



# The EU must oppose disproportionate restrictions on plant-based food names and disruptions to the Single Market – the case of Italy

Brussels, 15 December 2023

The European Alliance for Plant-based Foods (EAPF) calls on the Member States in the Council of the EU and on the European Commission to oppose the Italian law on '[prohibiting] the designation of processed products containing vegetable proteins as meat' that would ban plant-based food products from using denominations associated with meat, butchery or fish.

The law is in breach of the TRIS procedure as set forth in Directive 2015/1535. It infringes on the principle of free movement of goods, would prevent consumers from accessing and making informed choices about plant-based foods, contradicts the ambitions of the EU Farm to Fork Strategy for more sustainable food systems, and will distort competition on the EU single market.

Dear Ministers,

Dear Member State representatives,

We write you in relation to the Italian law laying out 'Provisions relating to the prohibition on the production and marketing of food and feed consisting of, isolated or produced from cell cultures or tissues derived from vertebrate animals, as well as the prohibition on the designation of processed products containing vegetable proteins as meat' and that was notified to the European Commission on 1 December 2023 ([TRIS 2023/0675/IT](#)).

With this letter, EAPF and its members call on the European Commission (EC) and Member States to oppose the Italian law out of strong concerns that it:

- Infringes on the free movement of goods on the EU Single market and distorts competition for EU business operators in the field of plant-based foods;
- Breaches [Regulation \(EU\) 1169/2011](#) (the 'FIC Regulation') on the provision of food information to consumers and undermines informed food choices;
- Contradicts the ambitions of the EU Farm to Fork Strategy, the European Green Deal and Member States' commitments under the Paris Agreement;
- Will induce even greater disruptions to the EU Single Market, as the list of prohibited sales names will be defined *a posteriori*.
- Contravenes [Directive \(EU\) 2015/1535](#), which requires Member States to inform the Commission of any draft technical regulation **prior to its adoption**, for the Commission and the Member States to provide comments (if any).



## 1) The law infringes on the free movement of goods on the EU single market and distorts competition for plant-based food product manufacturers

- The law aims to ban the use of a wide range of terms, directly or indirectly associated with foods of animal origin, for the purpose of describing and marketing plant-based protein foods. Article 3 lists categories of denominations:

*'a) legal, common and descriptive names referring to meat, meat production or products made mainly of meat;*

*b) references to animal species or groups of animal species or to animal morphology or animal anatomy;*

*c) specific terms used by butchers, delis or fishmongers;*

*d) names of foods of animal origin representative of commercial uses.'*

As a result, denominations that can be related to meat or fish, meat cuts and butchery would be prohibited on any product that resembles or aims to replace and provide an alternative to animal-based foodstuffs.

- Articles 3 of the law does not obey the **fundamental principles of clarity and foreseeability of the law<sup>1</sup>**, or the **principle of proportionality** (Article 49 of the Charter of Fundamental Rights; Article 36 of the TFEU). It further disregards **the principle of non-discrimination against specific categories of food products (Article 35 of the TFEU)**, acting as a protective measure to bar market access to plant-based products, without bringing clarity on authorised marketing practices. The law would make plant-based food manufacturers prone to financial and legal sanctions.
- The law will **jeopardise the free movement of goods (CJEU<sup>2</sup>) and contribute to the increasing fragmentation of food labelling rules** in the EU as already [flagged by the European Parliament](#). Foreign food manufacturers would be penalised, as they would be required to introduce new labels for a section of their product line. This would be particularly burdensome to small and medium-sized companies (SMEs) as it will induce significant adaptation costs for entering one specific EU Member State. The law opposes the EU's [ambitions](#) to harmonise marketing standards across Member States and to develop the sustainable competitiveness of the agri-food chain<sup>3</sup>. Instead, identical plant-based products would be marketed differently to consumers, depending on the country of production. Such inconsistency and arbitrary restrictions are not conducive to transparent consumer information, breach the dispositions of

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<sup>1</sup> Case C-63/96, Fintan Duff and others, § 20), together with that of proportionality (Charter of Fundamental Rights, Article 49

<sup>2</sup> Case C-446/08 Solgar Vitamins, ECLI:EU:C:2010:233, paragraphs 51-52: “[I]t must be recalled that appropriate labelling, informing consumers about the nature, the ingredients and the characteristics of fortified foodstuffs, can enable consumers who are at risk from excessive consumption of a nutrient added to those products to decide for themselves whether to use them (Case-24/00 Commission v France, paragraph 75), and that that solution is consonant with the protection of public health without imposing serious restrictions on the free movement of goods.”

