

Proposed Recipients:

- Czesław Adam Siekierski
 Chair of the Committee on Agriculture and Rural Development
- Chair of the Petitions Committee European Parliament 1047 Brussels Belgium
- Ms Danuta Maria HÜBNER
 Chairwoman COSAC (http://www.cosac.eu/en/)
 Committee on Constitutional Affairs

Date: 18/04/2019

Dear Mr Siekierski, Ms Wikstrom and Ms Hübner,

RE: Compromise Amendment Number 41

On Monday 1 April 2019, members of the AGRI committee voted on proposals for a CAP 'Regulation' establishing a common organisation of the markets in agricultural products (2018/0218 COD).

In an attempt to bolster a depressed agricultural economy, the Committee voted to propose that the European Union legislates to reserve, for the sole use of the meat industry, the use of terms such as 'steak', 'sausage' and 'burger'. In addition, the Committee also wishes to impose further restrictions on the use of descriptors that indicate the context in which 'dairy style' replacement food items produced by the vegan, plant-based food manufacturing sector can be used. Consequently, terms such as 'yoghurt replacement', et cetera, would also be prohibited by the aforementioned proposal.

The proposed measure threatens to create confusion across the EU, cause excessive administrative burdens to public entities and would have a disproportionate effect on small vegan businesses. These conditions do not align with the current EU regulatory fitness initiative. Moreover, the proposal will result in unclear and ineffective communication from manufacturer to consumer, regarding how the plant-based food alternatives can be cooked and used, and would have a disproportionate and detrimental effect on the minority vegan community, who have the protection of European and EU human rights and equality law.

Veganism is '[a] philosophy and way of living which seeks to exclude—as far as is possible and practicable—all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose; and by extension, promotes the development and use of animal-free alternatives for the benefit of humans, animals and the environment. In dietary terms it denotes the practice of dispensing with all products derived wholly or partly from animals'. In the European and EU system of human rights and equality law, vegans benefit from legal protection on the grounds that they hold and manifest sincere ethical convictions with regard to the moral standing of nonhuman animals.

The proposed measure, to restrict the use of commonly used words to describe plant-based alternative food items, does not appear to have been interrogated for compliance with the paramount principle that European Union measures be compatible with recognised fundamental human rights. In particular, the proposals violate international human rights principles, rights granted by the Charter of Fundamental Rights of the European Union, the



European Convention on Human Rights and rights and safeguards guaranteed by the principle of non-discrimination and its related EU Directive. Further, the proposed EU measure contravenes principles and law that support minorities, the EU consumer right to be informed adequately as to the utility of goods, and denies the vegan community the benefits offered by EU law on clear labelling.

We maintain that the move to restrict the use of traditional and conventional descriptors that invoke awareness of the context for meals in which vegan plant-based food items can be used, does not align with existing case law on respect for fundamental rights in the EU, and is, therefore, an invalid proposal that would result in an unlawful EU measure.

For the avoidance of doubt, we submit the following evidence and explain the relevant issues.

1. LAW

European Convention on Human Rights (ECHR) Article 9 Freedom of thought, conscience and religion

- 1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom... to manifest his religion or belief, in... practice and observance.
- 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 14 Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as... religion, political or other opinion...

Treaty on European Union (Consolidated TFEU and TEU as amended by the Treaty of Lisbon)

Article 2

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice... prevail.

Article 6

- 1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.
- 3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

Charter of Fundamental Rights of the European Union Preamble:

... it is necessary to strengthen the protection of fundamental rights in the light of changes in society...

This Charter reaffirms, with due regard for the powers and tasks of the Union and for the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Union and by the Council of Europe and the case-law of the Court of Justice of the European Union and of the European Court of Human Rights. In this context the Charter will be interpreted by the courts of the Union and the Member States with due regard to the explanations prepared under the authority of the Praesidium of the Convention which drafted the Charter and updated under the responsibility of the Praesidium of the European Convention.

Article 10 Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to....manifest religion or belief,...in practice...

