CLITRAVI
CENTRE DE LIAISON DES
INDUSTRIES TRANSFORMATRICES DE VIANDES DE L'U.E.
LIAISON CENTRE FOR THE
MEAT PROCESSING INDUSTRY IN THE E.U.

European Commission
DG GROW
Unit GROW/E/3
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Re: CLITRAVI comments on the Austrian draft ordinance of the Federal Minister for Social Affairs, Health, Care and Consumer Protection on the obligation to indicate the origin of meat, milk and eggs as a primary ingredient in packaged foods (TRIS 2022/338/A).

Brussels, 15 July 2022
GEN/22/29

Dear Madam, Dear Sir,

CLITRAVI, the European Meat Processing Industry Association which represents about 13,000 companies active in the production of a wide variety of meat products in the European Union takes the opportunity to comment on the notified Austrian draft Ordinance via the TRIS procedure (TRIS number 2022/338/A).

While we want first of all to reiterate the need of a robust and consistent Single Market, we note once again an attempt of to issue national provisions not in line with a single European approach on origin labelling.

Having said this, we want to comment on the provisions contained in the draft Ordinance on the mandatory indication of the origin of meat, milk and eggs as a primary ingredient in packaged foods, which we find not in linen respectively, with:

- Articles 34 and 36 of the Treaty on the Functioning of the European Union ("TFEU")
- Article 9 (1) (i), Article 26, Articles 38 and 39 of the Regulation (EU) No. 1169/2011 ("FIC Regulation").

In relation to Articles 34 and 36, we believe that the draft Ordinance contains measures which can be considered quantitative restrictions on imports or that can have equivalent effect and, as such, shall be prohibited between Member States.

Based on the text of the decree, the main goal is to protect consumers, but in reality the labelling obligation covers primarily Austrian products. On the other hand, products made in other EU Member States containing meat, milk and eggs as a primary ingredient may be marketed without corresponding origin labelling.

Therefore, Austrian consumers do not know where these products originate. They are only informed that they do not originate from Austria. Due to this differentiation in the labelling of foodstuffs, the Ordinance does not create the transparency for the consumer intended according to its § 1. To this extent the decree would not be justified on grounds of Article 36 of the Treaty.

We believe that the provisions contained in the Austrian draft ordinance are not in line with the provisions of Regulation EU 1169/2011.

In its recent ruling (Case C-485/18), the ECJ states that the EU framework legislation for food labelling, Regulation 1169/2011 (article 26) provides for the mandatory indication of the country of origin or place of provenance of foods, where failure to indicate this might mislead the consumer. According to the ECJ, this obligation does not preclude Member States from adopting measures providing for additional mandatory information regarding the origin or provenance of food. However, in its judgement, the ECJ underlines that national mandatory origin labelling requirements can only be adopted if:

1. there is a proven link between certain “qualities of the foods1” concerned and their origin or provenance,

2. and if Member States provide evidence that the majority of consumers attach significant value to the provision of that information.

The Court clarified that the existence of the proven link *cannot be examined solely on the basis of subjective elements relating to the importance of the association that the majority of consumers may make between certain qualities of the food and its origin or provenance*.

The information provided by Austria in its statement is indeed not sufficient for the proven link required under ECJ case law pursuant to Art. 39 (2) FIC Regulation and, to this extent, the draft Ordinance should be deemed as not in compliance with the Regulation (EU) 1169/2011.

We finally want to underline that national provisions should be refrained from where European rules are already being developed. As part of the EU's “Farm to Fork” strategy, the Commission will present a proposal for an EU-wide extension of mandatory origin labelling to additional food products.

These developments in EU Food Law urgently remain to be observed before allowing further national legislation on origin labelling.

To this extent CLITRAVI asks the European Commission to oppose the notified Austrian draft Ordinance as not compliant with EU legislation and which would once more lead to fragmentation of the EU internal market.

Dirk Dobbelaere - Secretary General

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