



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

Brussels, 29 September 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 recent version of the French Decree on ‘the use of certain denominations used to designate foodstuffs containing plant proteins’ that would ban plant-based food products from using denominations associated with meat products and meat cuts.

Just as the 2022 Decree, this new version of the text still infringes on the principle of free movement of goods, would prevent consumers from making informed choices about plant-based foods, and contradicts the ambitions of the EU Farm to Fork Strategy for more sustainable food systems. If it enters into force, it will distort competition on the EU single market.

Dear Ministers,

Dear Member State representatives,

We write you in relation to the new version of the French Decree on the use of certain denominations used to designate foodstuffs containing plant proteins, implementing Article L. 412-10 of the French Consumer Code (*‘Code de la consommation’*) and [notified to the European Commission on 23 August 2023](#). The new text would repeal the initial proposed Decree No 2022-947 of 29 June 2022 that has been referred by the French Council of State to the Court of Justice of the European Union (case [C-438/23](#)) for interpretation and legal clarification.

The Decree 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 2 in particular lists categories of protected denominations:

- ‘1) a legal name for which no addition of plant protein is provided for by the rules defining the composition of the foodstuff concerned;*
- 2) a name referring to the names of animal species or groups of species or to animal morphology or anatomy;*
- 3) a name containing the terms listed in Annex I.’*

As a result, denominations that can be related to meat, meat cuts and butchery would be prohibited on any product manufactured in France that resembles animal-based foodstuffs. The Decree is



expected to enter into force in early 2024, while food manufacturers and retailers would have a year to exhaust non-compliant existing stocks of foods manufactured or labelled prior to the date of entry into force.

With this letter, EAPF and its members express deep concerns as the new version of the Decree still:

- Hampers the free movement of goods on the Single Market;
- 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.

1. The Decree hampers the free movement of goods on the Union single market

The Decree will have **disproportionate impacts on the single market** and contributes to the increasing **fragmentation of food labelling rules** in the EU. Although Article 5 of the Decree states that *'products lawfully manufactured or marketed in another Member State of the European Union or in a third country shall not be subject to the requirements of this Decree'*, Article 6 comes in full contradiction to the above as it states: *'It is prohibited to hold for sale or distribution free of charge, to offer for sale, sell or distribute free of charge foodstuffs which do not comply with the rules laid down in this Decree.'*

The interaction between those two articles of the Decree is particularly obscure and will lead to significant interpretation issues. More specific concerns are the following:

- Article 6 would **de facto bar products manufactured outside France** and not complying with the Decree from being placed on the French market.
- Even if Article 5 would effectively enforce an exemption for foods lawfully manufactured outside France, this law will **indirectly impact imports from other EU Member States** in two respects. Manufacturers located outside France (in other EU countries, the EEA or Turkey) will need to demonstrate the origin of their products for those to be granted access to the French market and to justify that they are not obliged by the Decree. Foreign food manufacturers with production facilities in France would be penalised, as they would be required to introduce new labels for a section of their product line. As for manufacturers with facilities in multiple Member States, they would have to create different packaging and marketing strategies to enter a specific EU country.
- With the ambiguity of Article 6, foreign food manufacturers will be more prone to sanctions by the French authorities. The Decree will further **jeopardise the free movement of goods**, and be particularly burdensome to small and medium-sized companies (SMEs) as it will induce significant adaptation costs for one specific EU Member State. Overall, it will force foreign companies to comply with the rules through a backdoor mechanism to avoid the administrative hurdles and other potential restrictions through national implementing decisions.



On all those accounts, the Decree breaches the dispositions of Recitals 16 and 49, as well as Article 38(1) of the 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’.

The European Parliament’s [study](#) on legal obstacles to single market rules points to new barriers to the single market from national legislation, with a negative effect on the EU food supply chain. The Decree falls in this trend and opposes the EU’s [ambitions](#) to harmonise marketing standards across Member States and to develop the sustainable competitiveness of the agri-food chain¹. More directly, it will further distort competition between animal- and plant-based food manufacturers.

The Decree further goes against rules adopted in other Member States, e.g. the Netherlands, that allow the use of meat-related denominations for vegetarian products under clear labelling guidelines. This constitutes a direct barrier to trade and will imply additional costs for producers. Beyond disruption to the free movement of goods, the Decree does not abide by the principle of non-discrimination against specific categories of food products (Article 35 of the TFEU). It acts as a protective measure to bar market access and does not bring clarity on authorised marketing practices.

2. The Decree undermines consumer access to transparent information

Denominations provide useful and valuable information to consumers about a product’s shape, texture and preparation. Some (e.g., ‘grilled’, ‘steak’, ‘filet’, ‘escalope’) have been used on plant-based foods for years without any proof of consumer confusion. While the Decree aims to reserve some of the common vocabulary to meat products on the account of improving transparency, it brings no evidence demonstrating that consumers could be misled in one way or another by labels such as ‘plant-based filet’ or ‘vegetarian sausage’. No study or impact assessment has been commissioned by the French parliament to shoulder this national law-making.

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 food². The Decree would set an **asymmetrical regulatory framework**. Indeed, the scope, detailed in Article 2 of the Decree, is relatively broad and concerns certain descriptive names referring to the mode of preparation (e.g., ‘grilled’ is part of the prohibited terms mentioned in Annex I). Annex II to the Decree further outlines the maximum amount of plant protein content (on dry matter) allowed in order to use the term on ‘foodstuffs of animal origin’. For instance, ‘lardons’ should contain no more than 0.50% of plant proteins, ‘sausage’ 3%, and ‘nuggets’ 3.50%.

Those dispositions do not address the point of authorised denominations for non-animal products, and create confusion as the terms in Annex II would *de facto* be prohibited for plant-based foods.

¹ ‘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.

² [One bite at a time: Consumers and the transition to sustainable food](#), Analysis of a survey of European consumers on attitudes towards sustainable food, BEUC, June 2020.



Prohibiting even generic terms such as ‘nuggets’ or ‘sausage’ would be akin to turning common language into the exclusive property of animal-based foods. This would prevent plant-based food manufacturers and retailers from using a descriptive name – in a non-misleading way (e.g., by adding terms such as ‘vegan’, ‘plant-based’ or ‘vegetarian’) – to market their products, contrary to Articles 9 and 17(1) of the FIC Regulation. The Decree thus goes beyond the dispositions of EU food law by invariably protecting types of food names closely or non-specifically associated with products of animal origin.

In the case where Article 5 would effectively exempt non-French manufacturers from complying with the Decree, we would see a situation where 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, and breach the dispositions of Article 17(1) of the FIC Regulation.

3. The Decree contradicts EU policy ambitions

The Decree 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 even denies the recent agreement on the European Climate Law and its objective to reduce greenhouse gas emissions by at least 55% by 2030, whereas it is now widely accepted that shifting away from intensive animal farming and towards more plant-based diets is necessary for meeting our Paris climate targets.

Moreover, the Decree defies the European Parliament’s [vote](#) on Amendment 165 to the proposal for a Regulation amending the regulation establishing a common organisation of the markets for agricultural products (‘CMO Regulation’). The vote unequivocally clarified that the use of meat denominations for plant-based products do not mislead consumers but help make informed purchasing 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.

EAPF and its members therefore call on your support to oppose the new version of the French Decree and ensure consumer access to clear information on plant-based foods, thus 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.