

## **PROPOSALS FOR LEGISLATIVE MEASURES TO IMPROVE THE LEGAL FRAMEWORK ON THE PRODUCTION AND PROCESSING OF MILK, ELIMINATION OF FAKE PRODUCTS FROM THE MILK MARKET AND GROWTH OF CONSUMER TRUST. THE MILK LAW PROJECT**

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### **Abstract**

*The paper aims to carry out an external analysis of Romania's proposal to regulate the regulatory framework in the field of milk production and processing, to establish the way of marketing of dairy products, to increase consumer confidence in domestic dairy products, to eliminate falsified products from the market dairy products, to facilitate the identification of authentic products by consumers and, last but not least, to the increase in milk production due to all the measures mentioned.*

**Key words:** milk, law, chemical hazards, milk products, evolution, food safety, milk production, Romania.

### **INTRODUCTION**

Romania became a member of the European Union (EU) on 1 January 2007, following a difficult and painful transition to a market economy.

Beginning in the early 1990s, this process was characterized by slow pace, structural resistance, inconsistent reforms and ad-hoc political decisions.

Economic and financial instability prevailed in the 1990s, with a number of major economic crises. As a result of the reform packages involving the International Monetary Fund and the World Bank, the economy began to recover in the early 2000s, helped by the political factor, forced to focus on joining the EU.

The official opening of negotiations for EU accession in May 2000 was a crucial step towards the objective of reforming the Romanian agricultural policy.

In Romania, agriculture traditionally occupies an important position in the national industry, representing the field that generates food and raw materials for the agro-food industry.

The massive fragmentation of property, the existence of a large number of low-fat dairy cows holdings, reduced productivity and high self-consumption of own products in

households generate important structural problems in Romanian agriculture. Due to the low level of labor productivity and given that the Romanian food industry fails to provide enough products to cover the high demand for food products, the Romanian agricultural industry can not compete with some EU Member States that have a developed industry, with high productivity.

In the perspective of joining the European Union, Romania had to pay special attention to the development of a competitive agriculture, based on a private initiative, capable of a long-term uniform evolution capable of ensuring economic and social cohesion, according to the European Union standards.

This was achieved also by adopting an adequate normative framework for the new European dimensions of Romania, ensuring the development of the Romanian agricultural system in order to reduce the differences from the rest of the member states.

Approximately 10 years after accession, the Romanian legislature considered additional measures needed to reduce counterfeits in the dairy market, to increase consumer confidence in domestic dairy products, contributing significantly to increased milk production.

## DE LEGE FERENDA PROPOSAL ANALYSIS AND DISCUSSIONS

The dairy sector is a strategic sector in ensuring the country's food security, as milk and dairy products are important social products and are an indispensable element in the food rations of the population, including children and elders, as well as vulnerable social people.

The way of marketing of milk and dairy products mainly seeks to protect the life, health of the population and the environment, to meet the consumption needs of all categories of consumers.

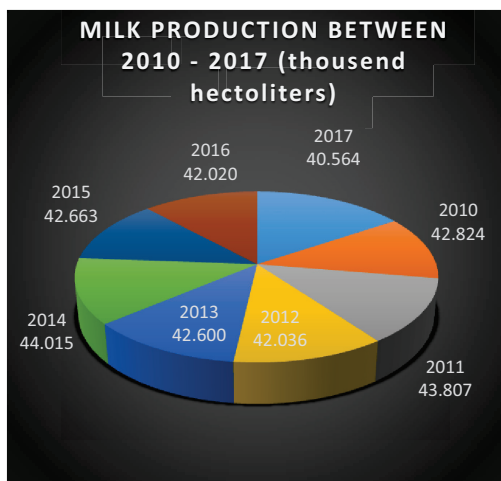


Figure 1. Milk production between 2010-2017

The above figure, based on statistical data provided by the National Institute of Statistics, indicates the tendency for milk production to decrease from 2014, from 44,015 thousand hectoliters in 2014 to 40,564 thousand hectoliters in 2017.

This decrease was one of the reasons why Romania took the decision to develop and promote a bill that would lead, among other things, to increasing consumer confidence in domestic dairy products, thereby contributing to the increase in domestic milk production.

As a result of the control actions carried out by the institutions responsible for verifying compliance with the legal provisions on marketing, compliance, labeling of drinking milk and dairy products, it was found that they contained non-conforming physico-chemical parameters, fat content, protein or moisture content is different from that required by

regulatory acts or declared by manufacturers by labeling.

