

# SAFFI Policy Brief series on: Food safety and public health within the frame of the EU legislation



## Policy Brief n.1

Introduction to the issue of food safety.

1.1 Food safety: general concepts. 1.2. Free circulation of products, food safety and food legislation in the European Union

## Introduction to the issue of food safety

The various food incidents that took place during the late 1990s draw attention to the need to establish general principles and requirements concerning food and feed law at Union level. In response, the European Commission developed a comprehensive and integrated approach to food safety, 'from farm to fork'<sup>1,2</sup>, primarily set out in its White Paper on Food Safety. The approach covers all sectors of the food chain, including feed production, primary production, food processing, storage, transport and retail sale<sup>3</sup>.

The term and notion of food safety is sometimes confused with the notion of food security. Food security is a state of having a stable and sufficient or adequate supply of food, while food safety implies freedom from any hazards. In addition to providing nutrients, food can also potentially be a source of harm to a consumer. Hazards associated with food include microbiological pathogens, naturally occurring toxins, allergens, intentional and unintentional additives, modified food components and agricultural chemicals. Hence, food safety is needed. Food safety is a scientific discipline describing the handling, preparation and storage of food in ways that prevent foodborne illness. This includes a number of routines that should be followed to avoid potentially severe health hazards. Effective food control systems are essential to protect the health and safety of consumers. They are also critical in enabling countries to assure the safety and quality of their foods entering international trade and to ensure that imported foods conform to national requirements. Food security can be defined as the notion that all people, especially the most vulnerable, have dignified and unthreatened access to the quality and quantity of culturally appropriate food that will fully support their physical, emotional and spiritual health. The new global environment for food trade places considerable obligations on both importing and exporting countries to strengthen their food safety systems and to implement and enforce risk-based food safety strategies.

In 2002, the European Parliament and the Council adopted Regulation (EC) No 178/2002 laying down the general principles and requirements of food law (hereinafter, the "General Food Law Regulation")<sup>3</sup> The General Food Law Regulation is the foundation of food and feed law. It sets out an overarching and coherent framework for the development of food and feed legislation both at Union and national levels. To this end, it lays down general principles, requirements and procedures that underpin decision making in matters of food and feed safety, covering all stages of food and feed production and distribution. The European Parliament also took an important step forward by developing the European Food Safety Authority (EFSA)<sup>4</sup>, an independent agency responsible for scientific advice and support. Currently, the General Food Law Regulation ensures a high level of protection of human life and consumers' interests in relation to food, while safeguarding the effective functioning of the internal market<sup>2</sup>.



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This policy brief seeks to analyze some of the issues related to food safety within the framework of EU legislation. Indeed, the development of a multidimensional framework at European level has rendered finding a balance between the rightful interests of food producers and those of consumers complicated. To achieve a reasonable balance between the interests of the involved stakeholders, maximum cooperation of the countries involved is deemed essential, especially at EU level, but also between nations, with trade agreements concerning the marketing of food, in order to reduce forms of protectionism and implement the free trade of food products both in the European Union and internationally. Finally, it is necessary to consider the great push of technological innovation in the field of food production, which will have to be increasingly controlled in order to avoid abuses and violations of legislative rules, considering, however, the importance of changes in dietary habits and food traditions<sup>5</sup>, without giving in to the often extreme or manipulative positions represented and proposed by pressure groups and opinions.

### **1.1. Food safety. General concepts**

According to legal doctrine, the notion of “food safety”, includes the concept of both "quantitative food security", aimed at solving hunger related problems and forms of inequality, and "qualitative food safety", which meets the needs of the market and its marketing of products and involves issues related to health,

protection<sup>3,5,6</sup>. In less economically advanced societies, the problem relating to food quantity is prevalent, while in economically advanced societies, food quality issues represent a factor of primary importance. According to this conceptual approach, food therefore presents numerous risks to people's health. In fact, as a result of the globalization of markets and the continuous technological progress, there has been a growing push to the development of so-called "unconventional" foods, produced at a lower cost and often with the aim of replacing the “traditional” ones<sup>6</sup>.

New knowledge and technological innovations have diversified food products, but at the same time have increased the risk of consuming the same products<sup>2</sup>. Moreover, in industrial countries there is an exploitation of natural resources and a situation of uncertainty in research methodologies and quality control that makes it difficult to predict, verify and quantify the consequences arising from the proper or improper use of these technologies in food production<sup>7</sup>. In addition, the presence of areas with high environmental impact within national territory as well as the presence of contaminants can determine an additional risk for consumers<sup>7</sup>. It is also important to emphasize that the harmful effects of the use of modern technologies can occur after a long time, following continuous exposure to substances or ingestion of food, which even in small doses could damage the health of the individual in the short, medium or long term.