Article 21 Non-discrimination

1. Any discrimination based on any ground such as... ...religion or belief, political or any other opinion, membership of a national minority... shall be prohibited.

Article 22 Cultural diversity

The Union shall respect... diversity.

Article 52 Scope of guaranteed rights

- 1. Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.
- 2. Rights recognised by this Charter which are based on the Community Treaties or the Treaty on European Union shall be exercised under the conditions and within the limits defined by those Treaties.
- 3. In so far as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection.

2. CASE LAW

H v United Kingdom (1993) 16 EHRR CD 44

A vegan prisoner did not want to work in a print shop because he assumed the dyes were not vegan. Veganism was accepted as coming within the scope of Article 9 ECHR.

Jakóbski v Poland App No 18429/06 (ECtHR 7 December 2010)

The court emphasised the strict limitations on interference with beliefs relating to 'compassion for all living beings'. Confirming that dietary practice is a *direct* expression of beliefs, the court decided in favour of the applicant despite the non-binding nature of the European Prison Rules on food provision.

Vartic v Romania (no. 2) App No 14150/08 (ECtHR 17 December 2013).

Following Jakóbski, the Court has the power to throw out cases it regards as 'trivial'. Despite a seriously heavy workload and the many thousands of applications received, it has admitted successive cases concerning interference with the right to live in

accordance with moral convictions relating to compassion for all sentient beings, and, moreover, decided consistently in favour of applicants.

3. PRINCIPLES GOVERNING THE INTERROGATION OF NEW EU MEASURES

- The European Union is obliged to respect fundamental rights.
- The EU Charter is binding upon the EU institutions when adopting new measures.
- Any limitation of fundamental rights must be provided for by law, respect the essence
 of fundamental rights and freedoms, and respect the principle of proportionality.
- EU legislation will be void if interference with fundamental rights is disproportional.
- It is an absolute requirement to perform a strict assessment of the proportionality and necessity of any measures that impact on fundamental rights.

4. Combined European system of human rights, European safeguards for minorities and the EU principle of non-discrimination as reinforced by Equality Framework Directive 2000

Article 14 (prohibition of discrimination) of the European Convention on Human Rights is strengthened by the EU principle of non-discrimination to the point of positive action for minorities. As such, the EU recognises that 'going further', to protect rights, equality and diversity is paramount. The EU therefore aligns itself with the principles of the European Framework Convention for National Minorities in that minorities be granted the benefit of positive action on the grounds that dominant societal policies and practices may cause them hardship. In this regard, the EU seeks to protect the security, growth and flourishing of minorities.

5. EU CONSUMER RIGHTS: Directive 2011/83/EU of The European Parliament and of The Council 25 October 2011

Article 5 (1)

A consumer has the right to clear and comprehensible information regarding (a) the characteristics of the goods and to the extent appropriate to the goods.

6. FOOD LABELLING: European Parliament and Council Regulation 1169/2011 **Preamble**

(17) ...food information should...enable consumers to identify and make appropriate use of a food and to make choices that suit their individual dietary needs.

Article 7 Fair information practices

(2) Food information shall be accurate, clear and easy to understand for the consumer.

7. ISSUES

1. As is apparent from the law, including the legal cases, set out above, vegans are protected by European and European Union human rights law, and have a qualified right to manifest practically, in everyday life, their sincere convictions with regard to the moral status of nonhuman animals.

The manifestation of the vegan way of life includes the manufacture and qualified normative labelling of plant-based alternative food products that are used by vegans on a daily basis. The vegan, plant-based food sector has long supplied and described certain foods, using such terms as 'veggie burger', 'veggie steak', 'veggie sausage', et cetera. These terms of usage explain to vegans, and transitioning vegans, the context in which the plant-based food item can be used, and they also indicate familiar cooking processes. They are universally integral to everyday food planning conversations, found in vegan recipe books, online searches, discussion websites

and forums, and heard in news and information programmes. They are words that conveniently invoke meal ideas and options (a representative list of replacement vegans food items commonly found in shops and on menus can be seen in Appendix 2 to this letter).

