

The 21st EFLA-AEDA Congress on "EU-Food Law after REFIT" in Warsaw

On 15 and 16 September 2016 the European Food Law Association held its 21st international congress in Warsaw, Poland, on the topic "EU-Food Law after REFIT: Better Regulations or more of the same". The event was hosted by the well-known national law firm Wardynski & Partners and gathered more than 50 experts in food law from over 15 European countries representing food business operators, law offices, public authorities and universities.

A total of 19 speakers provided their professional opinions on the current legal and factual situation regarding among others the European Commission's REFIT program and platform, the 'new PARNUTs' regulation, novel and organic food, nutrition (profiling) and supplements, "clean labelling", regional (origin) claims and geographical designations.

The experts agreed that although much has been changed over the past years the industry and authorities are still overwhelmed by a huge amount of regulations in particular areas and uncertainties in others. The new Regulation (EU) No 609/2013 for example, although more coherent and simpler, leaves a legal vacuum especially for the sectors of milk for infants and sports food. Regulations (EU) No 2283/2015 on novel foods and (EC) 1924/2006 including the Commission's Roadmap on nutrition profiling on the other hand provide a maze of rules which make their application hard and the impact to the competition of FBOs unforeseeable. Other areas like supplements and organic food are instead regulated only at the lowest common nominator, thus leaving great room for interpretation and inconsistent implementation in the Member States. The results are different standards and a great discrepancy between the consumer's expectation and reality.

EU regulations also still take significantly longer to be effective than in most other markets, adding intangible costs of legal uncertainty and reducing the attractiveness to innovate. Furthermore, the Member States themselves are impeding on the proper implementation of the European Food Law by still praising and promoting national products, introducing national definitions and standards. The so created trade barriers can – for a lack of awareness and trust – not be overcome by the Mutual Recognition Principle, although it is incorporated in the TFEU.

Many approaches to the development of EU Food Law were discussed at the congress, for instance education on the scope of the law, clear science based coherent regulations instead of "re-nationalisation", tighter cooperation between Member States and the competent authorities and simply time to adapt the law. It remains, of course, unclear whether these measures would be enough to overcome the build-up mistrust and uncertainty.