In recent years, an ethical dimension of food has progressively developed, which has led to a greater attention to the way food is produced and consumed, while respecting health protection, food quality and European and international trade dynamics<sup>8</sup>. On the consumer side, however, there has been a growing awareness of the possible risks linked to food and an attention to the issues of food safety for

the consumer, who is increasingly looking to buy commercial products capable of minimizing damage to health and a strong fear of new forms of intervention of technological development in this sector. This greater awareness has also influenced the industry, which has increasingly felt the need to pay more attention to the entire production cycle, thus encouraging the development of production carried out according to Good Agricultural Practices, following the correct methods of supply, processing, up to the final stages of packaging, storage, processing and distribution. Therefore, with an important monitoring path of product traceability<sup>8</sup> that has led to a significant increase in the commitment to supervision, risk assessment and review of the substances used.

In order to obtain a reasonable balance between the interests of the stakeholders involved, maximum cooperation of the countries involved is required, particularly, at EU level, but also between nations with trade agreements concerning food marketing, in order to reduce forms of protectionism and implement the free trade of food products both within the European Union and internationally<sup>9</sup>. Finally, it is necessary to consider the significant push of technological innovation in the field of food production, which will need to be increasingly controlled in order to avoid abuses and violations of legislative rules, while also taking into account the importance of changes in dietary habits and food traditions<sup>10</sup>, without succumbing to the frequently extreme or manipulative positions represented and proposed by pressure groups and opinions<sup>10</sup>.

## **1.2. Free circulation of products, food safety and food legislation in the European Union**

The main problems to be dealt with in relation to food safety concern the different application of legislation on product safety from one Member State to another. In this regard, legislative requirements related to goods are complex for economic operators, who have to deal with different legislative acts to be applied to a food product. In addition, further inconsistencies have emerged in product legislation, such as the use of different terminologies to describe concepts common to European legislation<sup>11,12</sup>. A further issue concerns the presence of conflicting interests and behaviors of the subjects involved, between the protection of the free movement of food products in the European market and the protection of health<sup>12</sup>.

The free movement of goods within the European legislation is one of the founding factors of the single market and represents the core of the establishment of the European Union. Since the 1970s, European Union legislation has guaranteed uniform protection of the consumer, the environment and energy resources through the free movement of goods within the Union. To this end, an integrated strategy has been developed in order to ensure a high level of health protection through consistent measures and adequate controls<sup>2</sup>. In this context, Union action related to health is auxiliary to the action of Member States, therefore the European Union has played a coordinating role, unlike the European harmonization policies implemented in the agricultural sector<sup>1</sup>. Thus, the European action aimed at protecting the right to health, on the one hand, has given rise to direct measures through the provision of secondary legislation and, on the other hand, has determined the adoption of soft law policy documents<sup>13</sup>, without, however, ignoring the needs of individual states. Therefore, with reference to consumers, European policy has supported and integrated national policies to protect food safety and health. In this regard, an important element is represented by the EU Charter of Fundamental Human Rights, which, while



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recognizing in Article 16 the freedom to conduct a business, in accordance with EU law and national laws and practices, protects other interests which primarily include health. In this regard, Article 35 of the Charter indicates that a high level of protection of human health shall be ensured in the definition and implementation of all Union policies and activities, and Article 38 states that “*Union policies shall ensure a high level of consumer protection*”<sup>3</sup>.

The Treaty on the European Union (TEU) states that health is protected in the same way as business and consumers<sup>4</sup>. On this matter, Article 3 of the TEU provides that the European Union must work for the sustainable development of Europe. Therefore, based both on balanced economic growth and price stability and on the awareness that these economic processes are based on a highly competitive social market economy aiming at full employment and social progress, constructed on a high level of protection and improvement of the quality of the environment. Article 6 of the Treaty on the Functioning of the European Union (TFEU) states that the European Union supports, coordinates and supplements the action of Member States both in protecting and improving human health. In particular, Article 168 of the TFEU provides in the first paragraph that in the implementation of the policies and activities of the European Union, a high level of human health protection must be guaranteed, through the prevention of diseases and illnesses and the elimination of sources of danger. According to European legislation, therefore, the action of the Union must complement national policies and is aimed at improving public health, preventing diseases and eliminating sources of danger to physical and mental health. This action includes the fight against major scourges such as pandemics, promoting research into their causes, their spread and their prevention. Nevertheless, legislation in this area goes further and includes the important activity of health information and education, as well as surveillance, alerting and combating serious cross-border health threats.

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