



*Diploma e Master Universitario in Alti Studi Europei*  
Collegio Europeo di Parma

Course on:  
**"EU Food Law and Policy"**  
**2024**

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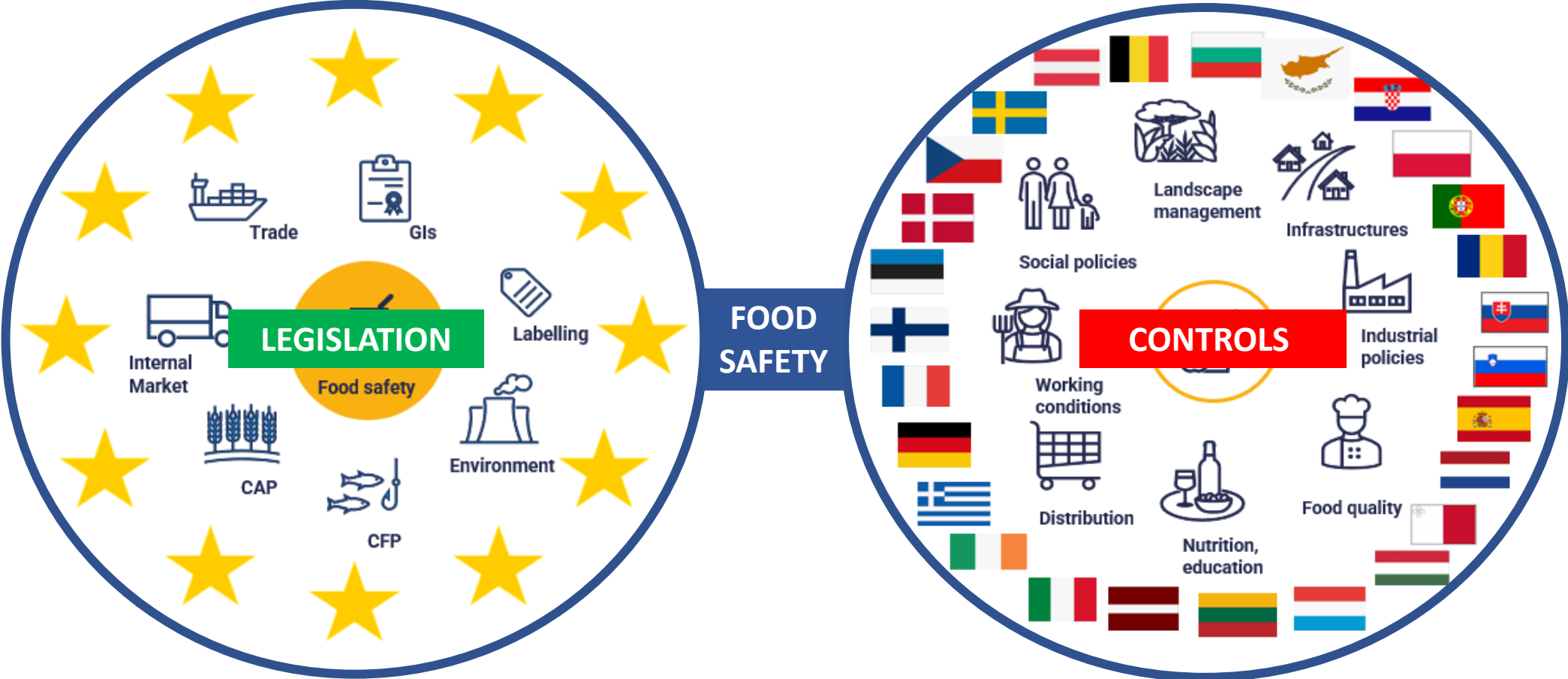
**" A Brief History of EU Food Law"**

Tuesday 16 April 2024

# Overview of the EU Food Safety System

EU Competence

National Competence



# First harmonization efforts

## ❑ **Article 100 of EEC Treaty** (now Article 115 TFEU)

- Purpose: Approximation of national laws
- Legal instrument: Directive
- Adoption: by the Council
- Voting: unanimity

## ❑ **First Directive**

- Colouring matters: E numbers

## ❑ **First Harmonization program (1968-1969):**

- **Horizontal harmonization** (labelling, contaminants, food contact materials, etc.)
- **Vertical harmonization** (beer, cocoa products, soup, honey, fruit juices, etc.)

