

FoodDrinkEurope comments on the Hungarian Minister of Agriculture (AM) Decree amending Ministry of Agriculture (FM) Decree No 36/2014 of 17 December 2014 on food information

FoodDrinkEurope, the organisation representing the EU food and drink manufacturing sector, welcomes the opportunity to comment on the notification of the Hungarian draft decree amending the food information decree no 36/2014 of 17 December 2014 ([2023/109/HU](#)).

FoodDrinkEurope would like to highlight the following issues and concerns with regard to the proposed decree.

1. Non-compliance with the Treaty on the Functioning of the European Union (TFEU)

The Hungarian draft decree does not comply with the principle of free movement of goods in the European Union market. Altogether, the Hungarian law represents a further attempt by an individual EU Member State to disregard EU legislation in the area of food and propose protectionist measures which counter the free movement of goods, fragment the EU Single Market, harm the competitiveness of European industry and create confusion for consumers, setting a worrying precedent for further fragmentation of important food information topics across the EU.

2. Non-compliance with Article 39 of Regulation (EU) 1169/2011 on the provision of Food Information to Consumers

The recital 33 of the preamble of the Regulation (EU) 2015/2283 on Novel Foods (hereafter: Novel Foods Regulation) establishes that “*Novel Foods are subject to the general labelling requirements laid down in Regulation (EU) No 1169/2011 and other relevant labelling requirements in Union law*”. Therefore, the Regulation (EU) 1169/2011 on the provision of Food Information to Consumers (hereafter: FIC Regulation) applies in this case.

The draft decree is not in compliance with the requirements set by Article 39 of the FIC Regulation. Indeed, Article 39 provides that:

“1. In addition to the mandatory particulars referred to in Article 9(1) and in Article 10, Member States may, in accordance with the procedure laid down in Article 45, adopt measures requiring additional mandatory particulars for specific types or categories of foods, justified on grounds of at least one of the following:

- (a) the protection of public health;*
- (b) the protection of consumers;*
- (c) the prevention of fraud;*
- (d) the protection of industrial and commercial property rights, indications of provenance, registered designations of origin and the prevention of unfair competition.”*

The draft decree does not meet any of the criteria listed in Article 39 of the FIC regulation. The ingredients at stake, insects and larvae of certain species, have been risk assessed

by the European Food Safety Authority (EFSA) and authorised by the EU to be placed on the EU market as novel foods¹. Thus, in terms of public health protection, these novel food ingredients have been assessed as being safe for human health consumption according to the requirements of the Novel Foods Regulation^{2 3}.

Additionally, one of the objectives of the Novel Foods Regulation is the attainment of a “*high level of protection of consumers’ interest and the effective functioning of the internal market*” (recital 2). This means that the authorisation procedure at EU level for novel foods already embeds the protection of consumers’ interest; thus national measures cannot be justified on this ground either.

Finally, the draft decree is a disproportionate measure and goes beyond EU rules. Consumers are informed about the presence of insects or their larvae through the list of ingredients on the label, which provides clear information about the composition of the product.

The Hungarian authorities did not provide evidence to justify the measure on grounds of public health or consumer protection. The measure would discriminate between products and put an additional burden on food business operators. Hence, the Hungarian decree cannot be justified on any of the grounds listed in Article 39 of the FIC Regulation, and it is therefore non-compliant with EU law.

3. Non-compliance with labelling rules laid down in Regulation (EU) 2015/2283 on Novel Foods

The Regulation on Novel Foods establishes labelling rules for novel foods when these are authorised by the European Food Safety Authority. Article 9.3 (b) provides that:

“3. The entry for a novel food in the Union list provided for in paragraph 2 shall include the specification of the novel food and, where appropriate:

(a) the conditions under which the novel food may be used, including in particular any requirements necessary to avoid possible adverse effects on particular groups of the population, the exceeding of maximum intake levels and risks in case of excessive consumption;

(b) additional specific labelling requirements to inform the final consumer of any specific characteristic or food property, such as the composition, nutritional value or nutritional effects and intended use of the food, which renders a novel food no longer equivalent to an existing food or of implications for the health of specific groups of the population;”

¹ The Commission has authorised the placing on the market of [Alphitobius diaperionus](#) (lesser mealworm); [partially defatted powder obtained from whole Acheta domesticus](#) (house cricket); [frozen, dried and powder form of Tenebrio molitor larva](#), [frozen, dried and powder forms of Locusta migratoria](#), and [frozen, dried and powder forms of Acheta domesticus](#) as novel food under Regulation (EU) 2015/2283.

² See the [Q&A of the European Commission on the approval of insects as a Novel Food](#).

³ The Food Federation Germany has also published a Q&A (28/02/2023) to improve the understanding of the authorised insect species as novel foods in the EU market and the safety of these species to be consumed by European consumers (in German; see [link](#)).

Labelling requirements for novel foods are therefore already harmonised at EU level. National measures, such as the Hungarian decree on the labelling of novel foods, set additional obligations that go beyond EU legislation. Therefore, the draft decree cannot be considered as a “continuation” of EU law, as presented by the Hungarian authorities.

The Novel Foods Regulation strikes the right balance between innovation and safety, contributing to the objectives of the Green Deal and Farm to Fork Strategy.

In light of the above, we respectfully ask the European Commission to take the necessary steps to prevent the adoption of the proposed decree and ensure full compliance with EU law. We thank you for taking our comments into consideration and we remain at your disposal for any additional information or clarifications needed.
