

# DIRITTI COMPARATI

## Comparare i diritti fondamentali in Europa

### THE CHALLENGE OF THE ONGOING E.COLI OUTBREAK TO EU LAW

Posted on 3 Giugno 2011 by [Alberto Alemanno](#)

Ten days have passed by since Germany reported the E.coli outbreak, yet the source of contamination remains to be identified and a EU internal trade war broke. While several restrictive measures against Spanish fresh produces remain into force, Russia banned the import of virtually all EU vegetables into its territory.



On May 22 Germany reported, via the the [Early Warning and Response System](#) (EWRS), a significant increase in the number of patients with HUS and bloody diarrhea caused by STEC. Yet the source of contamination of one of the largest described outbreaks of [STEC/HUS](#) worldwide still has to be identified.

The initial suspicion of the German authorities, too quickly confirmed by the Commission last Friday, that cucumbers from Spain were the cause has not been confirmed. Despite the fact that the sampled cucumbers did test positive to E. coli, they did not confirm the presence of the specific serotype which is responsible for the outbreak affecting humans. In other words, although we learn - thanks to this outbreak - that [E.coli and organic may coexist](#) (!) the Spanish cucumbers bear no responsibility of the HUS outbreak.

Yet the cucumber crisis, amid the availability cascades triggered by the media, has caused a classic phenomenon of social amplification of risk whose costs have being borne by first and foremost by angry Spanish fresh producers. The attempts made by the

Spanish Agriculture Minister to mimic [John Gummer's 'hamburger moment'](#) failed.

Spain's fruit and vegetable exporters estimate they have lost more than 200 million euros a week as 150,000 tons of produce go unsold in a Europe-wide reaction to the crisis.

The calls for possible compensation for the damages incurred are becoming frequent and seem somewhat justified today. This seems especially true if examined in the light of the enduring bans introduced by several member states against Spanish fresh produce. These measures clearly appear disproportionate today and should call the action by the EU Commission as a guardian of the Treaty. Agriculture Commissioner Dacian Ciolos is preparing the package. EU taxpayers will pay the bill for the German mistake in name of the European evergreen 'solidarity of fact'.

In the meantime, caught by the dual goal of ensuring the free movement imperative and a high level protection of human health protection, the EU Commission sends out soft risk management strategies suggesting the respect of basic hygiene rules such as "washing hands before preparing food or eating, and after using the bathroom or changing diapers" (*ipse dixit* [Commissioner Dalli](#) today). These recommendations follow those coming from the German laboratory RKI and the Federal Institute for Risk Assessment (BfR) which recommend Germany consumers to abstain from consuming raw tomatoes, fresh cucumbers and leafy salads, especially in the northern part of the country, until further notice. Yes: the same authorities that located the source of the outbreak in Spain.

In the meantime intensive work is taking place to pinpoint the source of contamination. Although any source of contamination cannot be excluded, one should bear in mind that the outbreak is limited geographically to an area surrounding the city of Hamburg. Indeed, most cases are from, or have a history of travel to, northern Germany (mainly Hamburg, Northern Lower Saxony, Schleswig-Holstein).

Against this backdrop, German authorities - 10 days after the start of the outbreak - are expected to finally provide EU consumers some answers. This is long due especially given their quick blaming of Spanish products. The close co-operation among Member States laboratories, the EFSA, the European Center for Disease Prevention and Control and the WHO should facilitate this task.

The EU and its Member State are expected to prove that they can credibly manage the

'cucumber crisis' before this turns into a food safety worst-case scenario. Yet a wrong risk assessment, the ensuing import restrictions and the resulting social amplification of the underlying risk - were not a reassuring beginning.