

Basic information	
1994/0076(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC) Repealed by 2008/0003(COD)	
Subject 3.10.10 Foodstuffs, foodstuffs legislation	

Key players			
European Parliament	Former committee responsible		Former rapporteur
	ENVI Environment, Public Health and Consumer Protection		SANDBÆK Ulla Margrethe (EDN)
Council of the European Union	Council configuration		Meetings
	General Affairs		2070
	Competitiveness (Internal Market, Industry, Research and Space)		1993
	Competitiveness (Internal Market, Industry, Research and Space)		1929
	Agriculture and Fisheries		2025
	Energy		2176
	Industry		1913
			Date

Key events			
Date	Event	Reference	Summary
28/03/1994	Legislative proposal published	COM(1994)0097 	Summary
18/04/1994	Committee referral announced in Parliament, 1st reading		
26/07/1995	Vote in committee, 1st reading		
26/07/1995	Committee report tabled for plenary, 1st reading	A4-0192/1995	
10/10/1995	Debate in Parliament		
29/11/1995	Modified legislative proposal published	COM(1995)0588 	Summary
28/03/1996	Debate in Council		
22/07/1997	Council position published	07775/1/1997	Summary

18/09/1997	Committee referral announced in Parliament, 2nd reading		
27/11/1997	Vote in committee, 2nd reading		Summary
27/11/1997	Committee recommendation tabled for plenary, 2nd reading	A4-0379/1997	
17/12/1997	Debate in Parliament		Summary
23/02/1998	Parliament's amendments rejected by Council		
18/03/1999	Formal meeting of Conciliation Committee		Summary
18/03/1999	Final decision by Conciliation Committee		
13/04/1999	Joint text approved by Conciliation Committee co-chairs	3607/1999	
19/04/1999	Report tabled for plenary, 3rd reading	A4-0225/1999	
04/05/1999	Debate in Parliament		
11/05/1999	Decision by Council, 3rd reading		
07/06/1999	Final act signed		
07/06/1999	End of procedure in Parliament		
08/07/1999	Final act published in Official Journal		

Technical information	
Procedure reference	1994/0076(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealed by 2008/0003(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	CODE/4/09809

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0192/1995 OJ C 269 16.10.1995, p. 0010	26/07/1995	
Text adopted by Parliament, 1st reading/single reading		T4-0451/1995 OJ C 287 30.10.1995, p. 0076-0104	11/10/1995	Summary
Committee recommendation tabled for plenary, 2nd reading		A4-0379/1997 OJ C 388 22.12.1997, p. 0003	27/11/1997	
Text adopted by Parliament, 2nd reading		T4-0627/1997 OJ C 014 19.01.1998, p. 0101-0123	18/12/1997	Summary

Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A4-0225/1999 OJ C 279 01.10.1999, p. 0010	19/04/1999	
Text adopted by Parliament, 3rd reading		T4-0402/1999 OJ C 279 01.10.1999, p. 0163-0196	05/05/1999	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	07775/1/1997 OJ C 297 29.09.1997, p. 0001	22/07/1997	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1994)0097  OJ C 108 16.04.1994, p. 0017	28/03/1994	Summary
Modified legislative proposal	COM(1995)0588  OJ C 035 08.02.1996, p. 0017	29/11/1995	Summary
Commission communication on Council's position	SEC(1997)1473 	03/09/1997	Summary
Commission opinion on Parliament's position at 2nd reading	COM(1998)0069 	11/02/1998	Summary
Follow-up document	COM(2008)0393 	27/06/2008	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0847/1994 OJ C 388 31.12.1994, p. 0001	01/06/1994	Summary
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3607/1999	13/04/1999	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 1999/0041 OJ L 172 08.07.1999, p. 0038	Summary
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Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 11/02/1998 - Commission opinion on Parliament's position at 2nd reading

The Commission rejects Parliament's amendment aiming to introduce a requirement that baby foods and cereal-based foods be free of pesticides. The Commission considers that this matter should be dealt with in a specific directive to be adopted by the Commission as stipulated in Article 4 of Directive 89/398/EEC.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 29/11/1995 - Modified legislative proposal

