annual contribution of 750 billion to the EU economy [11].

4. EU food policy principles supported by normative texts.

Aiming at ensuring high standards of food safety, the EU must first ensure that the minimum security standards are applied throughout the EU, for which Regulation (EC) no. 178/2002, also known as the general food law, establishing the principles of food law as the general framework of a horizontal nature, imposed the adaptation of these principles in the laws of the Member States, the deadline being January 1, 2007.

Supporting the fair practices in food trade, the health protection of animals, plants and the environment, the EU food law aims at ensuring a high level of protection of public health, an objective and basic principle of food safety.

Another basic principle from which the rules on food products should start is the risk analysis and their evaluation through the available scientific evidence, an assessment carried out objectively, independently and transparently (Article 6 Regulation (EC) no. 178/2002 [9]).

Maintaining the high level of public health protection is guaranteed in terms of cautious actions when the scientific uncertainty persists regarding the information needed to assess risk.

Ensuring the traceability of products (concept defined in Article 3 Section 15 of Regulation 178/2002 [9]) to their origin is another basic principle of food law, principle which is reflected in Article 18 of Regulation 178/2002 [9] and is governed exclusively by the stages of production, processing and distribution in the EU and for the products imported from the EU up to the retail level, excluding, however, supply to the consumer.

The obligation of the Member States to ensure through legislative and administrative tools food traceability guarantees the correct consumer information, but also the ability to remove from the food circuit the product or ingredient identified with potential health risk to the consumers.

Ensuring the transparent, clear and unambiguous information on food and fodder is the principle to which Article 8 and Article 10 of Regulation no.178 / 2002 circumscribe [9]. In connection with this principle and ensuring consumer protection it is claimed, at principle level, the clear and unequivocal definition of the responsibilities of all stakeholders in the agrifood chain in order to ensure in this way the provision for consumption of safe food, obtained by procedures verified and controlled throughout the production process.

The four component activities of the EU policy on food safety are:

- 1) The adoption of legal rules regarding the safety of the final food products and of the processed ones within the food industry;
- 2) Providing verified and publicly available scientific information;
- 3) The verification activities regarding the implementation of the minimal regulations and control mechanisms of the production processes;
- 4) Recognizing the consumers' rights to choices based on complete information about food, in respect of the origin and contents of food products, including the ones regarding the nutritional elements.

5. Legal instruments supporting the Community strategy for food security

If the general principles and requirements of national food law are covered by Regulation (EC) no. 178/2002,

in 2004 the legislation on food products hygiene was adopted and particularly for those of animal origin, including rules that outline the direct responsibilities of the actors involved in the food chain package in Regulation (EC) no. 852/2004 on the hygiene of food products, Regulation (EC) no. 853/2004 laying down specific hygiene rules for food of animal origin and Regulation (EC) no. 854/2004 laying down specific rules for the organization of official controls regarding the products of animal origin intended for human consumption.

From the administrative perspective, authorities are created, both at EU and at Member State level, with competences of control and analysis of the potential risks of the products on the human health. According to Regulation (EC) No.178 / 2002 [9], Article 22 et seq., Commission and Member States shall cooperate with the European Food Safety Authority (EFSA) to ensure the high level of human health protection, starting from ensuring the health of animals, plants and the environment.

Also coordinating the scientific research on the processes and equipment in the food industry, on food additives and other ingredients used in food processing, the European Food Safety Authority communicates the risk managers (within the EU institutions involved in elaborating regulatory acts - the European Commission, the European Parliament and the Council of Europe) the scientific foundation base necessary in order to define the legislative policy and the regulatory measures necessary to ensure a high level of protection in the relationship to food safety, human health, animals and plants.

In Romania, the transposition of the main principles and responsibilities governing food products in line with the European strategy started in 2004, although Romania did not have the status

of EU member state, by adopting Law no.150 / 2004 on the safety regarding food products and fodder [7].

