



EPHA contribution to the European sustainable food system framework initiative

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The European Public Health Alliance (EPHA) is a leading European civil society alliance in Brussels, made up of 80 public health NGOs, patient groups, health professionals and disease groups, working to improve health and strengthen the voice of public health in Europe. EPHA is a change agent for the public interest, independent of commercial funding.

Food systems and public health

Food systems impact health in multiple ways, both positively and negatively. Dietary quality stands out as the single largest health impact linked to food and should always be at the heart of any sustainable food systems strategy. At the same time, food systems also shape other health determinants and disease risk factors,¹ which co-define the relationship between food and health, including food safety; antimicrobial resistance (AMR); climate change-related health impacts; socio-economic factors related to producers, workers and consumers; occupational conditions; air quality; zoonotic diseases; exposure to (agro)chemicals; socio-cultural well-being; and health impacts related to biodiversity loss and ecosystems decline.

The current European food system is a key driver of multiple crises facing our societies, including the epidemic of non-communicable diseases (NCDs), climate change, social inequalities, the loss of nature and biodiversity and the risk of AMR. All these have important health implications for Europeans, but also for global populations. **The shift to healthy, sustainable food systems is therefore a public health urgency.**

General comments

A well-designed and implemented **legislative framework for sustainable food systems will be the crowning achievement of the EU Farm to Fork Strategy.** This framework has the potential to be truly transformative, an opportunity that must be taken: our collective future and well-being depend on whether we can make a sustainable transition.

¹ The Economics of Ecosystems and Biodiversity (TEEB) (2018). [TEEB for Agriculture & Food: Scientific and Economic Foundations](#). Geneva: UN Environment.



EPHA is **encouraged** by several aspects of the Inception Impact Assessment presented by the European Commission.² Especially noteworthy are:

- The recognition that food systems “*are transnational and failures are systemic*” and that they need to be transformed “*into a positive contributor to the health of people, economies and of the planet*”.
- The recognition that “*dietary behaviour*” is influenced by various factors including social and economic, that “*food products, processes and consumption patterns need to change*” and that “*a sustainable food environment*” needs to be created to ensure that choosing healthy and sustainable diets becomes easy.
- The recognition that European and national policies “*lack a common approach*” towards sustainable food systems and are “*not always comprehensive*”, and that the “*individual actions [in the Farm to Fork Strategy] neither alone, nor in combination with each other have the potential to fully ensure policy coherence*”.
- The recognition that action at European level may ultimately create simplification and a level-playing field for economic actors across the internal market, as well as helping to promote high standards globally.

At the same time, several key considerations are **absent or should be more clearly emphasised**:

- By stressing that “*all foods placed on the EU market*” should “*increasingly become sustainable*”, the document appears to be pursuing a predominantly **product-based approach**. This while the framework should focus on the sustainability of the entire system, including production and consumption, given this is what ultimately matters.
- The importance of changing incentives for actors in the ‘**middle**’ of the food chain should be emphasised. The middle of the chain is a key constituent of food environments which shape people’s food choices.³ Consumer information is only one part of the answer.
- There is little to no reflection as to how access to healthy and sustainable diets will be assured for population groups experiencing **socio-economic hardships**.
- Reference is made to the framework’s contribution to **fundamental human rights**, but only as a potential outcome of the initiative, not as a driving principle. The fulfilment of human rights such as the ‘right to food’, ‘children’s rights’ and the recently recognised right to a ‘clean and healthy environment’ should set the parameters for the framework.
- The health and welfare of animals are likewise mentioned as potential outcomes, but should, in line with the ‘**One Health**’ principle which emphasises the interconnectedness between the health of people, planet, and animals, become central considerations.
- To assess the impacts of different policy options and to monitor and evaluate progress of the framework, a comprehensive and **system-based impact assessment** methodology needs to be designed and applied to avoid wrongful conclusions based on incomplete analyses. Such methodology should be able to assess systemic interactions and cumulative benefits, as well as trade-offs, including on public health and health equity. Health should be embedded as a key pillar of sustainability.

² Inception Impact Assessment Ref. Ares(2021)5902055 - 28/09/2021. Unless otherwise indicated, all quotes in this submission refer to this document.