# Horizontal Harmonization

## ❑ **Food Labelling Directive (Directive 79/112/EEC)**

- Ground-breaking legislative text (paradigm shift)
- Considered as the first legislation on consumer protection
- Became a model for countless countries around the world

# Vertical Harmonization

## ❑ Extremely slow progress (1970-1980):

- Task is huge and complex
- Unanimity is required
- Too many national interests

## ❑ By 1980, only 7 Vertical Directives adopted:

- Sugar
- Honey
- Preserved milk
- Jams
- Chocolate
- Fruit juices
- Coffee extracts



The 'breakfast' Directives

# The 'Cassis de Dijon' ECJ Judgement

- ❑ In 1979, important ruling by the European Court of Justice, in the so-called '**Cassis de Dijon**' case (ECJ judgement in case 120/78)
  - German law: minimum alcohol content = 18 % by volume
  - 'Cassis de Dijon': black current liquor from France = 15 % by volume
  
- ❑ ECJ judgement in 'Cassis de Dijon': In the **absence of harmonization**, Member States may regulate the marketing of products, such as foodstuffs, on their territory.
  - However, such regulations should not prevent the marketing on their territory of **products legally produced and marketed** in another Member State of the EU,
  - unless those provisions may be recognized as being necessary in order to satisfy **mandatory requirements** relating in particular to:
    - the effectiveness of fiscal supervision,
    - the **protection of public health**,
    - the fairness of commercial transactions, and
    - the defence of the consumer.

# The 'Cassis de Dijon' Communication

## ❑ **Commission Communication on 'Cassis de Dijon' (1980):**

- Principle of 'mutual recognition' as expressed by the ECJ in the 'Cassis de Dijon' case, applies to all products.
- « Any product, lawfully produced and marketed in another Member State must be accepted in the territory of any other Member State,
- unless the resulting obstacle to the free movement of goods is justified for a valid reason, such as:
  - the protection of the life or health of persons,
  - the protection of the consumer
  - the fairness of commercial transactions.»

## ❑ **Consequence for harmonization:**

- **Vertical harmonization** no longer needed:
  - pending proposals withdrawn (e.g. beer, soup, mayonnaise, **margarine**, etc.)
  - already adopted ('breakfast') Directives maintained.
- **Horizontal harmonization** to be accelerated.

# The case of margarine

<b>Margarine</b>	<b>Belgium</b>	<b>France</b>	<b>Italy</b>	<b>UK</b>
Fat content	82 %	82 %	84 %	80 %



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Addition of vitamine A	20 UI	25 mg/kg	Obligatory	Forbidden

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Origin labelling	-	-	-	Obligatory

# Completing the Single Market

## □ Communication on ***Completing the Single Market***

- By 1992, the EU will have a 'Single Market'.
- Strategy:
  - Mutual recognition is a key rule of the EU.
  - Harmonization to concentrate on essential requirements (horizontal)
  - List of harmonization measures to be adopted by 1992.

## □ Communication on ***Food Legislation***

- Published in November 1985
- Lists all the measures (Horizontal Harmonization) that have to be adopted in the food sector in order to complete the 'Single Market'

# The Single European Act

- ❑ Article 100A EEC (now Article 115 TFEU)
  - Measures allowed: Regulations, Directives, Decisions.
  - Procedure: co-decision by the European Parliament and the Council.
  - Voting: 'qualified majority'.
  
