

Jeremy Coller Foundation - Comments on TRIS Notification 2023/0469/IT (Italy)

Our comments relate to the [draft law 2023/0469/IT](#) on “provisions relating to the prohibition on the production and marketing of food and feed consisting of, isolated from 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”.

TRIS Notification

Paragraph 9

“Given the absence, presently, of specific legislation at the European level, it was decided to intervene in a precautionary manner at the national level to protect interests relating to health and cultural heritage. In particular, the draft legislation aims to protect human health by laying down a prohibition on the production and marketing of synthetic foods in implementation of and respecting the precautionary principle set out in Article 7 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002.”

- Firstly, **EU law already provides a regulatory framework for the denomination of food products.** Such a framework can be found in the EU's Common Market Organisations Regulation 1308/2013 establishing a common organisation of the markets in agricultural products (“CMOs Regulation,” as amended by Regulation 2021/2117) and its implementing regulations. In our opinion, by virtue of the subsidiarity principle, if a Member State has concerns over a lack of consistent and specific regulatory framework at EU level, such a Member State should then turn to the European Commission to amend these regulations, rather than enacting their own national laws, which poses the risk of fragmenting the EU Single Market by creating distortions in competition between EU business operators.
- Secondly, **a regulatory framework for novel foods authorisation already exists in EU law.** Such a regulatory framework is based upon the scientific guidance of the European Food Safety Authority (EFSA), whose mission is to guarantee the safety of food marketed in the EU, thereby addressing concerns over the safety of novel food products for EU consumers.
- Thirdly, the precautionary principle only applies to public health and environmental protection. EU law (including as interpreted by the Court of Justice of the European Union) **does not point to the application of the precautionary principle to protect cultural heritage** as is stated, rendering the precautionary principle partially invalid here.

Draft Text 2023/0469/IT

Article 1, Item 1

“This Law lays down provisions designed to ensure the protection of human health and the interests of citizens and to preserve the agri-food heritage, as a set of products that express Italy's socio-economic and cultural evolution, that is of strategic importance for the national interest.”

- Firstly, as noted above, **human health related to novel foods is already protected by a regulatory framework for authorisation provided by EU law, which is**

implemented by the European Commission. The products in question have been deemed as safe for human consumption under similarly robust novel food regulations and assessment by the relevant authorities in other regions, including Singapore and the United States of America, deeming the precautionary principle partially invalid here.

- Secondly, **enacting this law would go against protecting Italy's national interests** of protecting food security, as well as maintaining a single market across the EU and enabling fair competition between EU businesses. The Center for Strategic and International Studies has recognised the [importance of alternative proteins to improve global food security, food system resilience, global health, national security and economic competitiveness](#).
- Thirdly, **enacting this law would go against the interests of Italian citizens** as studies have found that [over half of Italian consumers are interested in trying cultivated meat](#), and this is likely to increase once products become available. With [71% of Italian consumers questioning the impact of conventional meat production on the environment](#), a majority wish to see governments support new ways of producing meat.

Article 2, Item 1

"On the basis of the precautionary principle set out in Article 7 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002, food business operators and feed business operators shall be prohibited from using in the preparation of food, beverages and feed, selling, holding for sale, importing, producing for export, administering or distributing for food consumption or promoting for those purposes food or feed consisting of, isolated from or produced from cell cultures or tissues derived from vertebrate animals."

- Firstly, as noted above, the precautionary principle only applies to public health and environmental protection. EU law (including as interpreted by the Court of Justice of the European Union) **does not point to the application of the precautionary principle to protect cultural heritage** as is stated, rendering the precautionary principle partially invalid here.
- Secondly, **a regulatory framework for novel foods authorisation already exists in EU law**, based upon guidance from the European Food Safety Authority (EFSA). As stated above, Member States should turn to the European Commission to amend these regulations, rather than enacting their own national laws, at the risk of fragmenting the EU Single Market.