³ Policy briefing. Food Environments & EU Food Policy. Discovering the role of food environments for sustainable food systems (2021) *EU Food Policy Coalition*





Policy options

As highlighted by the EU's Chief Scientific Advisors, the urgency, scale and depth of the required transition in food systems are enormous.⁴ In this light, neither Option 1 – mainstreaming food sustainability in existing initiatives, Option 2 – voluntary approaches, nor Option 3 – reinforcing existing legislation, can be considered as adequate.

Only **Option 4 – A new comprehensive framework legislation on the sustainability of the Union food system** offers the possibility to address in a comprehensive, effective and equitable way the multiple challenges and opportunities linked to reforming the European food system.

So much is also recognised in the problem statement presented in the Inception Impact Assessment itself. The challenges and their drivers cannot be tackled without creating a new level playing field for food system actors across the Union.

Building blocks for a legislative framework

In comparing several existing framework conventions and regulations,⁵ EPHA has found that these framework documents share a number of common structural features that can **inspire building blocks for an EU sustainable food systems law**. Most of these documents share the following set of features, some of which are also mentioned in the Inception Impact Assessment as building blocks for a framework legislation under Option 4:

- Legal basis
- 'Preamble' or 'Recitals'
- 'Use of terms' or 'Definitions'
- 'Scope'
- 'Objectives'
- 'Guiding principles'
- 'Obligations' or 'Responsibilities'
- 'Measures'
- Governance-related sections and provisions

Several **initial reflections on building blocks** are provided below.

Legal basis: alongside the legal bases mentioned in the Inception Impact Assessment, it is critical to include reference to Articles 9 and 168 (1) TFEU and Article 35 of the EU Charter of Fundamental Rights, which mainstream a high level of public health protection in all EU policies. While not a legal basis for introducing harmonising legislation, these will be critical for ensuring the framework takes a high level of health protection as a leading consideration.

⁴ Scientific Advice Mechanism, Group of Chief Scientific Advisors (2020) Towards a sustainable food system. *Scientific Opinion Nr. 8. European Commission*

⁵ WHO Framework Convention for Tobacco Control; UN Framework Convention on Climate Change; UN Convention on Biological Diversity; Stockholm convention on persistent organic pollutants; EU General Food Law.





Objectives: to ensure that the framework is both comprehensive and specific, objectives may need to be divided into: (1) General objective(s); (2) Specific objective; and (3) Targets.

1. In terms of **general objective**, it should be considered whether the framework should pursue the achievement of a 'sustainable food system', based on an agreed definition, or whether the general objective should be described according to achievements across key sustainability dimensions. In any case, it will be crucial to take a multi-dimensional view of food sustainability, covering at least the dimensions of health; climate and environment; sustainable economy; social; ethics; and resilience.⁶ However, in no case should the general objective focus on the sustainability of individual foods – it should always refer to the sustainability of the entire system. Also, the economic dimension of sustainability is should not be confused with the commercial interests of specific market players.
2. The framework should include at least the following **specific objectives**:
 - A. To empower citizens and consumers to contribute to sustainable food systems by creating enabling food environments for the uptake of healthy and sustainable diets.⁷
 - B. To ensure socio-economic access to healthy and sustainable diets, thereby contributing to fulfilling the right to food and children's rights.
3. The framework should include at least the following **targets**:
 - A. Halt and reverse obesity by 2030.⁸
 - B. Ensure all residents of the EU have daily access to a nutritious meal by 2030.
 - C. Ensure XXX% of the European population has a high adherence to sustainable healthy dietary guidelines by 2030 and XXX% by 2035.

The framework should be guided and interpreted by at least the following **principles**:

1. **One Health**: which is the realisation that the health of people, planet and animals are closely interlinked and interdependent.
2. **Food as a common good**: which implies building a food system where the interests of people and future generations are taken as the primary considerations and which explicitly supports the fulfilment of key human rights, including the right to food and children's rights.
3. **Co-benefits approach**: design policies and approaches to maximise co-benefits across different food sustainability dimensions.

⁶ Galli et al (2018) A transition towards sustainable food systems in Europe. Food policy blue print scoping study. *Laboratorio di Studi Rurali Sismondi, Pisa, Italy.*

And accompanying briefing by: European Public Health Alliance, Friends of the Earth Europe, IFOAM EU Group, Slow Food Europe (2018) Joint Briefing Transitioning towards sustainable food systems in Europe.

