



Sustainable Food Consumption in EU Law Perspective

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Abstract: *In the EU, the concept of the sustainable consumer has been present in the public sphere for some time. The concept has been concerned with the consumer in general but provides a good basis for developing the concept of the sustainable food consumer. The need to increase the availability of sustainable food and the need to empower consumers so that they can make informed, healthy, and sustainable food choices may prove to be a key element and glue linking health, agricultural, and environmental aspects. Sustainable food consumption is expected to take into account environmental aspects, as the food production cycle is very significantly responsible for greenhouse gas emissions and pollutants entering the soil and air.*

1. INTRODUCTION

As the global population continues to grow, the demand for food has intensified, leading to significant environmental and health challenges. In response, the EU has recognized sustainable food consumption as a critical component of its broader environmental and public health agendas. Globally, there are large differences in how (un-)sustainable and (un-)healthy diets are, with the largest burden on the planet coming from food consumption in high-income countries, such as those in the EU. This article investigates how EU law and policy are shaping practices related to sustainable food consumption, emphasizing legislative measures, stakeholder engagement, and the integration of sustainability criteria into the food supply chain. The role of the law is to identify solutions that have a real chance of bringing us closer to achieving these goals. It is necessary to involve all actors of the international community: states, international organisations, NGOs, entrepreneurs, and, above all, consumers themselves. The aim of this article will be to analyse and evaluate the legal and policy instruments that are conducive to building the concept of a sustainable food consumer in the EU.

2. CONSUMER IN EU

The European Union has a model of the so-called average consumer, who is characterized as an informed, attentive, and rational person. An individual in possession of certain information has the power to use it for making purchases. The concept of the average consumer has been forged in the case law of the Court of Justice of the European Union, as the example cases C 470/93 and case C 239/02 might be indicated. In the EU legal framework, the consumer is portrayed as an informed individual who utilizes the information provided to make educated decisions and trusts in their ability to assess products and services with reason and caution (Kunkiel-Kryńska, 2012, p. 54). In free movement regulation, the average consumer is considered reasonably circumspect. National legislation offering higher protection is often seen as creating unjustified trade barriers. On the other hand, consumer contract law directives aim for greater consumer protection than free movements

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regulation allows (Mak, 2011, pp. 25-42). The prevailing interpretation of the average consumer, in both EU consumer protection laws and ECJ case law, assumes that increasing information availability and ensuring transparency will enable consumers to make rational decisions and eliminate any perceived 'weakness' solely through information provision. This standard has been criticized by academia and civil society as unrealistically demanding, overly simplified, and generally, a legal fiction far removed from the actual behaviour of the individual consumer (Szilágyi, 2022).

One particular segment among consumers that requires special attention are food consumers. Food regulations indicate a certain duality in the perception of the consumer. A consumer can be someone who purchases food or someone who consumes food. While it may be the same person at times, it is not always the case. Furthermore, there are special food consumer groups: children, diabetics, and elderly people. The consumer behaviour model highlights three types of consumers. The first group consists of indifferent consumers who do not pay attention to their food choices. The second group comprises engaged consumers who actively consider the information on product labels. The third group, known as practical consumers, prioritize factors such as price, product availability, and the quality-to-price ratio.

Undoubtedly, an interesting group of consumers who can be counted among the conscious ones are those who decide to buy organic food. There is a continuous increase in consumer interest in products that come from organic production. In the literature on the subject, it is common to use the concept of the "greening of consumption", which, among other things, means 'adopting an attitude towards the world that is expressed by behaviour in the sphere of consumption that is consistent with the principles of environmental protection (Mazurek-Łopacińska & Sobocińska, 2009, p. 105). The greening of consumption is most often identified with positive consumer attitudes towards the environment and growing environmental awareness. This trend is most often considered as a consequence of high consumer competence and is associated with taking into account environmental impact in purchasing decisions (Dąbrowska et al., 2015, p. 54).

However, when it comes to the average food consumer, the purchasing decisions are not preceded by in-depth analysis (Wojciechowski, 2019, p. 96). When buying food, consumers often make quick decisions based on limited label information. On the other hand the increasing availability of food information, consumers often struggle to understand the information due to its overabundance (Leible, 2010, p. 318). It's increasingly challenging to directly apply the model of the average consumer when it comes to food consumption. Despite being well-informed, consumers often face an overwhelming amount of information and struggle to make rational decisions, particularly when it comes to foods linked to their health and environmental issues. Currently, in the EU, we are witnessing activities that have the potential to contribute to a shift towards a more sustainable model.

3. EU'S POLICY

The CAP is one of the oldest and most significant policies in the EU, aimed at supporting farmers, ensuring a stable food supply, and promoting rural development. The most recent reforms of the CAP focus on sustainability by incorporating green payments and eco-schemes that incentivize environmentally friendly farming practices. The CAP's orientation towards sustainability is evident in its efforts to promote organic farming, reduce pesticide use, and improve biodiversity.

