REFIT Platform Opinion

Date of Adoption: 07/06/2017

REFIT Platform Opinion on the submission by the European Vegetarian Union (LtL 548) on the definition of 'vegan' and 'vegetarian'

The REFIT Platform has considered the submission made by the European Vegetarian Union on the need to define the terms "vegan" and “vegetarian”.

The REFIT Platform recommends that the European Commission fulfils rapidly its obligation to adopt an implementing act on the criteria for voluntary food information related to the suitability of a food for vegetarians or vegans to avoid diverging national developments and a distortion of the EU market.

Detailed Opinion

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1. Submission XI.13.a by the European Vegetarian Union (LtL 548)

The number of vegans, vegetarians and people turning to more plant-based lifestyles is steadily increasing. Food producers, food trading companies and caterers have responded by bringing an increasing amount of vegetarian and vegan products to the market. Consumer protection organisations and vegan/vegetarian associations and societies have noticed that commercial chains have begun to label their own-brand products as vegan/vegetarian, in some cases using self-developed logos. It is unclear, however, what precisely the terms “vegan” and “vegetarian” stand for. At neither the national nor European levels do legal definitions for the food sector exist. This has led to confusion on the part of producers and traders as well as on the part of consumers. As the absence of legally binding definitions of the terms “vegan” and “vegetarian” has been identified as a problem by the European legislator, the EU Food Information Regulation has stipulated that the European Commission is to issue an implementing act defining requirements for “information related to suitability of a food for vegetarians or vegans” (Article 36(3)(b) Regulation (EU) No 1169/2011). This signifies an obligation to decree a legal definition. Unfortunately, so far, no steps have been taken to start the process of issuing the implementing act required. Consumers, consumer protection agencies, food producers and traders all have an interest in the timely adoption of a legally binding definition.

Annex: Click on the attachment

2. Policy context

The suggestion refers to the obligation for the European Commission to adopt an implementing act on the application of the requirements related to the voluntary information on the suitability of a food for vegetarians or vegans established by Article 36(3)(b) of Regulation (EU) No 1169/2011 on the food information to consumers, which entered into application on 13 December 2014.

The legislation does not provide for a deadline for the adoption of such an implementing act.

Objectives

Regulation (EU) No 1169/2011 combines 2 Directives into one legislation:

- 2000/13/EC - Labelling, presentation and advertising of foodstuffs (applicable until 12 December 2014)

It introduced the following key changes
- Improved legibility of information (minimum font size for mandatory information)
- Clearer and harmonised presentation of allergens (e.g. soy, nuts, gluten, lactose) for pre-packed foods (emphasis by font, style or background colour) in the list of ingredients
- Mandatory allergen information for non-pre-packed food, including in restaurants and coffee bars
- Requirement of certain nutrition information for majority of pre-packed processed foods
- Mandatory origin information for fresh meat from pigs, sheep, goats and poultry
- Same labelling requirements for online, distance-selling or buying in a shop
- List of engineered nanomaterials in the ingredients
- Specific information on the vegetable origin of refined oils and fats
- Strengthened rules to prevent misleading practices
- Indication of substitute ingredient for 'imitation' foods
- Clear indication of "formed meat" or "formed fish"
- Clear indication of defrosted products.

**Implementation**

On voluntary information regarding the suitability of a food for vegans and vegetarians, pending the adoption of an implementing act, the Regulation on food information to consumers obliges operators not to mislead consumers, not to provide ambiguous or confusing information and to base information, where appropriate, upon relevant scientific data. As the other provisions on food information, it is up to the competent authorities of Member States to ensure the proper application of this obligation.

**State of Play**

The Regulation on food information to consumers has only applied since the end of 2014. The Commission is currently working in close contact with Member States and stakeholders to ensure that any remaining measures with a legal deadline are to be adopted as soon as possible and that a harmonised understanding of the provisions of the Regulation is promoted by all possible means, including guidance documents and training initiatives for national officials.

On the specific issue of information on the suitability of food for vegans and vegetarians, the Commission has not yet defined a planning for the adoption of the implementing act referred to in this suggestion. However the Commission is aware of ongoing activities at Member State level aiming at a common understanding between food business operators and competent authorities. The Commission will follow these developments and could reconsider the issue at a later stage.
3. Opinion of the REFIT Platform

3.1. Considerations of the REFIT Platform Stakeholder group

The Stakeholder group has considered the issues raised by the submission and considers that:

- The European Commission should quickly fulfil its obligation according to Article 36 para. 3 of Regulation (EU) No. 1169/2011 (Regulation on the provision of food information to consumers) to adopt an implementing act on the criteria for voluntary food information related to suitability of a food for vegetarians or vegans.

- Whereas there is no deadline foreseen for that obligation to be fulfilled, it is urgent that criteria for the use of the terms "vegan" and "vegetarian" are set to avoid diverging national developments and a distortion of the EU market that has been rapidly growing in the last years.