⁷ Creating enabling food environments means ensuring that foods, beverages and meals that contribute to sustainable healthy diets are the most available, accessible, affordable, pleasurable and widely promoted. See more in: Policy briefing. Food Environments & EU Food Policy. Discovering the role of food environments for sustainable food systems (2021) *EU Food Policy Coalition*

⁸ Obesity here is presented as a proxy for other diet-related non-communicable diseases (NCDs), including cardiovascular disease, type 2 diabetes, several cancers, and non-alcoholic fatty liver disease.





Towards an action-oriented framework regulation

To achieve its transformative potential, the **legislative framework should be designed to generate direct impact** in terms of the responsibilities it establishes on food system actors, both private and public, and in terms of leveraging further sectoral regulations and policies, both at EU and national levels.

In this light, EPHA supports those points in the Inception Impact Assessment that imply the creation of an **action-oriented framework legislation**, including:

- The consideration that a legislative framework should set a “*common basis*” for ensuring sustainable food systems across the EU, and that this common basis should result in the advancement of specific sectoral legislation.
- The notion of “*a legal obligation for a progressive adaptation*” of sectoral EU law.
- The need to clearly define “*responsibilities of food system actors*” and the establishment of “*‘push’ provisions, laying down minimum requirements for food products and related operations*”.
- The need to set “*minimum mandatory criteria for healthy and sustainable food procurement*” as a key step in advancing a sustainable food systems transition. Such minimum criteria should be accompanied by enabling measures, including financial, which aligns with the principle of establishing “*‘pull’ provisions setting incentives for food systems actors to go beyond minimum requirements*”.

How can the legislative framework advance the creation of enabling food environments?

The **creation of enabling food environments that empower people to contribute to sustainable food systems** should be a key objective of the legislative framework. Such enabling food environments need to ensure that:

1. The individual foods, beverages and meals on the market maximise health and other sustainability characteristics (food-based approach); *and*
2. Average dietary patterns are healthy and sustainable (systemic approach).

This implies that the legislative framework should precipitate changes in both (1) the properties of the foods on the market, and (2) in the relative availability, accessibility, affordability and desirability of foods based on their contribution to sustainable healthy diets.

Below, **suggestions are presented for further debate** on how the objective of creating enabling food environments could be implemented in the legislative framework. Entry points for action on food environments are structured according to seven key dimensions drawing on existing literature.⁹ A consideration on enforcement is added.

⁹ Policy briefing. Food Environments & EU Food Policy. Discovering the role of food environments for sustainable food systems (2021) *EU Food Policy Coalition*





7 key dimensions for action on food environments

1. Food characteristics/properties

What is the nutritional composition of foods? What specific (regulatory) standards exist to ensure the safety, environmental, social and animal welfare credentials of food products? How is food packaged?

A possible approach for the legislative framework:

The Inception Impact Assessment contains the proposition that “*when producing/placing food on the Union market*” sustainability considerations should be taken into account “*beyond the food safety-based considerations that already apply*”. The EU General Food Law,¹⁰ which sets the legal framework for food safety, does not allow unsafe food to be placed on the market. It also establishes responsibilities on economic operators to fulfil the requirements of food law and to initiate procedures to withdraw foods from the market that do not comply with safety requirements.

A similar approach could be considered for the future legislative framework, where only those foods complying with sustainability standards could be put on the market. Such approach could help maximise the health and other sustainability characteristics of individual foods. For instance, foods produced in breach of key provisions from the Veterinary Medicines Regulation,¹¹ which deals with antibiotics use in animal agriculture, would in this way not be allowed to be placed on the market. This may provide an important incentive to ensure compliance and enhance the sustainability of the food offer.

- Only food that has been produced according to the laws applicable within the Union related to key environmental, climate, labour, health, animal welfare and socio-economic components of sustainability may be placed on the market.
- The Commission and Member States shall progressively review and update these laws and regulations to ensure achievement of the objectives set out in the framework.
- If a food business operator considers or has reason to believe that a food which it has imported, produced, processed, manufactured or distributed is not in compliance with the above provision, it shall immediately initiate procedures to withdraw the food in question from the market.
- Food business operators shall ensure that the foods it produces and/or makes available on the internal market are imported, produced, processed, manufactured or distributed following the highest sustainability criteria. Large food business operators shall publish

¹⁰ Regulation (EC) No 178/2002

¹¹ Regulation (EU) 2019/6 on veterinary medicinal products





annual sustainability reports detailing how this requirement is progressively implemented.

More specifically, a responsibility should be established to improve the nutritional composition of certain foods.

