

Workshop AIDA-EFLA Milano, 10 December 2019 The Implementation of Regulation (EU) No 1169/2011 in some Member States and the sanctions models adopted

An introduction

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Just few words to introduce the workshop and to explain you the reasons why we have chosen the topic of the workshop.

As it is well known, the Treaty on the Functioning of the European Union (TFEU) leaves to the competence of the legislation by each Member State to establish penalties in case of infringement to the EU Regulations and to appoint the competent bodies in charge to impose those penalties¹.

Some time has elapsed from the entry into application of the EU Regulation No 1169/2011; we

intend therefore to analyse, through a comparative law examination, the sanction models adopted by some Member States, to offer tools for professional and research activity. In particular we would like to verify, through the reports by the speakers and the debate with the public, whether the sanctions adopted by each Member State reaches or not the goals established in the “*Recitals*” to the Regulation on food information to consumers.

It appears useful for lawyers working in the area of food law, to assess whether the national sanctions systems can, on the one hand, ensure the free movement of goods² and, on the other hand, whether the sanctions adopted can be effective, dissuasive, proportionate to the seriousness of the breach of the provisions foreseen by the EU Regulation on food information to consumers³.

(¹) Article 169 (1), and point (a) of Article 169 (2), of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 TFEU. Article 38 of the Charter of Fundamental Rights of the European Union (“the Charter”) provides that Union policies are to ensure a high level of consumer protection.

(²) See Recital 49 Reg. 1169/2011: “... However, such national measures should not prohibit, impede or restrict the free movement of goods that are in conformity with this Regulation”.

(³) Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules. See Recital 3 of Directive EU 2019/2161: “The Union has already taken a number of measures to improve awareness among consumers, traders and legal practitioners about consumer rights and to improve enforcement of consumer rights and consumer redress. However, there are remaining gaps in national law regarding truly effective and proportionate penalties to deter and sanction intra-Union infringements, insufficient individual remedies for consumers harmed by breaches of national legislation transposing Directive 2005/29/EC of the European Parliament and of the Council and shortcomings with regard to the injunction procedure under Directive 2009/22/EC of the European Parliament and of the Council. Revision of the injunction procedure should be addressed by a separate instrument amending and replacing Directive 2009/22/EC”.