Article 3, Item 1

"In order to protect national livestock heritage, recognising its high cultural, socio-economic and environmental value, as well as to adequately support its promotion, while ensuring a high level of protection for human health and the interests of citizen-consumers and their right to information, for the production and marketing within the national territory of processed products containing exclusively vegetable proteins, it shall be prohibited to use: 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."

- Firstly, during the most recent revision of the CMOs Regulation, [the European Commission decided not to amend the CMOs Regulation so as to allow the use of meat denominations for vegetable proteins](#). The same [issue is currently being settled](#)

[by the Court of Justice of the European Union](#), which could render national variations in the law illegal within less than a year. To **prevent fragmentation of trade and disruption within the EU Single Market**, there should be consistency in terminology across EU Member States, and any amendments to existing regulation are the responsibility of the European Commission by virtue of its competence in regulating the agricultural market.

- Secondly, **livestock production has a significant impact on the environment**, with animal agriculture contributing approximately [15% of all GHG emissions worldwide](#). Livestock production and feed account for over [70% of all agricultural land use](#), whilst cattle and soy for animal feed are both among the [top three drivers of deforestation globally](#). In our opinion, the European Commission should oppose any initiative which undermines the goal of reducing greenhouse gas emissions from the agricultural sector, as per the EU's commitment under the 2015 Paris Agreement and the policy objectives laid out in the 2020 European Green Deal.
- Thirdly, plant-based and cultivated proteins **address the environmental and human health issues associated with intensive livestock production**. Compared to processed animal-based products, [plant-based products also offer a healthier option](#) to consumers in terms of [saturated fat, cholesterol, fibre, and a range of other nutrients](#). Plant-based meat production emits up to [90% fewer greenhouse gas emissions and uses up to 99% less land](#) than conventional meat. When produced with renewable energy, cultivated meat could [cut the climate impact of meat by 92% and use up to 95% less land](#). Diversifying the food system into non-animal-based protein production also reduces reliance on antibiotics, lowering the incidence of antimicrobial resistance, and minimises the risk of emerging zoonotic diseases. All of these objectives contribute to those of the European Green Deal and the EU Farm-to-Fork Strategy, which states that it is necessary to move [“to a more plant-based diet with less red and processed meat and with more fruits and vegetables which will reduce not only risks of life-threatening diseases, but also the environmental impact of the food system”](#).
- Finally, various expert studies have recommended that **alternative proteins should be supported by governments in line with achieving international climate and nature goals**. The UK Government-led [Agriculture Breakthrough](#), supported by the COP28 UAE Presidency, highlights the need for international governments to support research, development and deployment of alternative proteins to address the challenges of food insecurity, climate change and environmental degradation. An analysis commissioned by the UK Foreign, Commonwealth and Development Office (FCDO) and the Climate Works Foundation estimates that [governments worldwide need to commit at least \\$10.1 billion per year to research and commercialisation of alternative proteins to unlock the full benefits](#). The [IPCC special report on land use and climate change](#) also describes a shift towards more plant-based diets as a key opportunity to reduce emissions.

Item 4

“The provisions of this Article shall not apply to combinations of foodstuffs of animal origin with other types of food that do not replace nor are alternative to those of animal origin, but are added to them in such combinations.”

- **Under the notion of equivalence, there must not be distortions in fair competition between EU business operators marketing substitutable products**, which the prohibitions in this draft law would generate. Such a rule would discriminate between

substitutable – and thus competitive – products, thereby undermining fair competition between business operators in the Italian and EU market. By definition of the foodstuffs in question aiming to replace or provide an alternative to those of animal origin, European consumers have deemed that the products are equivalent under the standards set by the World Trade Organization (WTO) when determining competitive products (“like products”), as follows: “products are competitive or substitutable when they are interchangeable or if they offer, as the Panel noted, “alternative ways of satisfying a particular need or taste” (KDS75, Korea — Alcoholic Beverages, 2000).