- The Commission shall propose maximum levels for certain nutrients of concern in sensitive product categories, such as foods for babies and infants and certain other processed products regularly consumed among the population.
- Member States, complementing the specific rules set at Union level, shall consider additional policies and/or regulations to improve the nutritional composition of food placed on the market.

2. Food labelling

Are foods labelled in a way to make better choices easily and transparently identifiable? Does it make the better and more sustainable choice more appealing?

A possible approach for the legislative framework:

Responding to the need to ensure consumer information, including “*on the sustainable performance of the food*” a following approach could be considered, which, among others, codifies labelling initiatives that are currently being pursued.

- Labels applied to the packages of food products in the Union shall make the nutritionally healthier and more sustainable choices easily and transparently identifiable.
- A mandatory and interpretative front-of-pack nutrition labelling scheme shall be applied throughout the Union. In the absence of such a scheme, Member States may set mandatory schemes at national levels.
- The Commission shall propose provisions to align the methodologies underpinning the sustainability labelling of food.
- Food business operators shall ensure that food packages do not mislead consumers regarding the sustainability credentials of the food product.

3. Food promotion and marketing

How are foods marketed and advertised? Are foods that drive ill health and undermine other sustainability objectives freely and widely promoted, or are restrictions in place? Are systems in place to ensure healthy and sustainable options are promoted?

A possible approach for the legislative framework:



Responding to the need to create “*a favourable food environment*” that makes it easier to choose healthy and sustainable diets a following approach could be considered to the promotion and marketing of foods.

- The Union and Member States shall ensure that foods promoted across the Union are those that contribute to sustainable healthy diets and that the promotional opportunities for foods associated with unhealthy diets and other sustainability challenges are minimised.
- The Commission and Member States shall ensure that nutritionally poor food and foods whose current high levels of consumption pose sustainability challenges shall not be promoted across the Union through public policies, including funding instruments.
- Retailers and other food business operators shall ensure that foods associated with unhealthy and unsustainable diets are not promoted, including through price, promotional offers and other means of increasing the desirability of such foods.
- In determining which foods contribute, or not, to healthy and sustainable diets, regard shall be had to nutrient profiles and sustainable healthy dietary guidelines. A committee of independent experts shall be established to set and continuously update the parameters to make such determination.

Specific provisions should be dedicated to the protection of children from exposure to the marketing of nutritionally poor food.

- The Union food system shall support the right of children to a healthy food environment, and shall minimise the exposure of children, defined as any person until the age of 18, to the marketing of nutritionally poor food.
- Food business operators shall not engage in audiovisual commercial communications for nutritionally poor food between 6 am and 11 pm on broadcast media, and not in any form on digital media.
- Food business operators shall ensure that the packaging and labelling of nutritionally poor food are not used as a marketing tool to promote the consumption of the products they contain, for instance through the use of characters appealing to children.
- The Commission shall propose further provisions to minimise the exposure of children to the cross-border marketing of nutritionally poor food.
- Member States shall assess which further measures may be required in their national jurisdictions to achieve the aim of minimising child exposure to nutritionally poor food.
- The Commission shall review compliance of the Union with the provisions and spirit of the International Code of Marketing of Breast-milk Substitutes and propose provisions to address any potential insufficiencies.

4. Public procurement





What are the characteristics of the menus and foods on offer through public procurement, including in schools, canteens, hospitals, and in restaurants and other out-of-home or home delivery settings?

A possible approach for the legislative framework:

Responding to the need to set “*minimum mandatory criteria for sustainable food procurement*” a following approach could be considered.

- The procurement of food by national, local and European public bodies will be conducted in a way to contribute to healthy and sustainable diets, while incentivising socially just supply chains, and climate and environmentally-friendly production models with high levels of animal welfare, such as organic.
- Procurement strategies throughout the Union shall contain, at least, criteria on nutritional quality of foods and menus, the share of organic products in procurement (e.g. 20-50%), the share of foods from other quality and/or sustainability schemes, and the share of plant-based menus offered. Minimum requirements for the procurement of food applicable throughout the Union could be set in an annex to the framework.
- The Union and Member States shall ensure adequate support, including financial, by drawing on existing Union financial mechanisms, to enable the achievement and exceeding of minimum requirements. Such support can include investment support for kitchen infrastructure, training and exchange for public buyers and kitchen staff etc.
- The Commission shall clarify conditions under which local procurement can be enabled while ensuring the functioning of the internal market.

