Message 103

Communication from the Commission - TRIS/(2024) 2796

Directive (EU) 2015/1535

Notification: 2024/0394/HU

Forwarding of the observations of a Member State (Netherlands) (article 5, paragraph 2, of Directive (EU) 2015/1535). These observations do not have the effect of extending the standstill period.

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1. MSG 103 IND 2024 0394 HU EN 13-01-2025 11-10-2024 NL COMMS 5.2 13-01-2025

2. Netherlands

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4. 2024/0394/HU - C50A - Foodstuffs

5. article 5, paragraph 2, of Directive (EU) 2015/1535

6. Hungary proposes an absolute ban on the production and placing on the market of laboratory-grown meat. Hungary provides the following reasons for this. First, the need to protect the traditional way of farming and rural life that would be threatened by technological innovations and new production methods. Second, the ban would be necessary for protecting physical and mental health, as well as maintaining a healthy environment. The law appears to have no exceptions.
The Netherlands notes that an absolute ban on the production or placing on the market of products is contrary to the free movement of goods as laid down in Article 34 TFEU. In Dassonville, the Court emphasised that the most important element for determining whether a national measure falls within the scope of Article 34 TFEU is its consequences (‘capable of hindering, directly or indirectly, actually or potentially’). That is what this measure does.
Restrictions on the free movement may be justified on the basis of Article 36 TFEU. That is to say, the measure in question must be appropriate and necessary to protect the objective invoked, and must not go beyond what is strictly necessary. A measure is not proportionate and does not fall under the exception of Article 36 of the Treaty on the Functioning of the European Union where it is possible to ensure the same protection with a less restrictive measure. The burden of proof for this is high.
Exceptions to the free movement of goods must be interpreted strictly. This is particularly the case if the product is produced and placed on the market in other Member States. Products lawfully placed on the market in another Member State should, in principle, not be impeded. Laboratory-grown meat will be produced and placed on the market in the Netherlands after it has been found safe by the European Food Safety Authority, and a majority of European Member States agree to its placing on the market. At present, a first dossier has been submitted to EFSA by France’s Gourmey for the safety assessment of laboratory-grown foie gras. The results are expected in a few years.
The Netherlands doubts whether an absolute ban, as proposed in this case, is proportionate. Although the bill does not reveal which alternatives have been investigated, the Netherlands can imagine that the intended policy objectives can also be achieved in an alternative, less far-reaching way, without introducing a ban on a product that has not yet been placed on the market.
Production of laboratory-grown meat can also provide an additional business case for farmers. The possibility of in-vitro meat production on a farm has been investigated and found feasible, and in the Netherlands, livestock farmers have

already come forward who want to investigate how this production can be achieved on their farm. Stimulating this development can therefore also ensure the preservation of the agricultural sector and make it future proof, thus providing an alternative way to achieve the Hungarian goals. The Netherlands therefore sees innovations such as these as complementary to the current 'traditional' way of producing animal proteins.
In addition, Europe has the strictest food safety assessment in the world. EFSA has not yet commented on the safety of cultured meat for public health. The Netherlands has confidence in this procedure, and deems it important to await this outcome first.

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