

EUROPEAN PARLIAMENT

Working Documents

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DOCUMENT 533/75

Report

drawn up on behalf of the Committee on Public Health and the Environment

on the proposal from the Commission of the European Communities to the Council (Doc. 479/75) for a Directive for a 5th Amendment to the Directive on the approximation of the laws of the Member States concerning the colouring matters authorized for use in foodstuffs intended for human consumption

Rapporteur: Lady FISHER of REDNAL

By letter of 7 January 1976, the President of the Council of the European Communities requested the European Parliament, pursuant to Article 100 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive for a 5th amendment to the Directive on the approximation of the laws of the Member States concerning the colouring matters authorized for use in foodstuffs intended for human consumption.

The President of the European Parliament referred this proposal to the Committee on Public Health and the Environment as the committee responsible and to the Committee on Economic and Monetary Affairs for its opinion.

On 26 January 1976 the Committee on Public Health and the Environment appointed Lady Fisher of Rednal rapporteur.

It considered this proposal at its meeting of 16 February 1976.

At the same meeting the committee unanimously adopted the motion for a resolution and the explanatory statement.

Present: Mr Della Briotta, chairman; Lady Fisher of Rednal, rapporteur; Mr Adams, Mr Brégégère, Mr Concas (deputizing for Mr Didier), Mrs Iotti, Mrs Kruchow, Mr Willi Müller, Mr Knud Nielsen, Mr Noè, Mr Premoli, Mr Rosati, Mr Schwabe, Mr Springorum and Mr Vandewiele (deputizing for Mr Martens).

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A

The Committee on Public Health and the Environment hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive for a 5th amendment to the Directive on the approximation of the laws of the Member States concerning the colouring matters authorized for use in foodstuffs intended for human consumption

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 479/75),
 - having regard to the report of the Committee on Public Health and the Environment (Doc. 533/75),
1. Welcomes in principle the Commission's initiative, which is intended to reduce the number of colouring matters authorized for use in the Community by nine substances which were unanimously declared by the experts consulted to entail risks for human health, since they no longer met present-day requirements;
 2. Recalls in this connection the principle it has repeatedly espoused, namely, that colouring matters should only be authorized for use in foodstuffs if
 - (a) scientific research has shown them to present no risk to health and
 - (b) their use is essential on technological and commercial grounds;
 3. Therefore urges the Council to forthwith so amend the Directive of 23 October 1962² that the use in foodstuffs of these nine colouring matters which may entail risks to health, is prohibited with immediate effect, since the principles laid down in point 2 are not met;

¹ OJ No. C 16 of 23.1.1976, p. 2

² OJ 115 of 11.11.1962, p. 2645/62

4. Considers it imperative for the Commission, in accordance with the preliminary programme of the European Economic Community of 14 April 1975 for a consumer protection and information policy¹, to submit in the near future proposals for directives stipulating a general requirement to identify colouring agents in foodstuffs;
5. Requests the Commission to incorporate the following amendments in its proposal, pursuant to Article 149, second paragraph, of the EEC Treaty.

¹ OJ C 92 of 25.4.1975, p.1

Directive for a 5th amendment to the Council Directive
on the approximation of the laws of the Member States
concerning the colouring matters authorized for use in
foodstuffs intended for human consumption

Preamble and Recitals 1 to 4 unchanged

5th Recital

Whereas it is desirable to give effect to the required prohibiting measures in conditions which protect public health, but at the same time avoid as far as possible disruptions of a technological and economic nature,

Article 1

1. Annexes I and III of the Directive of 23 October 1962 are amended as follows.

The following colours are deleted with effect from 1 January 1977:

- (a) E 103 Chrysoine S
- (b) E 105 Fast Yellow AB
- (c) E 111 Orange GGN
- (d) E 121 Orchil-orcein
- (e) E 125 Scarlet GN
- (f) E 126 Ponceau 6 R
- (g) E 130 Indanthrene Blue
- (h) E 152 Black 7984
- (i) E 181 Burnt Umber

2. Foodstuffs containing one or more of the colouring matters listed in paragraph 1 shall not be marketed later than 1 January 1978.

