

[Review of:]

Costato L. et Albisinni F. (eds.) **European Food Law** Padua, Cedam, 2012, pp. XIV-506

The Italian food sector: 150 billion euros turnover in 2012 alone, with an estimated export component of 32 billion euros and a positive trade balance over 6 billion euro, in particular for branded food products. This is one of the most important Italian economic sectors together with fashion and design, which through the food serves as “Made in Italy” ambassador in the world, and as messenger of culture, of traditions, of history, of memories and of local sensations, with an integrated system approach that can transform and process over 72% of domestic raw agricultural materials and, therefore, convey and advertise the entire Territory to an international level.

In the general economic agribusiness category and, in particular, its subsystem known as ‘*food processing*’, the food product placed on the market is the result of a complex supply chain that comprises, downstream of the operations directed to the provision of goods and services for agricultural enterprises (so known as ‘*farm supplies aggregate*’), both the set of cultivation and breeding (‘*farming aggregate*’) business activities and the processing and marketing of agricultural goods, as well as the distribution of such goods to the final consumer (‘*processing and distribution aggregate*’). Consequently, the food product is capable of conveying, of communicating such integrated system, becoming a promoter of an economic model of territorial development both directly and indirectly, where the food itself represents the concrete result and where the legal rules are able to influence and amplify directly the related development and enhancement of national economic data.

Since the beginning of the European Community , to which individual States had already transferred part of their competences, the harmonizing and unifying dynamics of the emerging legal system have been experienced with particular intensity by the food sector, which has become largely a development lab of different and varied solutions in building the Community, in order to achieve the objectives of the united system.

It’s precisely in, and for, the food sector, indeed, that the challenge of the unified market, respectful of local diversity, and of the economic development of the system, was the most difficult, requiring continuous adjustments to the community-based principles and rules, and searches for new provisions and specific principles to meet the peculiarities of this subject of interest (the food sector). For example, the free movement of goods throughout the European Community, the cornerstone of this new Entity, had to be adapted in the food sector with the principle of mutual recognition, which has become today the rule of reference for all economic sectors, even for services, and in addition had to be adapted with the distinctive instruments set up pursuant to Regulations 509 and 510 of 2006.

In other words, the food sector is a *sui generis* sector characterized by coexisting technical and legal components that influence each other; it is a sector that for its peculiarities has been the test bench for the uniform regulations of the

European Community, and has ever been and is still an extreme territory of evaluation of policy choices of widespread application and implementation, becoming addressee of a continuous flow of norms and technical regulations with different characters and purposes, and with difficulties of coordination and interpretation.

Moving from an exclusive interest in *'food security'* to an exclusive interest in *'food safety'* and then combining the two in a logic of balance between them, EU has regulated over the years the food sector, starting from a discipline substantially made of prohibitions, sanctions and incentives, with technical rules and legal provisions of vertical application and regulations limited to individual phases of an entire supply chain, and then evolving to regulations and administrative provisions with a more horizontal application, headed in a direction of autonomy of precepts and principles, in an attempt to identify, to represent synthetically and to regulate the origin of production (agriculture), the processing (food industry) and its result (the food and its release to the market).

Indeed, after the substantial overcoming of the problems of post-World Wars food supply during the last century, a general 'health need' has spread to all Western countries, giving rise to a market for quality products whose purity and hygiene have slowly become indispensable and inalienable features in the formation of consensus in purchasing. This 'health need', which is normally translated by Legislators in technical rules on production and standards aimed at limiting the free movement of food and feed in cases of full-blown food insecurity, in Europe, because of the precautionary principle (applied within the Community system in an exalted way), the 'health need' has been translated into rules imposing an intervention on the market even in cases of 'no denied health doubt', where uncertainty impedes free movement of goods.

In doing so, to the first rules on *'food security'*, *'food safety'* prohibitions and intervention tools have been added, with obligations to assess the degree of risk and its management, even on a pre-market phase.

Moreover, it has been added the goal of diffusing the territory and local cultures through food and the environment, as at the same time the European and national legislators have added objectives of protection of land and territories, of new food products of the market in terms of transparency and traceability and of remedy for products' detriments.