The Commission's amended proposal took over the European Parliament's amendments concerning: - the introduction of a new recital referring to a "modus vivendi" between the EP, the Council and the Commission; - the inclusion of foodstuffs for diabetics in the groups of foods listed in Annex I for which specific provisions would be laid down by specific directives; - the definition of the conditions for use of the terms low-sodium foods, low-sodium, sodium-free and gluten-free where permitted by scientific data; - the reminder in the recitals that it was still possible to harmonise other rules applicable to other groups of foodstuffs for particular nutritional uses. However, the Commission did not take over the amendments concerning: - the inclusion of low-sodium and gluten-free foods in the groups of foods listed in Annex I for which specific directives should be adopted; - the level of pesticides and residues in infant formulae and follow-on formulae; - the inclusion of a paragraph indicating that the new groups of foodstuffs intended for particular nutritional uses could be added to Annex I; - the creation of a new Annex Ia to include authorised claims relating to foodstuffs intended for particular nutritional uses.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 22/07/1997 - Council position

The Council's common position differs substantially from the Commission's proposal but takes into consideration, on several points, suggestions made and concerns expressed by Parliament. Thus, the Council adopted the amendment stipulating that the aims of harmonizing national provisions on foodstuffs intended for particular nutritional uses were to protect the consumer on the one hand, and on the other, to respect free movement of goods. The common position replaces the category of foods for diabetics with 'sports' foods in the list of foods for weight control which will be provided for in specific directives. Moreover, as requested by Parliament, it indicates that the adoption of a specific directive on diabetic foods will be subject to the conclusions of a Commission report, to be presented to the Council and Parliament, on whether there should be special provisions for this group of products. The common position does not include the category of gluten-free foods. However, the Council takes some of Parliament's wishes into consideration by laying down specific provisions on labelling for gluten-free foodstuffs and low-sodium foods. Finally, as regards foodstuffs intended for young children, the Council accepted, in principle, the substance of the amendments relating to the use of no harmful substances.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 03/09/1997 - Commission communication on Council's position

The Commission considers that its own original proposal would have best responded to the decisions taken by the European Council in December 1992. The common position adopted did not fully attain the original goal of simplifying the relevant legislation. Furthermore, the unequal treatment of two contentious groups of products, namely food for diabetics and 'sports' foods, was neither scientifically sound nor politically balanced. Consequently, the Commission was not able to support the common position.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 18/12/1997 - Text adopted by Parliament, 2nd reading

In adopting the recommendation for the second reading by Mrs Ulla SANDBAEK (I-EDN, DK) Parliament approved subject to amendments the Council's common position amending a 1989 directive on foodstuffs intended for particular nutritional uses. The rapporteur's amendments seek to delete the reference to specific provision for foods for those engaged in sporting activity.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 07/06/1999 - Final act

PURPOSE : to amend Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses. COMMUNITY MEASURE : Directive 1999/41/EEC of the European Parliament and of the Council. CONTENT : Directive 89/398/EEC put in place common rules concerning labelling, the presentation and the advertising of foodstuffs. The Annex to this Directive lists nine groups of foodstuffs for particular nutritional uses for which specific provisions will be laid down by specific Directives to be adopted by the Commission following a Committee regulation procedure. Taking into account the experience gained since the adoption of this Directive and in light of the conclusions of the Edinburgh Summit (which had recommended a simplification of the legislation), the product categories necessitating particular measures amount to five, in the terms of the new Directive. It concerns the following categories : - infant formulae and follow-on formulae ; - processed cereal-based foods and baby foods for infants and young children; - food intended for the use in energy-restricted diets for weight reduction; - dietary foods for special medical purposes; - foods intended to meet the expenditure of intense muscular effort, especially for sportsmen. As for foods for persons suffering from carbohydrate-metabolism disorders (diabetes), a decision on whether to introduce specific measures will only be taken after a transition period of no more than three years starting from 07/06/1999. ENTRY INTO FORCE : 08/07/2000. DEADLINE SET FOR THE TRANSPOSITION : the measures shall be applied in such a way as to : permit trade in products complying with this Directive no later than 08/07/2000; and to prohibit trade in products not complying with this Directive by 08/01/2001.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 28/05/1996

The Council noted that it was not in a position to agree its common position on the proposal for a Directive amending Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses ("dietary foodstuffs"), which was last discussed by the Industry Council on 28 March 1996. The annex of this Directive lists "groups of foods for particular nutritional uses for which specific provisions will be laid down by specific directives" (to be adopted by the Commission, in accordance with a regulatory committee procedure). The latest Presidency compromise provides for an annex listing five categories of products : - Infant formulae and follow-on formulae - Cereal-based foods and baby foods - Food intended for weight control diets - Dietary foods for special medical purposes - Foods adapted to intensive muscular activity, in particular sporting activity. This solution is accepted by a qualified majority of delegations but not by the Commission. The Council mandated the Permanent Representatives Committee to continue its efforts to reach a solution on this proposal.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 05/05/1999 - Text adopted by Parliament, 3rd reading

The Decision on the joint text, approved by the Conciliation Committee, for a European Parliament and Council Directive on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses was approved by the Parliament (Rapporteur : Ms. Ulla SANDBAEK (EDN, DK).