It has also been found that a significant percentage of the verified dairy products do not comply with the quality standards imposed by law or assumed by the producers, the use of dairy dairy product names for commodities, misleading consumers as to the nature of the product.

There are situations where the products obtained from milk and/or casein and vegetable/animal fats are presented under names of cheese marketed under improper names, commercial names that create the idea that they are dairy products, although they are vegetable fats.

The currently used names highlight certain ingredients that by their proportion in composition do not give specificity to the product and create confusion for consumers.

There are some deviations in informing consumers about the marketing of bulk dairy products, such as: lack of mandatory information at the place of marketing, namely the name under which the product is sold, the date of minimum durability or the end-of-life consumption and allergenic ingredients. Exposure of dairy products (with vegetable fat content) to the same dairy area without proper consumer information.

The Romanian agri-food sector continues to face challenges related to compliance with high standards of food safety and quality across the agro-food chain, and through the lege ferenda project, it enables consumers to identify products that have specific qualities, to increase consumer confidence in products domestic dairy products, making an important contribution to increasing milk production.

### The milk law

The proposal of the Law on Milk intends to regulate the way in which the economic agents carrying out activities in the production, processing and marketing of milk and dairy products intended for sale to the final consumer will be registered in the Milk Register, a new way in the Romanian agro-food system. It will be forbidden to activate in this field without being registered in this new register.

The proposal also aims to regulate the milk and dairy sector, milk-based products and milk-based products and creates the legal framework for the presentation, presentation and marketing of milk products.

From the point of view of compatibility with the acquits communitarian, we mention that the law regulates the mandatory information to be printed on the label of consumer milk and dairy products in accordance with Regulation (EU) No. 1.169/2011 of the European Parliament and of the Council of 25 October 2011.

Food security is a major priority for the EU, it affects all citizens and is in close contact with trade policies. EU food safety policy aims to ensure a high level of protection of human life and health, and seeks to protect EU citizens against three types of hazards that may be present in the EU food: physical hazards, biological hazards and chemical hazards.

With regard to chemicals, the EU food safety model is considered to be a global reference and, according to the World Health Organization (WHO), European citizens benefit from one of the highest levels of insurance in the world about the food safety it consumes.

The strength of this model is based on:

- (a) its governance structure, in which responsibilities are shared between EU agencies and European Commission: this allows separation of the evaluation risk management risks;
- (b) its objective of assessing the safety of chemicals before they are used in the food chain; and
- (c) clear allocation of responsibilities between the private sector and public control authorities. European legislation in the field food aims to guarantee "a high level of protection of human life and health"<sup>1</sup>

The Commission insisted on the importance of this policy, stating the following: "*Guarantee the fact that food products marketed in the EU remain safe is at the center of a Europe that protects*"<sup>2</sup>

<sup>1</sup> Article 5 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in food safety.

<sup>2</sup> European Commission, *Food Safety EU budget for the future of the EU*, June 7, 2018 ([https://ec.europa.eu/food/sites/food/files/future\\_budget\\_factsheet\\_en.pdf](https://ec.europa.eu/food/sites/food/files/future_budget_factsheet_en.pdf))

All foods contain chemicals. Chemical hazards refer to substances which have the potential to produce adverse health effects and which occur in naturally occurring or which are added during the manufacture or handling of the products food (see Fig. 2).

Regulated food Ingredients	Food additives Food enzymes Food flavourings Nutrient sources (food supplements / botanicals)
Food chain residues	Feed additives Veterinary medicines Pesticides
Contaminants	Environmental pollutants Natural contaminants Process contaminants
	Food contact materials

Figure 2 - Groups of chemical hazards covered by EU legislation

These include some additives, pesticides and pesticide certain metals. residues of certain substances may subsist and may have an impact on the next links of the food chain or different product categories.

For example, pesticide residues which have been used in the cultivation of the intended plants to serve as animal feed can be detected later in the tests performed on food of animal origin.

For this reason, the EU model for food security is based on an integrated approach and includes measures covering the whole food chain: animal feed, animal health, plant protection and food production up to processing, storage, transport, import, export and retailing.

Chemical hazards may be present in all foods, including food (also called "bio" foods)<sup>3</sup>, and these practices are misleading consumers.

