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FRANCE TO PRIVILEGE MEAT OVER REASON

EVU and AVF oppose forthcoming French ban on 'meaty names' for vegetarian food

The French National Assembly is set to endorse a draft law regarding sales denominations for food products. The proposal, embedded in a general overhaul of French food law in the wake of the *Etats Généraux de l'Alimentation (EGA)*, intends to limit the use of sales denominations conventionally associated with animal-based products to food products solely of animal origin. If made into law, the amendment will make it illegal to label vegetarian foods employing references to 'meaty names' such as "vegan bacon", "vegan merguez" or "vegan sausage". The law will establish a blacklist of product names that will be illegal to use for plant-based products or products containing a certain amount of materials of plant-based origin.

The justification for doing so refers to the alleged risk of consumer deception. The underlying assumption is that a consumer confronted with a product name such as "vegan soya sausage" is at risk of being misled about the plant-based – and not meat-based – nature of the product. This, it is claimed, is likely to be the case even though both the product names and the ingredients lists would clearly stress and inform of the fact that the product is not of animal origin.

The image of the gullible consumer unable to discern a meat-based food product from a plant-based one – even if plainly distinguished by the product name – is paternalistic at best and an insult at worse. It is established case law of the European Court of Justice (ECJ) since 1990 that the presumed expectations of an average consumer who is reasonably well informed and reasonably observant and circumspect are the benchmark. A representation is misleading only if the average consumer is being misled, which has not been established by the French legislator. Moreover, the European Vegetarian Union (EVU) and Association Végétarienne de France (AVF) are not aware of any evidence indicating that consumers were misled by this practice, which is the main argument of the supporters of the restrictions. Evidence from other EU member states suggests the contrary: a study conducted by the Federation of German Consumer Organisations (vzbv) stated that only four percent of German customers have ever unintentionally bought a vegetarian product instead of a meat product or vice versa. This very low number illustrates that labelling which includes references to conventional sales denominations is not perceived as problematic by the general public.

Privilege was afforded to the dairy sector in 1987 when Regulation (EEC) No 1898/87 on the protection of designations used in the marketing of milk and milk products (OJ L 182 of 3 July 1987, p. 36) was adopted. It is adherence to this favourable treatment that motivated the judgment in ECJ Case C-422/16 (Verband Sozialer Wettbewerb e.V. v. TofuTown.com GmbH) of 14 June 2017, not consumer interests. It is therefore misleading to invoke the interests of the consumer when in truth the interests of the meat and dairy sectors are at stake.

The EVU and the AVF are deeply troubled by the developments in France. Product denominations such as "vegan sausage" are already well established and understood by consumers and everybody else in the food chain. Using such labelling helps to inform consumers of the breadth of offers available to cater to their tastes.

With sales of vegetarian meat and dairy alternatives rising throughout Europe, this emerging market segment deserves the support of EU and member states in order to ensure a level playing field for economic activities within the Internal Market. This includes reasonable rules for the most helpful labelling possible in order to enable unimpeded purchase decisions. The EVU has been a longstanding and vocal critic of the outdated regulations in the dairy segment established by Regulation (EU) No 1308/2013 on the Common Market Organisation for agricultural products, limiting the use of terms such as “milk” to products of animal origin. Specifically, the EVU suggests that consumer perception and dietary behaviours have evolved and the risk of consumer deception is virtually non-existent.¹

At the European level, the Commission has made it clear in publicly available answers to parliamentary questions that there are no plans to introduce reserved terms for meat products and that the applicable provisions of Regulation (EU) No 1169/2011 on Food Information to Consumers (FIC) are sufficient to protect consumers from being misled. Furthermore, it would be very hard to draw a clear distinction between protected and unprotected terms. Additionally, the Commission has stated that terms such as “burger” and “sausage” have become common in everyday language for describing products, regardless of their meat content. The EVU agrees with this reasoning.²

If it is passed, the European Commission will also be called upon to carefully assess the French initiative as to its compatibility with France’s obligations under the Treaty. If the draft becomes law, there is a very real danger that its provisions would obstruct the free movement of labelled goods using ‘meaty’ references. A TRIS notification is necessary to allow for assessment and comment before the law could enter into force.

The EVU and the AVF urge the French National Assembly to reconsider the amendment with regards to the fact that consumer deception is not at stake. Furthermore, approval of the amendment would obstruct economic activities and create the danger of incomprehensible labelling as new, unfamiliar, and potentially incomprehensible sales denominations would have to be established.

[1] EVU on the Commission Roadmap for the evaluation of the Common Market Organisation [Regulation (EU) No 1308/2013] of 28/6/2017
http://www.euroveg.eu/wp-content/uploads/2015/05/20170726_European_Vegetarian_Union.pdf

[2] Written Question E-008161-16 “Food products with misleading names” and Written Question E-003771-16 “Deception with vegetarian and vegan foods”

The European Vegetarian Union (EVU; www.euroveg.eu) is the voice of the growing number of Europeans choosing vegetarian and vegan products over animal-based foods. Its aim is to make vegetarian and meat-reduced lifestyles safe, attractive and accessible for consumers, producers and traders and provide adequate information on related health issues, as well as on plant health, animal health and welfare and environmental protection, with reference to a vegetarian lifestyle. The EVU is also the organisation backing the ‘V-Label’ (www.v-label.eu), a voluntary certified labelling scheme. The EVU is registered in the Register of Interest Representatives (No. 109356110578-03).