We submit that any restrictions on the use of these terms will interfere with the vegan practice of both vegan business owners and vegan consumers and, furthermore, impact negatively on public authorities who are obliged to provide vegan plant-based food to vegans in their care in accordance with a statutory obligation not to contravene human rights and equality laws. Public authorities that currently serve vegans, include, for example, various government departments, health providers, education establishments (schools, colleges and universities), the police force, prisons and detention centres. In the course of their statutory duty to not contravene fundamental rights and accommodate those with protected characteristics, such as qualifying 'beliefs', public authorities rely on the use of commonly used descriptors to source and describe menu items that are suitable for vegans. We further submit, therefore, that the proposed measure would not only cause immense hardship for vegans, transitioning vegan consumers and vegan businesses, but would also cause widespread confusion across the EU and create inefficiencies and excessive administrative burdens to all public entities (see Appendix 2).

- 2. As can be seen from the law set out in this letter, there are strict limitations regarding permissible interference with the vegan way of life: there must first be a law that is required for the purposes of a democracy, and such a law must exist for the purposes of human safety, public order or health, in the interests of morality, or to protect the rights and freedoms of other people. We submit that a proposal to restrict vegans from using terms of traditional usage to explain and describe their plant-based alternatives is an undemocratic, oppressive use of power that does not come within the scope of permitted interference and, if allowed to proceed, would, therefore, constitute unlawful interference with a protected way of life.
- **3.** The European Union recognises the paramount duty to respect fundamental rights and also stresses that any limitation of fundamental rights must respect the principle of proportionality and meet objectives of general interest. We submit that the proposed measure is entirely disproportional given the hardship it would impose on a minority population within the EU, is not necessary, and has no lawful objective that is in the general interest. The proposal does not, therefore, achieve the required threshold for implementation.
- **4.** As is apparent from the law set out above, the EU aims to ensure that consumers are protected from unsatisfactory descriptions of goods and unclear labelling of food products. The EU urges that food information should enable consumers to identify and make appropriate use of a food items and be in a position to make choices that suit their individual dietary needs. Existing law and regulations impose legal duties on manufactures and, in turn, the resulting obligations reassure consumers and, thereby, create widespread consumer confidence. Vegan consumers are stakeholders in these benefits and enjoy the reassurance and convenience of adequate and clear information required in order to purchase food according to their dietary needs.

Clear food labelling law in the EU deals with the entirety of information given. It will be noted that the Oxford and Cambridge dictionary definitions of 'clear' are to be 'certain', 'have no doubt', 'be easy to understand', 'easy to perceive' and 'to interpret'. The EU requirement for clear and comprehensive information cannot be regarded to be inapplicable to the vegan plant-based community. Rather, it is imperative that

vegans and wider society, including public authorities and health care providers, are informed as to the normative replacement value of the alternative plant-based products available to them. Alternative vocabulary put forward for use by the vegan plant-based sector, such as 'vegetable disc', does not constitute clear food labelling under EU consumer law because such terms do not describe or facilitate ease of interpretation nor make it easy to perceive the food item in question. Rather, they would be difficult to understand, cause uncertainty and doubt regarding the nature of the product, how it can be used, what other food the product might accompany, and how it might be cooked.