Article 2 unchanged

Article 3

Member States shall take all measures necessary to comply with this Directive and the time limits fixed in Article 1 and shall forthwith inform the Commission thereof

Article 4 unchanged

¹ for full text see: OJ No. C 16 of 23.1.1976, p. 2

5th Recital

Whereas it is desirable to give effect to the required prohibiting measures in conditions which protect public health, but, subject to the priority requirements of health protection, avoid as far as possible disruptions of a technological and economic nature

Article 1

1. Annexes I and III of the Directive of 23 October 1962 are amended as follows.

The following colours are deleted with effect from the date of entry into force of this Directive:

- (a) E 103 Chrysoine S
- (b) E 105 Fast Yellow AB
- (c) E 111 Orange GGN
- (d) E 121 Orchil-orcein
- (e) E 125 Scarlet GN
- (f) E 126 Ponceau 6 R
- (g) E 130 Indanthrene Blue
- (h) E 152 Black 7984
- (i) E 181 Burnt Umber

2. Foodstuffs containing one or more of the colouring matters listed in paragraph 1 shall not be marketed later than the date of entry into force of this Directive.

Article 3

Member States shall take all measures necessary to comply with this Directive and the time limit fixed in Article 1 and shall forthwith inform the Commission thereof

EXPLANATORY STATEMENT

1. The purpose of the proposal for a Directive under consideration is to amend the Council Directive of 23 October 1962 on the approximation of the laws of the Member States concerning the colouring matters authorized for use in foodstuffs intended for human consumption¹ (hereinafter referred to as the basic directive) with a view to deleting from the Community list of permitted colours (Annex II of the basic directive) nine colours. These are: Chrysoine S (EEC No. E 103), Fast Yellow AB (EEC No. E 105), Orange GGN (EEC No. E 111), Orchil-orcein (EEC No. E 121), Scarlet GN (EEC No. E 125), Ponceau 6 R (EEC No. E 126), Indanthrene Blue (EEC No. E 130) Black 7984 (EEC No. E 152), Burnt Umber (EEC No. E 181).

2. The Commission's justification for this amendment, which will result in a reduction of authorized colouring matters in the Community, is that, according to the Scientific Committee for Food, whose advice it asked, the data for evaluating the possible health risks of certain colours at present authorized were no longer adequate to meet present-day requirements (see 3rd recital). In its opinion, the Scientific Committee for Food recommends that 'as the data are insufficient to evaluate toxicologically certain colours these cannot be considered acceptable for use in food' (see paragraph 2 of the explanatory memorandum of the proposed Directive).

3. In principle, the Committee on Public Health and the Environment welcomes the Commission's initiative. It is intended for the first time to reduce the number of authorized colouring matters. This accords with the requests repeatedly made by this committee and supported by the European Parliament, for

- the experts to continue their studies with a view to continually reducing the number of authorized colouring matters,
- authorization for the use of new colouring matters to be granted only if
 - (a) scientific research has shown them to present no risk to health, and
 - (b) their use is essential on economic and technological grounds².

¹OJ 115 of 11.11.1962, p. 2645/62

²See Points 1 and 2 of the Resolution of 13.3.1967 on the amended proposal for a Directive concerning colouring matters authorized for use in foodstuffs (Van der Ploeg Report, Doc. 25/67)

4. Your committee proposes amending Article 1 because of the lack of adequate toxicological data to justify the continued use of colouring matters. It is totally incomprehensible that the Commission is proposing to delete colouring matters from the positive list only with effect from 1 January 1977, and to prohibit the marketing of foodstuffs which contain these dangerous substances only on 1 January 1978. Community consumers must, in other words, put up with these dubious colouring matters for almost another two years. This is a totally unreasonable demand and cannot be accepted by your committee.

5. The matter is complicated by the fact that the consumer cannot protect himself by changing to other foodstuffs which do not contain these dangerous colours since the Commission, despite repeated requests, has still not submitted proposals making it compulsory to identify colours in foods foodstuffs. This is in contradiction to the preliminary programme of the European Economic Community for a consumer protection and information policy, adopted by the Council on a proposal of the Commission on 14 April 1975¹. Priority measures in the chapter 'consumer information' include:

- (a) the laying down of rules for the labelling of products for which specifications are harmonized at Community level,
- (b) in the case of foodstuffs, the drawing up of rules stating clearly the particulars that should be given to the consumer.