What has derived from the birth of the European Community up to now, with regard to the food sector, is a complex of legal and economic rules, contaminated by technique, which is really complicated in being interpreted and that today has given life to what is now commonly known as Food Law, whose regulatory structure is daily increased, not only directly due to the activity of the European Union but also to the relationships between EU and the single member States and their national laws, as well as to international law, principles, values, freedoms and fundamental rights which the same international law and the current European Union are able to guarantee, by pushing in the direction of diversified

rules and actions that require, to be understood, a complete view of the dynamics involving food products.

The result is an overabundance of legal information for a sector (the food one) of undoubted importance for national member States economies and for the Community as a whole, one of the most regulated and updated sector in the European Union, the observance of which, between basic regulations and more or less self-executing directives, represents a significant challenge for all operators, so that to have an overall view of the regulatory framework and key points of interpretation of rules in rapid evolution is really essential.

Consequently, essential is to have a clear overview on the sources and a complete presentation of the legal tools available to consumers and their advisers, as well as to operators and the authorities, in order to provide a clear and well-defined regulatory framework that can direct business, judicial and legislative decisions, without difficulties and contextualization doubts.

The book *European Food Law*, edited by Luigi Costato and Ferdinando Albisinni, totally centers this objective.

If, as I believe, food rules embody a system for which the analysis of related problems cannot be adequately accomplished by focusing only on a portion of the regulatory framework and neglecting the rest, but rather by believing that a contemplation of the whole is required, as the only way to discover the functional relationships between the various elements of the system and the only way which, by providing such an image of the whole, of the parts and of the relationship of these parts between them, allows to capture both the value of the whole, and the value of the parts in relation to the whole, this book deals with the EU food legislation excellently, in precisely such a way.

As the editors underline in their foreword (*“Reasons of the book”*): *“European Food Law is expressly moving toward an integrated and systematic approach, which contemplates goals, objectives, competences, responsibilities and procedures, emphasizing the role of administrative and judicial experience, and introducing a net structure, within which local, national and European regulators and administrators are required to cooperate closely.*

It is therefore possible to assume that, as a result of such process, it is emerging a new legal model, in which rules coming from a Community level and rules coming from national and local level are strictly linked in an unitary model of EUROPEAN FOOD LAW.

This situation creates a growing demand of updated legal education, at European level, on behalf of, both post graduate students and people already working with private companies or with public administration.

In most cases food business operators cannot find clear answers to day-to-day questions, linked to the introduction of new products and new production procedures, and they have to verify the compatibility of national rules with European legislation.

In some cases, national rules, apparently unmodified and still in force, are applied by national courts, on the basis of European Food Law, modifying

opinions, which were largely prevalent until a recent past. A significant example may be found in the disputes on the admissibility of local rules imposing bottling in the origin zone for quality wines, or imposing local conditioning for PDO products.”.

On the basis of such systemic approach, the book proposes a complete reorganization of the Food Law distributed in twenty-six concise and timely chapters endowed with supporting annotations limited to normative and case-law references which, starting from the identification of general principles, come to the analysis of individual institutions, by going through an overview of the international rules. In the book, the usual topics of ‘*food safety*’ are presented together with specific aspects of consumer protection and food trade legislation, along with the analysis of the provisions on ‘labeling’, on organic foods, on traditional and innovative farming, on trademarks, on geographic and typical marks, on intellectual property, and on any other institution related to the subject matter. All the above-mentioned material is accompanied by detailed analyses of the various topics, consisting of no more than twenty pages each, and paying attention to the debates on unresolved issues and the various interpretive positions under comparison.

The book, updated with the most recent regulations, provides an understanding of the multiplicity and the diversity of public and private policies, at both the global and the European levels, with very limited references to the specific rules in force in Authors’ country, while also providing an essential bibliography and a listing of orders and decisions of the European Court of Justice, a section that is useful for further in-depth analysis of the matter.

