



C/2023/744

20.11.2023

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 13 July 2023 —
Association Protéines France and Others v Ministre de l'Économie, des Finances et de la Souveraineté
industrielle et numérique**

(Case C-438/23, Protéines France and Others)

(C/2023/744)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Association Protéines France, Union végétarienne européenne, Association végétarienne de France, Beyond Meat Inc.

Defendant: Ministre de l'Économie, des Finances et de la Souveraineté industrielle et numérique

Interveners: 77 Foods SAS, Les Nouveaux Fermiers SAS, Umiامي SAS, NxtFood SAS, Nutrition et santé SAS, Olga SAS

Questions referred

1. Must the provisions of Article 7 of Regulation (EU) No 1169/2011, ⁽¹⁾ which require consumers to be provided with information that does not mislead them as to the identity, nature and properties of foods, be interpreted as meaning that they specifically harmonise, within the meaning of and for the application of Article 38(1) of that regulation, the matter of the use of names of products of animal origin from the butchery, charcuterie and fish sectors to describe, market or promote foods containing vegetable proteins which may mislead the consumer, thereby preventing a Member State from acting in that matter by adopting national measures regulating or prohibiting the use of such names?
2. Must the provisions of Article 17 of Regulation (EU) No 1169/2011, which provide that the name by which the food is identified is, in the absence of a legal name, to be its customary name or a descriptive name, in conjunction with point 4 of Part A of Annex VI thereto, be interpreted as meaning that they specifically harmonise, within the meaning of and for the application of Article 38(1) of that regulation, the matter of the content and use of names, other than legal names, designating foods of animal origin to describe, market or promote foods containing vegetable proteins, including in the case of whole substitution of ingredients of vegetable origin for all the ingredients of animal origin constituting a food, thereby preventing a Member State from acting in that matter by adopting national measures regulating or prohibiting the use of such names?
3. If Question 1 or Question 2 is answered in the affirmative, does the specific harmonisation carried out, within the meaning of and for the application of Article 38(1) of Regulation (EU) No 1169/2011, by the provisions of Articles 7 and 17 of that regulation, in conjunction with point 4 of Part A of Annex VI thereto, prevent:
 - (a) a Member State from adopting a national measure providing for the imposition of administrative penalties in the event of non-compliance with the requirements and prohibitions resulting from the provisions of that regulation?
 - (b) a Member State from adopting a national measure determining the proportions of vegetable proteins below which the use of names, other than legal names, designating foods of animal origin to describe, market or promote foods containing vegetable proteins would still be authorised?

⁽¹⁾ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ 2011 L 304, p. 18).

4. If Questions 1 and 2 are answered in the negative, do the provisions of Articles 9 and 17 of Regulation (EU) No 1169/2011 authorise a Member State:
- (a) to adopt a national measure determining the proportions of vegetable proteins below which the use of names, other than legal names, designating foods of animal origin is permitted for the purpose of describing, marketing or promoting foods containing vegetable proteins?
 - (b) to adopt a national measure prohibiting the use of certain customary or descriptive names, including where they are accompanied by additional indications ensuring that the consumer is provided with information in good faith?
 - (c) to adopt the measures referred to in Question 4(a) and (b) only in respect of products manufactured in its territory, without, in that case, infringing the principle of proportionality of those measures?
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