- As the European Vegetarian Union and food producers have on European level already found broad agreement on the criteria to be set, the Commission should not face difficulties in finding agreement. Those criteria have already found agreement and support by competent authorities, for example, in Germany already that apply them in practice.

3.2. Considerations of the REFIT Platform Government group

9 Member States contributed to this Opinion

The Government group supports the suggestion made by the European Vegetarian Union and recommends that the European Commission adopts as soon as possible an implementing act on the criteria for voluntary food information related to suitability of a food for vegetarians or vegans.

A definition of these terms would prevent consumers from being deceived or misled about the identity of the product by designations of vegan or vegetarian foods.

Individual considerations of Member States

Member State 1 is in favour of this initiative (i.e. the suggestion to the Commission to adopt as soon as possible an implementing act on the application of the requirements related to the voluntary information on the suitability of a food for vegetarians or vegans) for the following reasons:

- The vegans and vegetarians will be better informed through the labelling of the products leading them to select the foodstuffs they want to buy and consume
• The possibility / problem of conveying misleading information through the labelling of foodstuffs to vegans and vegetarians will be avoided
• The possibility / problem of adopting non-uniform national rules on this area will be avoided, thus minimising the distortion of the EU market

Member State 2 supports the considerations of the Stakeholder group, since it is important to fulfil the obligation laid down by the Article 36(3) of the FIC Regulation and in order to avoid confusing consumers. However, MS2 also considers it important that any remaining measures based on the FIC Regulation with a legal deadline are adopted as soon as possible.

Member State 3 supports the proposal. The determination of clear rules for correct labelling and precise determination of the kind of food that can be attributed to the vegan or vegetarian group will bring security for consumers and loyalty in the competitive food choice. MS3 indicated it will express more detailed and specific opinion, when the proposal is discussed in the working groups of the European Commission.

Member State 4 considers that the submission on vegetarian and vegan food covers an important issue. MS4's view on the matter is that if new legislation is put forward, it needs to meet the requirements in the Regulation on food information to consumers not to mislead consumers, not to provide confusing information etc. If legal definitions of the term “vegetarian” is to be elaborated, MS4 considers that complementing the term "vegetarian" with prefixes or additional information (such as lacto-vegetarian or similar) is an appropriate, flexible and simple approach which also provides fair information. MS4 can at this stage not support the specific proposal from EVU. It, together with other alternatives, needs to be further assessed.

Member State 5 supports the proposal of the European Vegetarian Union (Submission XI.13.a) to define “vegan” and “vegetarian” food. A definition of these terms would be helpful for all producers of food in the Member States to ensure that all producers are in a position to find out which ingredients for a vegan or vegetarian diet are allowed and which ones have to be avoided. Moreover, this definition would prevent consumers from being deceived or misled about the identity of the product by designations of vegan or vegetarian foods. In MS5's view there is a general agreement on the definition of vegan and vegetarian foodstuffs. This definition was forwarded by the MS's Federal Minister of Food and Agriculture to Commissioner Andriukaitis accompanied by the request to start work on the implementing act on the suitability of foods for vegetarians or vegans provided for in Article 36 of Regulation (EU) No 1169/2011.

Member State 6 supports the proposed approach. Indeed, it would be advisable for the European Commission to adopt an implementing act introducing harmonised rules with reference to the terms provided on a voluntary basis: suitable for vegetarians or vegans to avoid different approaches in Member States.

Till the adoption an implementing act on the application of the requirements related to the voluntary information on the suitability of a food for vegetarians or vegans established by article 36(3) (b) of Regulation (EU) no 1169/2011 on the food information to consumers food business operators can use existing Member States’ national law. In Poland for example, it is
the Regulation of the Minister of Agriculture and Rural Development on 23 December 2014 on the labelling of individual types of foodstuffs (Of. J. 2015 item 29, with amendments) in which paragraph 1 points 2 and 3 states that in the labelling of foodstuff the following information can be presented:

2) "the product can be eaten by vegetarians" or "suitable for vegetarians" can be used provided that the foodstuff does not contain ingredients obtained from animals or products obtained from animals were not used in its production process;

3) "the product can be eaten by vegans" or "suitable for vegans" can be used provided that the foodstuff does not contain any ingredients of animal origin or any products of animal origin were not used in its production process.

**Member State 7** believes that a common definition of “vegan food” and “vegetarian food” would be helpful not only for the consumers but also for competent authorities who carry out inspections in the field of food labelling. For the time being such labelling is assessed on the case by case basis and according to the article 7 Regulation (EU) No 1169/2011.

**Member State 8** considers that the terms "vegan" and "vegetarian" should be clearly defined.

**Member State 9** supports the proposal to define the terms “vegan” and “vegetarian”. Such a definition would be important for both consumers and producers, also in order to avoid consumers being misled and to contribute to the functioning of the internal market. This Member State has requested the Commission to adopt an implementing act based on Art. 36 (3) of the FIC Regulation already in October 2016.