- 5. The Charter of the EU has established enhanced rights and equality measures. An important principle in guaranteeing support for equality and diversity is the provision for 'positive action' to assist minority, under-represented citizens. This provision is in the spirit of the European Framework for the Protection of Minorities which enhances Article 14 of the European Convention on Human Rights by recognising that there are occasions when a negative duty not to discriminate must be enhanced by supportive, positive measures to ensure minorities do not suffer hardship as a result of widespread dominant social practices and policies. The EU is, therefore, committed to ensuring the protection of minorities and has made it clear that no matter what the legitimate aim of any new proposed measure, it will not support an unreasonable impact on fundamental rights. We submit that, as is apparent from the principle of non-discrimination, the vegan plant-based community is entitled to benefit from the aforementioned safeguards and provisions, and therefore has a right to use qualified conventional terms of reference to denote alternative plant-based food items.
- 6. The EU Charter is a fundamental and primary point of reference when assessing the compliance of all new draft EU measures, and there is a strict duty to interrogate new proposals against the rights and equality provisions it contains. The EU takes this obligation seriously and has long-since acknowledged that it is possible that new EU measures could breach fundamental rights, the first acknowledgement of this possibility being the 1969 case of *Stauder*. Since then, the European Court of Justice has annulled measures in 2010 (Joined Cases C-92/09 and C-93/09 *Schecke*), 2011 (Case C-236/09 *Test-Achats*) and 2014 (Joined Cases C-293/12 and C-594/12 *Digital Rights Ireland*) on the grounds of incompatibility with fundamental rights. This established history of invalidating non-compliant EU measures should provide an additional guide to the AGRI Committee in its current misguided endeavour. The rights and equality provisions available to the plant-based vegan community have not been included in an assessment of the validity of the proposed measure, which has not, therefore, been adequately interrogated, taking into account all relevant stakeholders in the EU community.

As is apparent from fundamental EU provisions and the related case law cited above, we submit that the proposal, to introduce restrictions on the use of language that is common to all stakeholders to describe food according to dietary needs, is invalid and constitutes a proposal for unlawful EU legislation.

8. Conclusion

Compromise Amendment Number 41 has not been adequately interrogated for validity. By not taking into account the impact on the vegan community, the Committee proposes a measure that contravenes established community law on fundamental rights and the rights of consumers. It is an undemocratic, unnecessary, disproportionate measure that has no objective of general interest. It would unlawfully interfere with minority vegan practice, cause undue hardship for vegans, transitioning vegan consumers and vegan businesses. The proposed measure does not respect the rule of law and fundamental rights and is, therefore,

invalid. This is especially so given the EU's commitment to equality and diversity and its current endeavour to strengthen the protection of fundamental rights.

9. Next steps

We would appreciate your considered response within 21 days of this letter.

Yours sincerely,

George Gill, Chief Executive Officer

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(Direct email: ceo@vegansociety.com)

Appendix 1

Sources of information used to inform this letter

Charter of the EU http://www.europarl.europa.eu/charter/pdf/text en.pdf

Consolidated Version of The Treaty on European Union: https://eur-lex.europa.eu/legal-

content/EN/TXT/PDF/?uri=CELEX:12016M/TXT&from=EN

Consolidated Version of the Treaty on the Functioning of the European Union: https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-

fd71826e6da6.0023.02/DOC 2&format=PDF

Directive 2011/83/EU: https://eur-lex.europa.eu/legal-

content/EN/TXT/?uri=celex:32011L0083

EU Equality Directive (2000): https://eur-lex.europa.eu/legal-

content/EN/TXT/?uri=CELEX:32000L0078

EU REFIT: https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly en

European Convention on Human Rights:

https://www.echr.coe.int/Documents/Convention ENG.pdf

Framework for the Protection of National Minorities: https://rm.coe.int/16800c10cf

Francesca Ferraro and Jesús Carmona (2015) 'Fundamental Rights in the European Union': http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/554168/EPRS IDA(2015)55416 EN.pdf

Jana Valant (2015) 'Consumer Protection in the EU':

http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/565904/EPRS IDA(2015)56590 4 EN.pdf

Proposal for a Regulation of the European Parliament and of the Council: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A394%3AFIN

Regulation (EU) No 1169/2011 of The European Parliament and of the Council of 25

October 2011: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R1169

The Vegan Society, https://www.vegansociety.com/go-vegan/definition-veganism

Treaty of Lisbon: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12007L/TXT

Cases

- H v United Kingdom (1993) 16 EHRR CD 44
- Stauder v City of Ulm (29/69) [1969] ECR 419 [1970] CMLR 112 ECJ
- Association Belge des Consommateurs Test-Achats and Others 2011 C-236/09
- Joined Cases Digital Rights Ireland 2014 C-293/12 and C-594/12
- Joined cases Volker und Markus Schecke 2010 C-92/09 and C-93/09
- Jakóbski v Poland App No 18429/06 (ECtHR 7 December 2010)
- Vartic v Romania (no. 2) App No 14150/08 (ECtHR 17 December 2013)

Appendix 2

A brief list of vegan, plant-based food descriptors which the public and private sector need in order to comply with legal duties to accommodate vegans.

