



From the precautionary principle to product liability in the agro-food sector: cross-border movement of goods, legal safety, and innovation in the EU

Abstract

In the light of the various changes (of "hard law" more than "soft law") which occurred at the beginning of this century regarding the agro-food legislation, the predictability of the legal risk that the producer meets in the agro-food sector has to be interpreted within the context of the precautionary principle.

Within the European legal context, the adoption of EC Regulation 864/2007 on the law applicable to non-contractual obligation (also known as the Rome II Regulation) marks a major advance in the harmonization of private international law of the 27 EU member States.

In view of the increasing internationalization of trade relations, whose legal framework is only partly regulated by the WTO universal rule system, the "European regional law" provides for rules aimed at ensuring a high level of health protection and food safety. It is important to ensure that these rules should not be infringed by those laid down by the operators of the international trade (*lex mercatoria*) or through the delocalization of agro-food companies. Technological innovation requires an international harmonization of the rules on product liability so as to limit the distortions of competition: this aspect, as well as the consequences of damages caused by food-products and the possible exemption of producer from liability should all be considered within the framework of the risk analysis methodology.