<sup>3</sup> ‘Co-creation of a transition pathway for a more resilient, sustainable and digital agri-food ecosystem, Staff Working Document ([SWD/2023/263](#)), European Commission, July 2023.



Article 17(1) of the FIC Regulation, and distort competition between animal- and plant-based food manufacturers.

- The law will **stifle innovation in the food sector, especially in the field of plant-based foods**. In this regard, it would go against the EU's objectives to foster R&I for unearthing new food technologies and solutions, reducing the environmental impacts of agri-food systems, and improving the resilience of the value chain.

On those accounts, the **law is at breach of Recitals 16 and 49, as well as Article 38(1) of Regulation (EU) 1169/2011 on the provision of food information to consumers (FIC Regulation)**, according to which *'national measures shall not give rise to obstacles to the free movement of goods, including discrimination as regards foods from other Member States'*. A procedure is currently ongoing with the Court of Justice of the European Union regarding a similar attempt by France to ban the use of denominations (case [C-438/23](#)) for plant-based foods.

## 2) The law undermines consumer access to transparent information

- The law aims to reserve a large part of common vocabulary to meat and fish products on the account of protecting the interests of citizens, without bringing evidence demonstrating that consumers could be misled in one way or another by labels such as 'vegan meat/sausage/steak/lardon/burger'. **No preliminary study or impact assessment has been commissioned by the Italian parliament** to justify the law. According to a [2020 BEUC survey](#), the vast majority of European consumers are supportive of the continued use of helpful descriptive terms for plant-based food.
- The **scope of the law goes beyond that of EU food law**. It is excessively broad and would cover legal, customary and descriptive names altogether. Any term could potentially be concerned by such prohibition, including generic terms such as 'burger' or 'sausage' as the list of targeted names will only be elaborated after the adoption of the law. That could lead to turning common language into the exclusive property of animal-based foods. The law thus goes beyond the dispositions of EU food law by invariably protecting types of food names closely or not specifically associated with products of animal origin. Not only would this provide no clarity to business operators, but it would prevent plant-based food manufacturers and retailers from using a descriptive name – in a non-misleading way (e.g., by using terms such as 'vegan' or 'vegetarian') – to market their products, contrary to Articles 9 and 17(1) of the FIC Regulation.

## 3) The law contradicts EU policy ambitions

- The law **contradicts the EU Farm to Fork Strategy and Europe's Beating Cancer Plan**, which recognise the need to promote more plant-based diets in the EU, in the interest of citizens' health and the environment. It is at odds with the contributions to the Paris Agreement and the objective of the **European Climate Law to reduce greenhouse gas emissions by at least 55% by 2030**.



- It defies the European Parliament’s [vote](#) on Amendment 165 to the proposal for a Regulation for a common organisation of the markets for agricultural products. **The vote unequivocally clarified that the use of meat denominations for plant-based products does not mislead consumers but helps make informed purchase decisions.** To fulfil Europe’s ambitions for a more sustainable food system, the plant-based food sector needs a consistent EU framework that takes into account local specificities of culinary languages and traditions without hindering innovation and consumer information through disproportionate restrictions.

#### 4) Increased disruptions to the single market

Article 3 states that the list of prohibited sales names will be elaborated by the Italian Ministry of Agriculture within sixty days following the adoption of the law. While current concerns are related to the broad categories of denominations, the law could have even more negative effects on the EU single market and further distort competition once the list of terms will be set.

#### 5) The law contravenes European rules on the provision of information in the field of technical regulations and the TRIS procedure

[Directive \(EU\) 2015/1535](#) requires Member States to inform the Commission of any **draft** technical regulation, giving the chance – via a three-month standstill period – for the Commission and the Member States to provide comments on requests for clarification regarding free movement of goods and other potential disruptions to the Single Market. On 27 July 2023, the Italian government submitted the draft law to TRIS ([2023/0469/IT](#)) before withdrawing it in mid-October, *de facto* stopping the consultation process and avoiding examination from the European Commission and Member States. The same text – now officially adopted – has been re-submitted to TRIS as a law on 1 December. Such procedure violates the provisions of Directive (EU) 2015/1535 as it circumvents the mandatory feedback period of the European Commission and other Member States intended to anticipate and prevent barriers to the good functioning of the Single Market.

Moreover, we expect that the Italian Government will notify the implementing ministerial decree, which will include the protected meat denominations, offering the other Member States and the public the opportunity to comment on it.

**EAPF and its members therefore call on your support to oppose the Italian law, in breach of Directive 2015/1535, and ensure consumer access to clear information on plant-based foods, enabling more sustainable food choices in line with the EU’s sustainability ambitions. We also call on you to defend the good functioning of the single market and fair competition between Member States.**