As the national authority with competences in ensuring the national food security is established by Government Ordinance no.42 / 2004, the National Sanitary Veterinary and Food Safety Agency, institution acting on structural, functional and decisional autonomy liaising with the European Food Safety.

By promoting a policy of safe food for consumers' health, the European Council adopted Regulation (EEC) No. 315/93 [8] which prohibits the marketing of food products containing amounts of substances called contaminants originating from the time of production or from the contamination of the environment beyond the limits considered acceptable.

In order to minimize the risks to public health, in the technological context of the food industry and the problems of environmental pollution, the European Union has set limits applicable to the major contaminants (e.g. nitrates, heavy metals, mycotoxins and dioxins) by adopting Regulation (EC) no. 1881/2006 of the Commission, limits revised based on the scientific results communicated by the European Food Safety Authority.

And because one of the principles of food policy is "*farm to fork*", the control of food contamination must be ensured right from the agricultural production phase by limiting the pesticide residues in the agricultural production, respectively the toxic waste resulting from veterinary treatments or those resulting from the use of certain types of fodder chemically treated in case of the products of animal origin, for which the European Commission regularly updates the maximum residue levels allowed in food in various stages of processing, by specific regulations, among which we mention Regulation (EC) no. 396/2005 on

maximum residue levels of pesticides in or of food products and the fodder of plant and animal origin, and amending Council Directive 91/414 / EEC (the latest change being brought by Regulation (EC) no. 256/2009) and Regulation (EC) nr.470 / 2009 laying down the Community procedures for the establishment of residue limits of pharmacologically active substances in food products of animal origin, repealing Regulation (EEC) No. 2377/90 and amending Directive 2001/82 / EC of the European Parliament and of the Council and Regulation (EC) no. 726/2004.

One of the problems the food industry is confronted with, an issue of interest to manufacturers of agricultural and food products, especially for consumers in terms of their own health is the use of genetically modified organisms (GMOs).

If the issue of controlled cultivation and deliberate release into the environment of genetically modified organisms has been regulated under the Common Agricultural Policy by Directive 90/220 / EEC [1], amid the increasing use of genetically modified organisms as standalone products or in the composition of other food products, and in conjunction with the damage registered in different ecosystems through the use of GMOs, Directive 2001/18 / EC [3] has been adopted on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220 / EEC.

Promoting the principles of precaution and transparent information of consumers, Directive 2001/18 / EC [3] governs the conditions under which Member States shall monitor the cultivation and sale of genetically modified organisms, namely of those organisms in which the genetic material has been modified in a way that it is produced naturally by germination and / or natural recombination, so that, in case of GMOs being deliberately introduced into

the environment, a high level of safety in relation to the consumers must be ensured.

Regarding the use of GMOs in processed food products, the legal framework has been regulated for the free movement of safe and healthy food products and fodder by adopting Regulation (EC) no. 1829/2003 and Regulation (EC) no. 1830/2003, laws that introduce the obligatory labelling of food products originating from GMOs or containing authorized GMOs so as to inform the consumers about the nutritional content of the products grown from GMOs or containing GMOs and which are to replace certain natural products in normal use.

The special attention to consumers' health, a fundamental right in relation to the economic interests of producers of agricultural products has determined the European authorities to address the use of the GMOs from an ethical, legal and economic perspective, respecting the right of the Member States to restrict or prohibit the cultivation of GMOs on their territory, even if their use is permitted at European level within certain limits and according to procedures of authorization and control, for which Directive 2001/18 / EC [3] has been amended by the adoption of Directive (EU) in 2015 / 412 [5], restriction which will not affect, however, the free movement of the GMOs authorized at EU level as freestanding products or as components of other products.

Starting from the consumers' right to be informed about the products offered on the domestic market, in conjunction with the assumed objective of public health protection, it has been ensured through legal instruments that consumers have access to comprehensive and complex information on the content and composition of products, nutritional qualities and presence of GMOs, additives and / or contaminants.

