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Analysis: How the EU legal framework is being adapted to accommodate new food proteins

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What are the legal pathways that creators of innovative new protein foods need to tread in Europe?

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On February 25, the European Commission published a study on new opportunities for the EU plant protein market. The study concluded that the increased consumer demand for organic and genetically modified (GM)-free supply chains, combined with a rise in the number of flexitarian, vegetarian and vegan diets, will expand markets for pulses and processed proteins.

Indeed, the world-wide demand for new and alternative proteins is driven by both the increased awareness of the negative health impact of high animal protein intake, and the environmental footprint of traditional meat production in combination with the fast-growing world population. However, the development of new products depends very much on the opportunities offered by the legal framework. Many traditional plant-based proteins are used as substitutes for meat, milk and egg. More recently, seaweeds, algae and microalgae have also been added to the range of vegetable food proteins. As the production and sourcing of plant proteins for the agri-food sector has repeatedly stimulated political debate at EU level, the European Commission recently explored how to harness the potential of EU protein plant production, responding to the needs of farmers, producers and consumers.

Other innovative food products can also be 'new' source of proteins, such as insects. They are traditionally recognized as normal part of the daily diet throughout the world but are quite new in the European Union. Furthermore, a new development is the introduction of 'in vitro meat' – meat produced by in vitro growth of animal cells. Those products are covered by the current legislation, but the EU should further clarify rules applying to new alternative proteins.

From unsafe presumption to the authorization of novel foods

New proteins might be considered as unsafe. Furthermore, since 1997 every 'novel' food must be specifically authorized before being placed on the European market. To be regarded as "novel" a food or food ingredient must not have been used for human consumption to a significant degree within the EU before 15 May 1997 and must belong to one of the categories listed in the Regulation.

This list has been updated by Regulation (EU) 2015/2283. This new regulation also provides a centralized procedure and ends a number of uncertainties for food business operators willing to place new products on the EU market. It has applied since January 2018.

Beyond novelty, food business operators must be aware that the processes they use do not only lead to a "novel food" if it causes modifications of the molecular structure of the food. For instance, even if proteins have been extracted from numerous plants in the EU prior to 1997, some extraction processes may have not been used in the EU prior to 1997, which can make the extracted protein a novel food under the EU regulation.

In addition, the new phrasing provided by Regulation (EU) 2015/2283 explicitly includes dead insects, parts of them and processed insects. The Commission recently reported that since 1 January 2018 there have been a total of 25 applications for insects. Once they have been through the risk assessment process, performed by the EFSA and the European Commission, novel food might be granted a generic authorization and be marketed all around

the EU.

Updating existing safety requirements

Even though they would be authorized as novel foods, new products might face others regulatory obstacles before being placed on the market.

On January 23, the European Commission decided that specific requirements are needed for food derived from insects. In order to ensure smooth functioning of the internal market, it submitted (for comments) a proposal for the processing of insects intended for human consumption. The draft regulation also clarifies the connection between the general food hygiene legislation and novel food authorization procedures. It provides that insect food operators active in processing activities shall be subject to approval by their national competent authorities1.

Since the ECJ issued its opinion on the definition of technics of genetic modification, plant-based proteins obtained from new directed mutagenesis technics, such as CRISPR, are considered as GMO. As a consequence, they do not fall under the Novel food Regulation but must comply with all the constraining requirements provided by the GMO legislation. However, the European Commission is to start reviewing the current legislation on this issue by the end of the year.

Finally, the labelling of some of the alternative proteins is under discussion at European level, since the European Commission decided to register a European Citizens' Initiative entitled 'Mandatory food labelling Non-Vegetarian / Vegetarian / Vegan'. Beyond general principles and information fairness, in order not to mislead the consumers, new proteins' labelling could therefore be specifically regulated soon.

Food safety and legal certainty are key challenges for both the food industry and public institutions, but also for the final consumer. The recent development of new products raised challenging safety concerns for public bodies, which intend to follow the way forward by regulating their marketing.

However, as the European Commissioner Hogan recently said: "Good food means good business" and by identifying relevant opportunities offered by the law, food business operators are enabled to supply better food to the consumer, and more in line with new food trends.

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