In December 2019, the European Commission introduced the European Green Deal, a comprehensive roadmap to make the EU economy sustainable. The deal places special emphasis on

transforming the food system, aiming to reduce greenhouse gas emissions and promote healthy diets. It sets ambitious targets, including a reduction of pesticide use by 50% and a commitment to achieve at least 25% of agricultural land under organic farming by 2030. Launched as part of the European Green Deal, the Farm to Fork Strategy seeks to create a fair, healthy, and environmentally-friendly food system. The formulation of a comprehensive food policy in Europe marked a significant milestone for F2F.

The strategy encompasses seven areas of focus, all centered around the principle of sustainability. Proposed modifications will impact the food chain, food production, food industry practices, and consumer behaviour. This strategy includes measures to promote sustainable food consumption, such as nutritional guidelines and initiatives to encourage local and sustainable sourcing. It also emphasizes the importance of reducing food waste and improving labelling practices to help consumers make informed choices. The flagship initiative under the F2F strategy is/was an entirely novel Framework for a Sustainable Food System (FSFS). The anticipated ‘Sustainable Food Systems Framework’, originally slated for release in 2023, aims to offer crucial legal guidance for the direction of the food system. It seeks to promote sustainable diets through measures such as public procurement rules and labelling, while also fostering better coordination between national and EU-level food policies. Events like geopolitical unrest, farmers’ protests, and changes in EU institutions related to the EP elections have halted progress on implementing the strategy’s assumptions. While the F2F strategy is still officially in place, it seems that its final form will deviate from the original plan. We are left to look at the mechanisms that are already in force.

4. EU’S LAW

First of all, it is important to mention the General Food Law Regulation 178/2002 (European Parliament & Council of the European Union, 2002), which is the foundation of food and feed law, providing a framework for developing regulations at the Union and national levels. It establishes principles, requirements, and procedures for decision-making regarding food and feed safety throughout production and distribution. The regulation’s primary goal is to ensure a high level of protection for human health and consumers’ interests regarding food. Unfortunately, the EU Food Regulation did not take into account the environmental aspects of food products (Zidianaki, 2013, p. 113), and in this respect did not make a huge step in building the concept of sustainable food consumption in the EU. Since the implementation of this legislation, there have been numerous grassroots efforts that have played a role in shaping the idea of the eco-conscious food consumer in the European Union. These initiatives originally sprang from the grassroots but have evolved into formal EU initiatives and suggestions over time.

Already in 2008, when the Commission adopted a communication on the sustainable consumption action plan the importance of increasing the environmental efficacy of products, raising consumer awareness, and boosting demand for sustainable products was emphasized (European Commission, 2008). Sustainable consumption aims to maximize product effectiveness and efficiency while satisfying current needs without compromising the capacity of future generations. It takes a holistic approach to minimize the impact of social systems of production and consumption on the environment. Although the communication did not specifically mention sustainable food consumption, it did look at an integrated approach to promoting ecological and energy-efficient products. Therefore, we can consider that the recommended instruments in communication, such as incentives, procurement, and simplified labelling methods, could also be applied successfully in the area of food products.

Two significant activities have arisen as a result of the communication. Private or public entities, as well as non-governmental agencies, may enter into voluntary agreements, which rely on mutual trust. The Retail Forum, established in 2009, serves as a platform for exchanging best practices in sustainable consumption and production. The Retailers' Environmental Action Plan was established as a collaborative initiative between EuroCommerce, ERRT, retailers, and the European Commission. The primary goal of this voluntary project was to decrease environmental impacts in the retail sector and its supply chain, encourage the use of more sustainable products and provide consumers with improved product information (Barling et al., 2019). However, this solution is applied to all products, inadvertently harming food products. Another notable initiative is the European Roundtable on Sustainable Consumption and Production (ERSCP) Society, which focuses on sustainable consumption and production and brings together various entities in the food delivery chain, providing a forum for collaborative dialogue where guidelines take shape.

One essential instrument for influencing sustainable consumption is the use of labelling systems for products. The idea of sustainable food consumption is promoted through product labelling and voluntary agreements. Sustainability and food labelling initiatives aim to provide consumers with the information necessary to make conscious food choices. The introduction of the EU Ecolabel allows consumers to identify products that contribute to sustainability goals. The EU Ecolabel logo, introduced in 1992, has become synonymous with high-quality products that adhere to rigorous environmental standards. Products and services bearing the distinctive "EU flower" symbol are certified to meet all relevant criteria. These labelling systems promote transparency and support sustainable consumption patterns within the EU Regulation (EU) 2018/848 (European Parliament & Council of the European Union, 2018) on organic production and labelling of organic products aims to enhance consumer confidence in organic products while promoting sustainable agricultural practices. This regulation aligns with the EU's broader sustainability goals and ensures that organic food consumption is transparently regulated, thus fostering a market for sustainable options.