If initially, by Directive 2000/13 / EC [2] certain information required to be found on food labels or pre-package were covered, such as the list of ingredients, quantity and category of ingredients, the minimum durability date, the manufacturer or packager's name and address, the place of origin or provenance, the nutrition facts labelling gradually becomes compulsory, the declaration of the energy value and proportion of nutrients moving from the status of optional remarks, under Directive 90/496 / EEC of 24 September 1990 regarding the nutrition facts labelling of food products to the one of mandatory mentions through the amendments made by Directive 2003/120 / EC.

From December 13 2014, a new regulation came into force - Regulation (EU) No. 1169/2011 [10], which brings together the two previous directives on compulsory labelling and consumer information, seeking to strike a balance between the full and specific consumer information and the excess of specialized information which would hold back the consumers' perception and would overload the label.

A novelty introduced by Regulation (EU) No. 1169/2011 [10], also issuing from the concern for the consumer's health care is the obligation imposed on the producers to indicate the presence of allergens in the unwrapped food products, like for example in restaurants and cafeterias, the origin of the raw meat and the presence of food products imitations, such as vegetal products that replace cheese or meat.

The existence of special categories of users such as infants and young children, certain groups of people with a certain lifestyle concerning food for medical reasons - for example the people with diabetes - imposed at EU level the harmonization of the rules concerning the nutritional facts on food products, a goal achieved from July 1, 2007 through the

adoption and entry into force of Regulation (EC) no. 1924/2006 on nutrition and health claims made on foods products.

After in 2009, the concept of "health foods" was introduced by adopting Directive 2009/39 / EC, food products for which strict minimum requirements are set stringent regarding composition, marketing and labelling in order to ensure the product safety and the proper use by the dedicated consumers, in June 2013, a new Regulation (EU) 609/2013 was adopted on food intended for infants and young children, food for special medical purposes and total diet replacements for weight control, act removing the concept of "diet foods "in favour of implementing rules on labelling the products by the specific category of vulnerable consumers: food for babies, food for infants, foods for special medical purposes and total diet replacement for weight control.

The rules on food labelling give the consumer the freedom of choice, based on the information provided by manufacturers, among organic food, traditional food and industrially processed foods, but all these food products are guaranteed in terms of quality, approved and controlled from the early stages of agricultural production.

6. Conclusions

Food security means minimizing the risk for the consumer and guaranteeing public health, but also gives food producers the market position and the consumers' confidence in their products, ensuring the diversity of food products. On a food market in constant motion and innovation, the EU assumes responsibility for controlling and risk management on food products, as an important, distinct strategy from the sectoral policy on the rights and safety of consumers, the decisions adopted being based on scientific data regarding the

evolution and control of disease in animals and plants, the analysis and safety of the replacement products and food ingredients.

Ensuring high standards of food quality in the domestic market, including the control of products outside its territory, the EU promotes a policy of diversification and safety regarding the food products according to the choice made by consumers based on the complete information on food products' quality.

And when talking about food quality, information regarding the organoleptic, functional, nutritional quality and that concerning food hygiene is ensured at EU level, qualities pursued by consumers based on their interests.

But of all the qualities we believe that food safety is the most important for producers, consumers and public health authorities, for when food safety is not ensured at a minimum level, episodes of severe and even fatal illnesses among the consumers occur.

In order for a guaranteed increase in the food security, the food safety strategy emerged at EU level as the responsibility of all those involved in the food chain, from farmers to industrial processors, from consumer to state authorities.

Also guaranteed by legislative packages with minimum mandatory rules adopted even at Community level (we found that the preferred instrument of regulation in the food industry is a regulation of direct and immediate execution in the laws of the EU member states), the measures of control and assurance of food safety do not imply food standardization according to certain quality standards, but only the food safety management system is common to all the EU member states, by imposing minimum acceptable limits.

By implementing control procedures and management mechanisms along the food chain, supporting the traditional products and the organic ones, promoting measures

of authorization and approval, promoting measures of complex information of consumers about food, the food policy at EU level guarantees a high level of food safety and the minimization of the contamination risk, so that food products be of benefit to public health.

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