- ❑ Article 100A (3) EEC (now Article 115 (3) TFEU)
  - In its proposals concerning health, and (...) consumer protection
  - the Commission will take as a base a **high level of protection**
  
- ❑ Article 100A (4) and (5) EEC (now Article 115 (4) and (5) TFEU)
  
- ❑ Comitology
  - Implementing measures
  - Adaptation to technical progress

# 31 December 1992

## ❑ The **'internal market'** was **completed**.

- Main pieces of legislation were in place.
- In the absence of harmonisation, Member States were adopting technical rules to regulate the marketing of foodstuffs.
- When they did so, they notified these technical rules to the Commission as draft, under the notification procedures.
- Mutual recognition applied automatically under the EU Treaty rules on the 'free movement of good'.



# The 'food scares' of the 90's

- ❑ Hormones
- ❑ 'Frankenfoods' (Genetically Modified Food)
- ❑ Mad cow disease (BSE)
- ❑ Belgian Dioxin

*"The European public has lost confidence in both national and European food and drug regulators. They no longer trust their governments or the scientists. In my view, we have to take the initiative and look toward the idea of an independent European food and drug agency to help win back consumer confidence".*

Romano Prodi (October 1999)

# The White Paper on Food Safety

- A "radical new approach to food safety":
  - a global and integrated approach, governing the entire food chain;
  - a clear definition of the role and responsibilities of all participants in the food chain; and
  - traceability of all food and feed, and their ingredients.



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12 January 2000  
COM (1999) 719 final

**WHITE PAPER ON FOOD SAFETY**

# Regulation (EC) 178/2002 (1)

## ❑ Wide-spread support:

- Proposed by the Commission in January 2001
- Adopted by Council and Parliament in January 2002

## ❑ Objective:

- Food law shall pursue
  - a high level of **protection of human life and health**, and
  - the **protection of consumers' interests**,
- taking account of the protection of:
  - animal health and welfare,
  - plant health and
  - the environment.
- Food law shall aim to achieve the **free movement** of food and feed in the European Union.

# Regulation (EC) 178/2002 (2)

- ❑ General Food Law
  - ❖ General principles of food law
  - ❖ General requirements of food law
  - ❖ General obligations of food trade
- ❑ European Food Safety Authority (EFSA)
- ❑ Rapid Alert System for Food and Feed (RASFF)
- ❑ Crisis management and emergency procedures

# Regulation (EC) 178/2002 (3)

- ❑ Fitness check (2013-2018)
  - ❖ General Food Law : OK
  - ❖ Improvements needed: implementation and enforcement
- ❑ *Finopril* crisis : criticism of RASFF (outcome : OK)
- ❑ *Glyphosate* crisis : criticism of EFSA (notably on the funding and public availability of scientific studies)
- ❑ Commission proposal in 2018.

## Regulation (EU) 2019/1381 (Transparency)

- ❑ ensuring more **transparency** in the **risk assessment** process, by giving citizens automatic **access to all studies** and information submitted by industry to EFSA;
- ❑ increasing the **independence of studies** by requiring that all commissioned studies be notified to EFSA;
- ❑ strengthening the **governance of EFSA**, by involving Member States, civil society and European Parliament in the management of the Authority;
- ❑ developing a **more comprehensive risk communication process** through a general plan for risk communication to be adopted.