5. Food retail and service

How is the availability of foods associated with sustainable healthy diets in retail outlets and food service establishments? How are in-store environments organised? Is food retailed in a way that adds further value to the socio-cultural experience of food? Are short food supply chains and direct producer to consumer distribution systems available, accessible and affordable? How is urban planning organised, for instance in terms of the density of fast food outlets and the availability of spaces that build community through eating food?

A possible approach for the legislative framework:

Retail outlets and food service establishments provide key spaces where decisions about food are made. While several of the suggested approaches already apply to these spaces, a further, more context-specific approach can be considered with the help of national strategic sustainable healthy food system plans.

Such plans would include a range of actions advanced at national, regional and local levels to create enabling food environments, such as policies and approaches to support direct and short



supply chains, improve positioning of food associated with sustainable healthy diets in retail settings, removing nutritionally poor foods from sale near check-out counters, improving urban planning policies related to food outlets and access to them, menu labelling in (fast food) restaurants etc.

- Member States, complementing specific rules set at Union level, shall adopt and periodically revise national Sustainable Healthy Food Policy Plans. These plans will, especially, focus on creating favourable retail and out-of-home environments.

6. Food prices and food access

Do relative prices favour foods that contribute to sustainable healthy diets, while reducing the attractiveness of nutritionally poor food and food with a heavy climate and environmental burden? Do food prices support decent incomes for producers who employ methods that are better for consumers, climate, the environment and animals? Do non-stigmatising fiscal interventions exist to support access to good food for people in low-income groups?

A possible approach for the legislative framework:

Responding to the potential of the framework to introduce “*provisions leading to systemic changes*” in the affordability of healthy and sustainable foods, a following approach can be considered.

- The Union and the Member States shall act at the appropriate levels, including European, and through mechanisms such as excise duties and VAT, to ensure that prices of food account for their true cost and value in light of current health and other sustainability challenges. Such policies shall include, but not be limited to, taxation of sugary products.
- Food business operators shall not sell food below the cost of production.

Alongside rebalancing the relative prices of foods to ensure they favour sustainable and healthy diets, the framework should precipitate action to guarantee access to such diets, especially for low socio-economic groups. This should be a responsibility of result, while measure could include social, economic and fiscal policies.

- As a contribution to fulfilling the right to food in accordance with the International Covenant on Economic, Social and Cultural Rights, the Union and Member States shall ensure that every resident of the Union is able to afford a nutritious meal every day.
- The Commission shall align the social policy instruments of the Union to contribute to fulfilling this aim and to cutting the level of poverty and social exclusion by half by 2030, with special regard to child poverty.





7. Food trade and international agreements

Do international trade and investment agreements have provisions in place to protect and foster enabling food environments? Are there international agreements to improve the sustainability of food? Do EU internal market trade rules enable sustainable food systems?

A possible approach for the legislative framework:

Responding to the need to ensure “*legitimate and proportionate requirements on the sustainability for imports of food*” a following approach could be considered to ensure (1) that imports do not undermine EU standards and (2) that trade and investment agreements do not result in ‘regulatory chill’ or preclude other countries from shaping their own food systems.

- In its agreements with third countries, the Union shall ensure that import standards are set at equivalent levels as the environmental, social, health and animal welfare standards in the Union, coupled with assistance to third country producers from lower income countries to fulfil those standards.
- In its agreements with third countries, the Union shall include binding provisions underlining its commitment to ensure sustainable food systems, including the right of third countries to shape their own food systems and not to reduce the levels of health, social and environmental protection afforded by domestic laws.

Governance: Compliance, remedies and liability

A possible approach for the legislative framework:

To ensure the effective enforcement of the legislative framework a following approach could be considered, which includes the right of judicial remedy for individuals.

- The Commission and Member States shall enforce this Regulation and the measures adopted pursuant to this Regulation, and monitor and verify that the relevant requirements are fulfilled by relevant parties at all stages of production, processing and distribution.
- Without prejudice to any available administrative or non-judicial remedy, each resident of the Union shall have the right to an effective judicial remedy where he or she considers that his or her rights under this Directive have been infringed as a result of non-compliance with the Regulation. In relevant cases, a resident can mandate a not-for-profit body organisation or association to act on his or her behalf.
- Member States shall lay down the rules on penalties applicable to infringements of this Directive, and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.