Smallwood Primary School, UK



School in Renfrew, Scotland, UK

Sheet1	Sheet2				The same section of the section of t
WEEK 2	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
	Vegan Pizza	Spicy Veg with Rice	Fish less Fingers	Dairy free Macaroni cheese	Vegan Sausage
WEEK 2	Vegan Monthalls	Carbonara No Ham	Vegetable Curry	Fishless Fingers	Vegan Nuggets and Wrap
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WEEK 3	Vegan Satasage Casserole	Vegetable Chilli	Vegan Nuggets with Wedges	Baked Potato & Beans	Qouen Vegan Burger

HM Prison Dartmoor in Princetown, England:

Vegan inmates will be offered a vegan wellington, a delicious Christmas meal that is veganized by replacing meat with Portobello mushrooms with pecans, dried cranberries, chestnuts, and sweet potato.

Brief list of frequently used menu items in the public and private sector

Pepper steak style pie

Sausage rolls

Pulled pork

Cheatin ham

Mock duck

Meat free mince

Fully loaded chicken style pie

Chicken style strips

Meat free hot dogs

Braai-style sausages

Meat free traditional burgers

Meat free traditional sausages

Asian spiced burgers

Meat free slicing sausage

Meat free smoked hot dogs

Seasoned chicken style strips

Chicken style country mushroom pie

Chargrilled beef style strips

Veggie burger

Veggie schnitzel

Cheatin Turkey Roast

Cheatin Beef Roast

Cheatin Celebration Roast

Vegan Beef Style Pasties

Vegan Pork Style Sausage Rolls

Gourmet Vegan Duck and Orange Pate

Gammon Style Roast

Vegideli Chicken Style Tikka Pieces

Veggie meatballs

Veggie hoisin duck

Vegetarian chorizo-style cocktail sausages

Vegetarian beef-flavour roast

Seasoned vegetarian cocktail sausages

Vegetarian beef-flavour, mushroom and spinach wellington bites

Vegetarian pork and apple style sausage rolls

Vegetarian chorizo and red pepper sausages

Vegetarian red onion and rosemary sausages

Vegetarian 1/4lb burgers

Vegetarian mushroom and spinach burgers

Vegetarian pulled pork-style 1/4lb burgers

Veggie Haggis

Veggie Haggis

Free from fish fingers

Vegetarian meatballs

NoChicken Chunks

NoChicken Nuggets

Mc2 NoChicken Burger

Vegetarian NoMeatball

Vegan NoMince

Vegan Smokey Hotdog

Vegan Bratwurst

Vegan Slicing Sausage

Fishless Fillets

Seven Grain Crispy Tenders
Turk'y Cutlet
Crispy Chick'n Patty
Barbecue Chick'n Wings
Italian Saus'age
Sweet and Sour Porkless Bites
Meatless Meatloaf
Beefless Burger
Beefless Strips
Original Breakfast Saus'age Patties
Savory Stuffed Turk'y
Holiday Meatless Roast
Lentil Cottage Pie

Examples in other languages

Hamburgeusa vegetarian
Veggy burger
Tacos Veganos de Chili
Vegan burger
Albondigas veganas
Carne vegetal
Boulette de Vegan
Faux Gras
Vegan Currywurst

Menu option at 'Not Dogs' restaurant in Birmingham, England



McVegan menu item at McDonalds in Finland



Menu at Kings College Hospital, England



Menu at Hammersmith Hospital, England



Croft School UK

COOKS Choice Cookie

Friday

Homemade Minced Beef Hot Pot Served with Carrot and Peas

Oven Baked Vegetarian Sausage Roll 🔮 Served with sauté potatoes and Baked Beans



omemade fruit crumble & custard Sauce

Welsh Glamorgan Sausage made since the 1850s contains no meat