Undoubtedly, the recently adopted directive, commonly referred to as the Greenwashing Directive, stands out from the voluntary initiatives and solutions proposed under soft law acts. On 6 March 2024, Directive (EU) 2024/825 to empower consumers in the green transition through better protection against unfair practices and better information, was published (European Parliament & Council of the European Union, 2024). The main objective of the Directive is to safeguard consumers by prohibiting deceptive market practices. This is particularly relevant in cases involving greenwashing, misleading environmental claims, and unclear sustainability labelling. The directive will not only significantly impact the food industry but will also affect other sectors, aiming to curtail practices such as premature obsolescence of products and provide clarity on warranty terms.

Moreover, the Directive includes several crucial definitions that are essential for its effective application. First of all the issue of environmental claim is defined. "Environmental claim" refers to any commercial communication that implies a positive or no impact on the environment, promotes being less harmful to the environment, or suggests an improved environmental impact over time. "Sustainability label" refers to any voluntary symbol of trust, such as a quality mark, that aims to differentiate and endorse a product, process, or activity based on its environmental or social attributes. This label is not obligatory under EU or national law. Directive also defines a certification system as a third-party verification process that confirms whether a trader's product, process, or activity fulfils specific criteria. This verification allows the use of an appropriate sustainability label. The conditions of this system, including its requirements, are publicly accessible and must meet specific standards.

It is worth taking a look at how the Directive expanded the list of unfair commercial practices. Newly added practices include: using a sustainability label without proper certification or public authority backing; making misleading environmental claims about products or business activities; and imposing excessive requirements on products beyond legal mandates. The enacted legislation aims to protect consumers, hasten the green transition, and empower consumers to make informed purchasing decisions, thus promoting more sustainable consumption patterns. This guideline represents a significant move in promoting environmental consciousness and accountability among both producers and consumers, with the goal of fostering a market that is more sustainable and transparent.

5. CONCLUSION

Although substantial progress has been made, there are still various challenges impeding the full achievement of sustainable food consumption in the EU. These challenges stem from the diversity among Member States, encompassing differences in agricultural practices, economic capacities, and consumer behaviours. These differences complicate the consistent implementation of sustainable practices across the EU. Economic pressures often force farmers and producers to prioritize profitability over sustainability, requiring a careful balance between the two. Even as regulatory frameworks continue to develop, consumer awareness of the benefits of sustainable food consumption varies.

Sustainable food consumption is an essential aspect of the EU's environmental and health objectives. Through a robust legal framework that includes the CAP, the European Green Deal, and the Farm to Fork Strategy, the EU is actively promoting sustainable food practices (European Commission, 2020). However, to overcome existing challenges, concerted efforts must be made to enhance education, provide economic support, and foster stakeholder collaboration. As the EU continues to lead in sustainable food policies, it plays a pivotal role in setting an example for global efforts towards a more sustainable food system.

However, the complexity of the food system and the mutual relationships between its numerous actors means that the challenges associated with this transition cannot be viewed in isolation; a systemic, multi-level approach that considers economic, social, environmental, cultural and, in particular, behavioural aspects is necessary (European Commission, 2022). In the SAPEA Evidence Review Report (ERR) 'Towards sustainable food consumption' (European Commission, 2023), the comprehensive report was crafted by a team of independent, global, and interdisciplinary experts who rigorously analyzed the scientific evidence concerning sustainable and healthful food consumption. As you can read in the report: "Transitioning to sustainable and healthy food consumption patterns involves adopting new practices that balance sustainability and health, considering external factors such as the physical availability of food, its price, the infrastructure and information environment, and the social context, as well as individual factors such as affordability, accessibility, convenience, and desirability. Barriers to this transition exist at the individual level such as the lack of motivation and personal capabilities but also the contextual level with a lack of physical, financial, and social opportunities to acquire healthier and more sustainable foods." (European Commission, 2023, p. 23).

Up to this point, the primary policy focus in the EU has been on providing consumers with more information. However, this approach is insufficient. People choose food not only through rational reflection but also based on various other factors including food availability, habits and routines, emotional and impulsive reactions, as well as their financial and social situation. The EU has

primarily emphasized providing consumers with more information, but experts believe that this approach is insufficient. Consumer food choices are influenced by multiple factors. In order to promote sustainable, healthy food as a convenient and affordable option, policies need to alleviate the burden on consumers and tackle the entire food environment, encompassing all aspects of food access, consumption, and discourse.

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