So far, unfortunately, the consumer protection programme has remained a dead letter. Your committee therefore calls on the Commission to submit, in the near future, proposals for a general labelling requirement to identify colouring matters in foodstuffs, so that the consumer will in future be better protected from health risks.

6. In accordance with its past position, your committee urges the Commission to amend its proposal for a Directive by stipulating that use of the nine colours concerned shall be prohibited on the date of the entry into force of the Directive and that foodstuffs, which contain these colours, may no longer be marketed from that date.

¹OJ C 92 of 25.4.1975, p.1

The Commission can in any case be accused of not having acted quickly enough. The warning advice of the Scientific Committee for Food was in fact already submitted to it in June 1975. It nevertheless took until 11 December 1975 to follow up the Committee's recommendation. Incidentally, this proposal only reached the Committee's secretariat at the European Parliament on 14 January 1976. Your committee fails to see why the Commission needed so long to deal with this urgent matter and why there should have been such insurmountable difficulties which precluded a rapid adoption of the proposal within the Commission itself.

7. Furthermore, your committee points out in this connection that the Commission at one time adopted a more positive attitude as far as the consumer was concerned. In 1964 Mr Troclet, in a written question¹ to the Commission, attacked the great number of authorized colours for use as additives in foodstuffs. "The Commission replied that it had always recognized that the number of additives in foodstuffs should be kept as small as possible and that everything should be done to protect the consumer's health."

8. The Commission's proposal is evidently intended to take into account the manufacturer's interests and therefore provide for a 'transitional period'. This is the only interpretation which can be placed on the fifth recital which reads as follows:

'Whereas it is desirable to give effect to the required prohibiting measures in conditions which protect public health, but at the same time avoid as far as possible disruptions of a technological and economic nature.'

As the European Parliament already emphasized in its resolution on the basic directive of 23.10.1962, Community rules on additives to foodstuffs in general and colouring matters in particular should meet the following requirements²:

- assurance of optimal health protection,
- protection of the consumer against deception,
- account should be taken of economic needs subject to the priority requirements of health protection.

¹ No. 76/64, published in OJ No 2 of 12.1.1965, p. 9/65

² See Strobel report, Doc. 124/61, point 3 of the Explanatory Statement

Your committee therefore calls on the Commission to amend the 5th recital as follows:

'Whereas it is desirable to give effect to the required prohibiting measures in conditions which protect public health, but subject to the priority requirements of health protection, avoid as far as possible disruptions of a technological and economic nature'

9. This implies in the present case that, in the interests of consumer health, action must be taken without consideration of possible technological and economic disruptions, even at the risk of some manufacturers having to suffer financially as a result. Public health must, quite simply, take priority over individual interests. It is, incidentally, highly unlikely in practice that the manufacturers would be financially damaged by an immediate entry into force of the Directive or that technological difficulties on the market would occur. It should not be forgotten that the manufacturers' association have already learned of the potential danger of the nine colours from the specialist press and, thanks to their close contacts with the Community authorities in Brussels, have already been acquainted with the proposed measures for some time. They have thus had every opportunity to make the necessary adjustments in good time. Moreover, in so far as the colouring of foodstuffs appears necessary at all, the dangerous colours can very simply be replaced by other, safe ones.

It is at any rate certain that the disappearance of the nine colours, even in the absence of substitutes, would in no way hinder a satisfactory level of availability to the consumer in the Common Market of safe, high quality foodstuffs. And even if certain foodstuffs could in future no longer be coloured, this would undoubtedly represent the lesser evil in the face of a risk to consumer health.

10. It should be pointed out in conclusion that the new Member States, Denmark, Great Britain and Ireland, are authorized by the Treaty of Accession to prohibit six of the dangerous colours (E 103, 105, 111, 121, 125 and 126) by 31 December 1975. Article 2 of the proposal for a Directive permits these Member States to maintain this prohibition beyond that date.

This is clearly a legal loophole, to which your committee must object. Under the present rules the three Member States are in fact obliged to authorize the use of the six colours referred to above. They can only prohibit them again when the Directive under consideration enters into force. This regrettable fact, too, can be used in support of the immediate entry into force of the Directive as requested by your Committee.

Luxembourg
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