

*abstract*

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**THE PROPOSAL OF NEW EU REGULATION  
ON THE PROVISION OF FOOD INFORMATION TO CONSUMERS**

On 1 February 2008 the European Commission transmitted to the European Parliament and to the Council the proposal of a new Regulation on the provision of food information to consumers.

The proposal has been subject to detailed and somehow controversial scrutiny, both at National and at European level, and now - after more than 3 years – is near to its final approval.

As specified by the Commission in the recent Communication of 22 February 2011:

*“The proposal consolidates and updates two important areas of labelling legislation, the general food and nutrition labelling covered by Directives 2000/13/EC and 90/496/EEC respectively.*

*The proposal recasts also six other Directives concerning the labelling of certain categories of foods. The objectives of this proposal are:*

- to simplify the food labelling legislation by creating a single instrument for principles and requirements for horizontal labelling requirements regarding general and nutrition labelling;*
- to include specific provisions on the responsibilities along the food chain with respect to the presence and accuracy of food information;*
- to establish measurable criteria for certain aspect of legibility of food labelling;*
- to clarify the rules that apply with respect to country of origin or place of provenance labelling;*
- to introduce mandatory nutrition labelling in the principal field of vision for the majority of processed foods;*
- to establish a system of governance for certain aspects of voluntary food labelling through endorsement by Member States.”*

The proposed regulation is extremely significant, with reference both to institutions, competences and procedure, and to the merits of discipline.

The report will briefly consider both those aspects.

The decision to shift from directives to regulation is a clear evidence of the process from harmonisation to unification of European rules, and locates the new proposed regulation within the process towards *European Codes*, which

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characterizes large part of present European legislation.

This process, which dates back to the end of the past century and to the first years of this century, has received increased strength after the ratification and the entrance in force, of the Lisbon Treaty, with the generalised adoption of the ordinary legislative procedure.

On the other side, the *unification* and *codification* of European law implies, by its nature, in an EU with 27 MS, a *multilevel legislation*, which sets up principles, goals, methods, institutions, and then integrates them trough the contributing and co-operative work of:

- the Commission, with the increased use of delegation of power, under artt. 49-52 of the proposal and under art. 290 of the Treaty on the Functioning of European Union;
- Member States, under artt. 37- 43 of the proposal;
- International bodies, like Codex Alimentarius, Unesco, and OIV.

The result is a complex legal model:

- which requires original approaches to producers and law scholars, with reference to new sets of remedies, in addition to new sets of rules and of rights;
- where *systemic nature* of food legislation is ruling at the cross-road between natural sciences and technologies, and new questions coming from consumers and producers;
- where legal rules share a plural nature, not necessarily *static*, but rather oriented as a *mobile stipulation*, resulting from different contributions coming from European, International and National Actors, public and private;
- where *certainty*, *stability* and *predictability* (absolutely necessary to producers, consumers, administrators and scholars) share their role with *flexibility* and *responsiveness* to new products, new needs, new communication.

Within this perspective, the report will analyze some of the more significant provisions introduced by the proposed regulation, taking into account judicial decisions of the Court of Justice, the rules introduced by the 2008 Regulation on the "Modernised Customs Code" and the recent proposal of new Single CMO Regulation (EU Commission 21 December 2010).