Article 4, Item 1

“The Ministry for Health, the regions, the autonomous provinces of Trent and Bolzano, local health authorities, the Carabinieri Command Unit for the Protection of Health, through the relevant dependent Anti-Sophistication and Health Units, the Command of the Forest, Environmental and Agri-food units (CUFA), through the relevant dependent Command Units, the Central Inspectorate of Quality Protection and Fraud Repression of Agri-Food Products (ICQRF) of the Ministry for Agriculture, Food Sovereignty and Forestry, the Guardia di Finanza and the Customs and Monopolies Agency, as well as, for products pertaining to the fish supply chain, the Harbour Masters Corps – Coast Guard, each in accordance with their respective remits, shall carry out checks as to the implementation of this Law. The authorities referred to in the first point shall carry out checks of their respective competence with the support, where necessary, of the specialised staff of the Ministry for Health, the Carabinieri Command Unit for the Protection of Health and local health authorities with specific powers for biological quality and technical checks of a health nature, in relation to potential risks to human health on the basis of the precautionary principle laid down in Article 7 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002.”

- Firstly, a regulatory framework for novel foods authorisation already exists in EU law, based upon the scientific guidance of the European Food Safety Authority (EFSA). By virtue of the subsidiarity principle, **the European Commission retains exclusive competence for authorising the marketing of a novel food, under the continued guidance of EFSA**. This is to ensure fair competition between business operators in the EU Single Market by way of enacting harmonised standards.
- Secondly, as argued by the Italian Customs and Monopolies Agency during its hearing at the Italian Senate, **should a cultivated meat product be assessed as safe and added to the approved novel foods list at EU level, it would not be possible to control its import to Italy** without causing economic uncertainty. This is due to the absence of checks at internal EU borders for imports between Member States, as per the fundamental principle of the free movement of goods on the Single Market, guaranteed by Article 28 of the Treaty on the Functioning of the European Union.

Article 5, Item 1

“Unless the act constitutes a criminal offence, food business operators and feed business operators who violate the provisions of Articles 2 and 3 shall be subject to an administrative fine of a minimum of EUR 10 000 up to a maximum of EUR 60 000 or 10% of the total annual turnover achieved in the last financial year closed before the establishment of the infringement, where that amount exceeds EUR 60 000. The maximum penalty may not, however, exceed EUR 150 000. The infringement shall result in the confiscation of the illicit product, the application of the administrative penalties of the prohibition to access contributions, financing or benefits or other disbursements of the same type, however denominated, granted or disbursed by the State, other public bodies or the European Union for the performance of entrepreneurial activities, for a minimum period of one year and up to a maximum of three years, as well as the closure of the production plant, for the same period. Any person who

finances, promotes or facilitates in any way the conduct referred to in Articles 2 and 3 shall be subject to the same penalties.”

- Imposing such high penalties on companies would stifle innovation within industry and academia, and prevent Italy, with wider implications in the EU, **economically benefitting from the growth of the cultivated meat and plant-based industries.** Italian cultivated meat start-ups will be forced to move abroad and interested investors have already started withdrawing from negotiation tables, with capital being diverted to other countries.
- Moreover, closing Italy to a growing market that employs highly specialised professionals, including biotechnologists, engineers and chemists, will further worsen Italy's brain drain, which, over the last ten years, has been constantly growing. An assessment conducted by the Global Methane Hub and Climate Works Foundation estimates that the scaling up of investment into alternative proteins will generate up to 83 million jobs by 2050, which is two-thirds of all jobs created by methane innovation. Total value generation follows a similar pattern to job support, scaling from roughly \$160 billion in 2030 to over \$700 billion by 2050, encompassing 98% of the growth from methane innovation.

The Jeremy Collier Foundation is a philanthropic NGO addressing the animal welfare, environmental and human health issues caused by factory farming through strategic grant-making and the Farm Animal Investment Risk & Return (FAIRR) Initiative. FAIRR is the world's fastest growing investor network focusing on ESG risks and opportunities across the global food system, representing \$70 trillion in AUM. The Foundation also founded the Collier Animal Law Forum (CALF), a flagship database of international laws and policies that impact farmed animals for policymakers, researchers, and advocates working towards a more sustainable global food system.