The use of the English language is intended not only as a tool to distribute the book in different countries, but even (and more important) as a necessary option, in comparative perspective, to accustom local readers to a terminology, which in many cases is difficult to appreciate properly (and therefore difficult to apply) if the reader is not familiar with the original working language of the legal texts discussed.

The book is structured by distinct argumentative paths aimed at providing an overview of the discipline.

In particular, starting from an examination of the EU Food Law’s principles, from the precautionary principle, to the reciprocal influence between EU Food Law and the WTO, to the protection of consumers and risk prevention (Chapter I of L. Costato), the book provides an overview of the EU Food Law’s development in a comparative and historical perspective from the origin in the ‘60s to the new century focusing on the paths and the steps through which emerged a systemic dimension of EFL (Chapter II of F. Albisinni), influenced by the dynamics of international institutions designed to govern trade issues and domestic-support policies (chapter III of P. Borghi), and characterized by specific definitions and notions (chapter V of A. Germanò et E. Rook Basile) with commonalities and several peculiarities compared to the Agricultural Law (IV chapter of A. Jannarelli; chapter VII of L. Russo; chapter XV of S. Bolognini).

As in all books on Food Law post-Regulation n. 178/2002, *European Food Law* also devotes several chapters to the issues of ‘*food safety*’ and the rules of private consumer protection, offering an assessment of the role and functions of the European Food Safety Authority (chapter VI of F. Adornato), along with various contributions on institutions, and specific rules, to guarantee public health, such as traceability, food hygiene (chapter XI of M.P. Ragionieri et C. Losavio) and the rapid-alert system (chapter XII of M. D’Addezio et G. Maccioni), in addition to some pages on the roles and prerogatives of consumers (chapter VIII of S. Carmignani), the operators’ legal responsibilities (chapter IX of A. Sciaudone) and the product liability (chapter X of M. Giuffrida).

A large part of the book is reserved for matters of production and food supply on the market, where the techniques, the production rules and standards of production represent constraints and, at the same time, openings to opportunities to implement the capacity of individual enterprises to produce (chapter XIII of D. Viti; chapter XIV of E. Cristiani and G. Strambi; chapter XXI of I. Canfora, chapter XXII of L. Paoloni); companies influenced in the presentation of products by stringent rules (chapter XVI of A. Di Lauro) which allow to such enterprises to acquire new types of assets linked to the Territory or single areas (chapter XX of S. Masini) or companies anyway stimulated by the exclusivity of intangible assets for the food production (chapter XVIII of F. Bruno).

Moreover, no less important, and of undoubted interest, are the chapters on special, innovative or ‘additional’ foods (chapter XVII of L. Petrelli and XIX chapter of E. Sirsi; Chapter XXIII of S. Rizzoli, chapter XXIV of I. Trapè and P. Lattanzi), as well as the last two chapters of the book dedicated to, respectively, wines (chapter XXV of F. Albisinni) and olive oil (chapter XXVI of M. Minelli), i.e. two of the most representative productions of the Italian food market, which constitute perfect examples of integration between European and national regulations.

What comes out is a real handbook drafted by multiple hands of academics (full professors, associated professors and assistant professors, all of whom are attorneys as well), which guarantees a comprehensive overview of rules and laws on food matters, by providing useful contextualized advice and interpretations, so as to make the publication in question an important tool for all legal practitioners and for newbies who come close to these legal issues.

And it is precisely the list of Authors that strikes the reader, by representing almost the totality of the specialists that, more than others in Italy have dedicated in recent years their research to the food sector, with numerous papers and in-depth analyses. Their theories, as a result of years of open debates and influences from other disciplines, today are mature and ready to be spread. This is a group of scholars made up of the authors of numerous publications on Food Law and its single aspects, who, through the use of English, is trying to confront in a non-domestic overview of research.

In conclusion, *European Food Law* is a synthesis of the structure and contents of EU Food Law, with specific reference to applicable rules in each

examined argument within a systemic and systematic reading of the Law, in its public and private aspects; and in the mean time it is an innovative experience of a comprehensive Text-book on European law envisaged and written in English language by Italian scholars for a general European public of readers.