



Making the European Green Deal deliver toxics free food: Urgent need for reforming EU's food contact materials legislation

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Almost everything we eat has been in contact with several so-called Food Contact Materials (FCM). Storage containers, factory equipment, food packaging, and kitchen utensils are food contact articles made from food contact materials containing, intentionally or not, numerous chemical substances that can migrate into our food.

The EU's policy framework¹ has failed to protect people from harmful chemicals in FCM

Thousands of chemicals are used intentionally in the production of various FCM, while migrating impurities and reaction products are counted in the tens of thousands. Chemicals migrating from food packaging may be the largest and least controlled source of food contamination, exceeding other sources, such as pesticides or environmental pollutants, potentially by a factor 100². Hazardous substances, which are banned in other products (like CMRs³ in cosmetic products and bisphenols in toys and thermal paper) are still allowed in many FCM. Mineral oils, perfluorinated chemicals and phthalates are regularly found when testing daily consumer products, despite the fact that these substances are hazardous for people and the environment.

The problems with the EU framework has been recognised for a while: In October 2016, the European Parliament called⁴ on the Commission to take urgent measures for the non-harmonised FCM, and in 2017, a comprehensive report from The Commissions' Joint Research Centre revealed the chaotic nature of the current regulatory regime for FCM⁵.

Under the European Green Deal⁶, the Commission, has committed to deliver a “*Zero pollution ambition for a toxic free environment*” and “*a fair, healthy and environmentally-friendly food system*”. Reforming the regulatory framework for FCM is an essential element in achieving these objectives, and also a prerequisite for the overall success of The Sustainable Chemicals Strategy, the Farm-to-Fork Strategy, and not least the Circular Economy Action Plan.

The Commissioner for Health and Food Safety, Stella Kyriakides, committed during her Parliament hearings to move ahead to improve the situation, starting with the most harmful substances such as endocrine disrupting chemicals. In January 2020, the EU Parliament likewise stressed⁷ that the legislation on FCM must be revised as part of the European Green Deal.

The key problems with the current FCM legislation which need to be addressed are:

Lack of specific harmonised rules for most FCM – With the exception of plastic FCMs, there are no specific harmonised EU rules controlling the presence of harmful chemicals for most FCMs such as paper, board, bamboo, coatings, inks and glues. Regulation of chemicals in these materials is largely dependent on national legislations, which are weak and inconsistent. This disrupts the

internal market and provides inefficient protection of public health and the environment from hazardous chemicals in FCM.

Lack of adequate safety data and assessments – Thousands of chemicals are used in FCM without any or adequate assessment. Even for plastics, where EFSA⁸ approves some chemicals in order to create a positive list, the data requirements and scope is limited, there is no routine assessment for sensitive health endpoints such as endocrine disruption, and the reality of human exposure to a complex mixture of chemicals is not reflected in the risk assessments. Most importantly, numerous ‘Non-Intentionally Added Substances’ formed during processing and storage, are not identified or tested, although they may migrate into our food from the final Food Contact Articles in significant volumes⁹.

Lack of coherence between the FCM legislation and other EU laws – Identification or regulation of substances of concern under other EU laws, such as substances identified as SVHCs¹⁰ under REACH, does not automatically trigger evaluation or restriction of its use in FCMs, even though FCMs represent an important route of exposure to chemicals for ordinary consumers. Last year, the EU for example decided to restrict the presence of four phthalates – plasticizers linked to reproductive harm and endocrine disruption – in most consumer goods. Although the restriction proposal estimated that up to 75 percent of exposure to one of these phthalates, DEHP, is attributable to food intake, the four phthalates can nonetheless still be found in FCMs.

Lack of adequate information transfer in the supply chain – Supply chains – and final consumers – should have a right to know the identity and safety information on chemicals used in, and migrating from, food contact materials. However, an EU wide standard obligation to deliver information on chemicals in the supply chain (Declaration of Compliance) is only in place for the harmonised materials and even for these, the demands are weak and virtually impossible to enforce¹¹.

Lack of control of harmful chemicals in recycled materials – There are only provisions for recycled plastics, but not for other materials. Virgin and recycled materials should be treated in the same way, and European regulations should guarantee that no harmful chemicals enter FC articles through recycling. Failing this aim discredits the entire concept of a circular economy.

Given these substantial shortcomings, a full reform of the legislative framework governing FCM on the EU market is required to deliver the European Green Deal for people and for a toxic free environment.

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¹ The Framework Regulation (EC) No 1935/2004 on materials and articles intended to come into contact with food is the main legal act governing FCM. In addition there are a number of implementing regulations in place:

https://ec.europa.eu/food/safety/chemical_safety/food_contact_materials/legislation_en

² K. Grob et al. 2006. Food Contamination with Organic Materials in Perspective: Packaging Materials as the Largest and Least Controlled Source? A View Focusing on the European Situation. Critical Reviews in Food Science and Nutrition 46.

³ CMR: Carcinogenic, Mutagenic or toxic to Reproduction (Chemicals that have serious effects on human health due to their ability to cause cancer, change genetic information or disturb reproductive functions)

⁴ Parliament Resolution October 6, 2016 on the implementation of the Food Contact Materials Regulation:

https://www.europarl.europa.eu/doceo/document/TA-8-2016-0384_EN.html?redirect

⁵ C. Simoneau et al., Non-harmonised food contact materials in the EU: Regulatory and market situation, 2016, EUR 357 EN; doi:10.2788/234276: <https://ec.europa.eu/jrc/en/publication/eur-scientific-and-technical-research-reports/non-harmonised-food-contact-materials-eu-regulatory-and-market-situation-baseline-study>

⁶ Commission Communication on the European Green Deal: https://ec.europa.eu/info/sites/info/files/european-green-deal-communication_en.pdf

⁷ Parliament Resolution on European Green Deal, January 15, 2020: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0005_EN.html

⁸ EFSA: European Food Safety Authority: <http://www.efsa.europa.eu/>

⁹ J. Muncke et al. 2017. Scientific Challenges in the Risk Assessment of Food Contact Materials. Environmental Health Perspectives 125(9).

¹⁰ Substances of Very High Concern

¹¹ McCrombie, G. Presentation at 1st stakeholder workshop under the Evaluation of the FCM legislation. September 24, 2018: https://ec.europa.eu/food/sites/food/files/safety/docs/cs_fcm_eval-workshop_20180924_pres07.pdf