EU legal corpus governing Chemicals in the context of food security is vast and fragmented. The EU has adopted numerous acts legislation 10, including directives, regulations, decisions and agreements, for each field (food additives, flavorings, feed additives, pesticides, etc.). Overall, this legal body covers about 8,000 chemicals.

<sup>3</sup> Organic foods are certified as being obtained by complying production methods standards for organic farming. Compliance with these standards does not mean that the presence of any chemical hazards, such as contaminants, is excluded.

Of course, besides the legislation adopted at the level of the European Union, each member state has the freedom to issue legislation regulating the activities of interest, to the limit and without infringing the *acquis communautaire*.

In this context, Romania has taken the decision to regulate at national level the milk and dairy sector, milk-based products and raw milk products and creates the legal framework for product presentation and marketing mainly regarding the health of the population, meeting the consumption needs of all categories of consumers and respecting hygiene conditions.

In addition, it is intended to regulate the mandatory informations to be entered on the label of consumer milk and dairy products in accordance with Regulation (EU) No. 1.169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) 1.924/2006 and (EC) No. Decision No 1.925/2006 of the European Parliament and of the Council and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directives 1999/10/EC, Directive 2000/13 of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Regulation (EC) No 608/2004, so that consumers are informed directly and specifically of the possible chemical hazards of the food presented for sale.

Within the Ministry of Agriculture and Rural Development, the Milk Registry will be set up within the Ministry's specialized technical directorate, in which economic operators must register for the purpose of carrying out activities in the field of raw milk processing and production of milk and dairy products, intended for marketing.

Registration in the Milk Register is done 60 working days prior to the commencement of marketing of drinking milk or dairy products. By way of exception, economic operators engaged in the processing of raw milk and the production of drinking milk and dairy products intended for marketing before the date of entry into force of this law shall be entered in the Milk Register within 30 working days.

The provisions of the law under discussion do not apply to agricultural producers, persons

who obtain agricultural products in their own farm / household and who exceed their own consumption needs and market them on the basis of the producer certificate and the marketing card, according to the Law no. 145/2014 for the establishment of agricultural market regulation measures, as amended and supplemented.

Consumed milk and dairy products in stock prior to the date of entry into force of this law may be marketed with the initially marked identifiers until the stocks are exhausted but no more than 2 months after the entry into force of this to this law.

In addition, the law sets out what changes are allowed for whole milk:

- modifying the natural fat content by removing or adding cream or by adding whole milk, semi-skimmed or skimmed milk in order to ensure the fat content established for drinking milk;

- enrichment of milk with milk proteins, mineral salts or vitamins, in accordance with Regulation (EC) No. 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods;

- reducing the lactose content by changing glucose and galactose. (2)

These changes to the composition of the milk shall be permitted only if they are indicated on the packaging of the product so that they can be easily seen and read and cannot be deleted. However, these indications do not replace the obligation to indicate the nutritional value on the label laid down in Regulation (EU) No. 1169/2011.

If protein is added, the protein content of the enriched milk must be 3.8% or above this value.

As regards drinking milk, the bill establishes the following conditions:

- have a freezing point close to the average freezing point of the raw milk recorded in the area of origin where the drinking milk was collected;

- have a mass greater than or equal to 1,028 grams/liter for milk containing 3.5% (m/m) fat at a temperature of 20°C or an equivalent weight per liter for milk having a different content fat;

- contain a minimum protein content of 2.9% (m/m) for milk containing 3.5% (m/m) fat or an equivalent concentration for milk with a different fat content.

The bill also establishes that the production of dairy products with the addition of hydrogenated fats is processed in production units distinct from milk and dairy processing plants.

Dairy products with the addition of hydrogenated fats will be marketed in a well-defined space, with explicit attention to the buyer's content of these products. The same provisions will apply to the sale of dairy products with the addition of hydrogenated fats sold in bulk.

It will not be allowed to market dairy products with the addition of hydrogenated fats in the same place as milk and dairy products that do not contain hydrogenated fats.

Finished food products that have ingredients as hydrogenated fats will be labelled with the explicit mention of their existence in the product. At their points of sale, consumers will be advised of the existence and designation of the finished foodstuff offered for sale.

### **Update - April 2019**

Following the submission of the draft for public debate, it has been modified, so we present the new aspects.