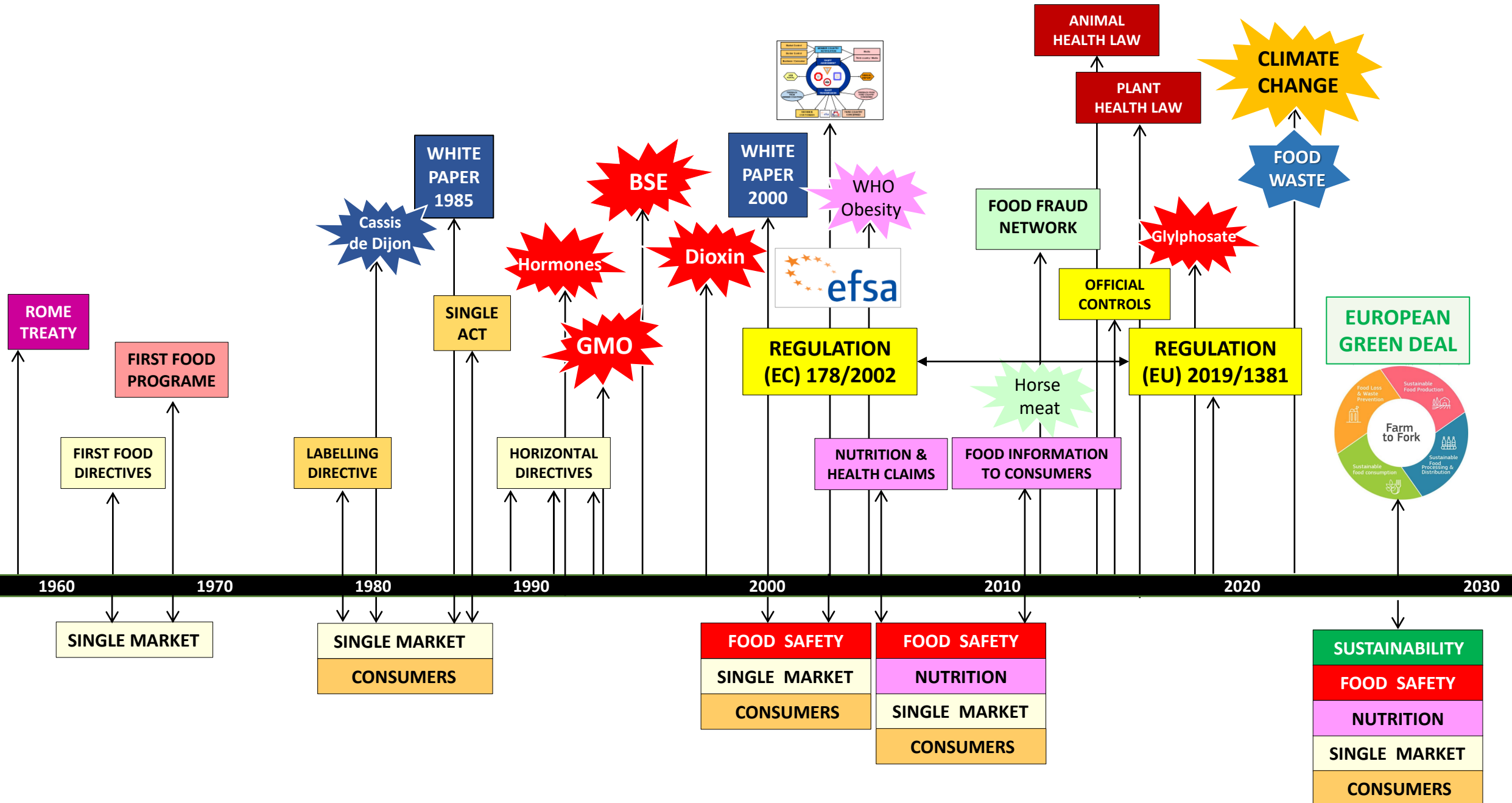
# The European Green Deal

Striving to be the first climate-neutral continent



The Farm to Fork Strategy aims to accelerate our transition to a sustainable food system that should:

- have a neutral or positive **environmental impact**
- help to **mitigate climate change** and adapt to its impacts
- reverse the loss of **biodiversity**
- ensure **food security, nutrition** and public health, making sure that everyone has access to sufficient, safe, nutritious, sustainable food
- preserve **affordability of food** while generating fairer **economic returns**, fostering **competitiveness** of the EU supply sector and promoting fair trade





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**2**

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