A number of amendments were brought by the officials of the Ministry of Agriculture (MADR), following the analysis of the points of view submitted by the Romanian Employers' Association of the Milk Industry (APRIL), the Federation of Food Industry Employers (Romalimenta) and the Romanian Association of Commerce Networks (AMRCR).

Along with the new bill MADR published also the proposals received and how the normative act was amended on the basis of them.

Among the changes made are the fact that in the Milk Register will be registered not only the local producers, but also the importers:

The economic operators engaged in the processing of raw milk and the production of milk and dairy products, intended for marketing in Romania, including the importers and economic operators engaged in intra-Community trade may market products under

the name of milk and dairy products only on the basis of the registration of the product in the Milk Register, prepared by the technical directorate of the Ministry of Agriculture and Rural Development.

MADR rejected the APRIL proposal that the Milk Register should not be set up, the industry argument being that the activity of the Registry overlaps with the activity of National Food Safety and Veterinary Authority (ANSVSA) and Payment and Intervention in Agriculture Agency (APIA).

Registration in the Milk Register shall be made at least 30 working days prior to the commencement of the marketing of drinking milk or dairy products. In an exceptional way, economic operators engaged in raw milk processing and production of drinking milk and dairy products intended for marketing before the date of entry into force of this law will register the products in the Milk Register within 60 working days.

Consumed milk, dairy products and packaging in stock prior to the date of entry into force of this law may be marketed with the initially marked identification until the stocks are exhausted but no more than 12 months after the date of entry into force of this the new law.

For registration in the Milk Register the economic operators submit to the Ministry of Agriculture and Rural Development the following information:

- a) name of the economic agent
- b) number of the sanitary veterinary authorization issued by ANSVSA
- c) name of the product.

Following the enrolment, the economic operator is required to enter the registration number in the Milk Register on the product label. The registration number is placed in the center of a white-red rectangle, preceded by the phrase "Ministry of Agriculture and Rural Development".

The new law maintains provisions to combat dairy counterfeiting. Thus, products containing vegetable fats will be labelled and sold separately from milk-based products without vegetable fats.

The provisions of this law do not apply to agricultural producers, natural persons who obtain agricultural products on their own farm /

household and who exceed their own consumption requirements.

The fines for non-compliance of the new law could reach 50,000 RON (approx. 10,500 EUR), and in cases where the non-observance of the law is repeated, the decision can be taken to ban the carrying out of the activity for which the operator has been sanctioned for 10 years. Furthermore, the prohibition shall also apply to the associate / shareholder / administrator for the economic activities to be carried out from the date of the finding of the contravention in any other form of legal organization. This will prevent the same shareholder, through another firm, from resuming the same activity for which he received the sanction.

In order to be effective, the Law on Milk will be passed to the Parliament where it will be subject to the legislative process.

The initiative will then be submitted to the final vote and, if it is adopted, will have to be promulgated by the President of Romania and published in the Official Gazette to force in to law.

## CONCLUSIONS

With the regards of the topic chosen for the present paper, we consider that, in the absence of the approach of the basic elements in support of milk producers, namely coherent legislation, which maximally speculates the permissibility of the Community legislation, respecting its limits, it is very difficult for the dairy industry to catch up with the highly developed and strong member states on this market, such as Germany, Great Britain, France, Italy, the Netherlands, Poland, which produce about 70% of the EU milk production.

In order to ensure compliance with the provisions of Community law on this matter, the law will be notified to the European Commission in accordance with the provisions of Article 108 (3) of the Treaty on the functioning of the European Union, as amended and supplemented.

From the analysis of the draft law debated, we appreciate that from the point of view of the macroeconomic impact, the application of the measures provided by the draft normative act will allow to improve the way of sell and distribute the milk and milk products and correct and complete information of the population regarding the products which it purchases.

Regarding the identified impact on the business environment, we consider that this proposal complements the regulations in the field of processing and marketing of milk and dairy products, and will be useful to the economic agents that act correctly on the dairy market in Romania.

Regarding the social impact, this law is expected to help ensure compliance with high food safety and quality standards across the agro-food chain and to enable consumers to identify specific quality products, to avoid fake products, to boosts sales of milk products, and off course, to contribute to the raise of the milk production in Romania.

## ACKNOWLEDGEMENTS

This research work was carried out with the data and information's available from the the Ministry of Agriculture and Rural Development, National Statistics Institute, Eurostat - the statistical office of the European Union, and other open sources.

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