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 01/06/1994 - Economic and Social Committee: opinion, report

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 11/10/1995 - Text adopted by Parliament, 1st reading/single reading

In adopting the report by Mrs Ulla SANDBAEK (EDN), the European Parliament approved the proposal for a directive with the following amendments: - the addition to Annex I to Directive 89/398/EEC of new groups of foodstuffs for particular nutritional uses for which specific provisions would be laid down in specific directives, namely foods for diabetics and gluten-free foods; - the Commission's obligation to submit by 1 June 1996 a directive amending Directive 91/321/EEC which would set out the rules governing the use of foodstuffs from organic farming in the manufacture of foods for babies and infants, the methods of processing which preserve the quality of products and do not introduce harmful substances and the rigorous controls to ensure that there are no residues; - the Commission shall, within 12 months of the adoption of the directive, lay down special provisions on labelling for gluten-free foods, low-sodium foods and foods intended for diabetics.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 27/06/2008 - Follow-up document

In accordance with Article 9(5) of Council Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses (dietetic foods), the European Commission is required to send a report to the European Parliament and the Council on the implementation of Article 9 of the Directive.

In 1994, the Commission sent to the Council a report on this issue under the original provisions of Article 9(5) of the Directive. The report covered the notifications received from the entry into force of the Directive in 1989 up to 1994. In 1999, Directive 1999/41/EC amended the provisions of Article 9 (5), requiring regular reports on the implementation of the Article to be sent to the European Parliament and the Council.

To enable the Commission to report on the implementation of this Article, the Member States were asked in 2002 and 2006 by the Commission services to provide information on: i) the number of food products that have been notified under Article 9 to their competent authority; ii) details of the particular nutritional uses of the notified products. The Member States were asked to indicate, when possible, if the notifications were related to the first time of placing a product on the market or if the products had been previously notified in another Member State.

This report integrates the information provided by Member States in 2002 and 2006 and covers reported notifications received by Member States up to the end of 2005. This time limit was requested by the Commission services. However, subsequently the preparation of the report was coupled with the preparation of the report on foods for people with carbohydrate-metabolism disorders (diabetes) and the reflection on the need for a global revision of Directive 89/398/EEC (including the implementation of Article 9). Such overall consideration of the issues took more time than expected but allowed for a more complete overview of the relevant sector.

The report recalls that the provisions of Article 9 aim at facilitating the official monitoring of the products placed on the market. But, as a general comment, the majority of the Member States consider that the notification system should be rationalised to ensure more harmonised implementation of the provisions of this article across the EU. Categories of products such as "gluten-free" and "lactose-free", which represent a substantial proportion of the notifications, will be regulated through specific rules for the use of such terms as provided for in Directive 89/398/EEC on dietetic foods (Article 4a) and Regulation 1924/2006 on nutrition and health claims made on foods (recital 22). Consequently, only the remaining products for which specific rules cannot be laid down because they are innovative products or because they are not part of a generally recognised category of food will be covered by the provisions of Article 9.

Inconsistencies may arise from different interpretations of the definition of "foodstuffs for particular nutritional uses" in Article 1 of Directive 89/398/EEC on dietetic foods, which has different elements and appears to be open to different interpretations by the authorities.

The provisions in Article 1 of Directive 89/398/EEC on dietetic foods indicate that, in addition to being aimed at certain categories of persons, dietetic foods have to be, owing to their special composition or manufacturing process, clearly distinguishable from foodstuffs for normal consumption. This report shows that this definition is not uniformly interpreted among the Member States and therefore agreement on the scope of application needs to be sought. This would also help to clarify the differences in the scope of application between different pieces of legislation such as Directive 2002/46 /EC on food supplements and Regulation 1925/2006 on the addition of vitamins and minerals and of certain other substances to foods (fortified foods).

In the light of these considerations it becomes clear that revision of Article 9, together with revision of other relevant articles, as appropriate, would be required for more effective and harmonised implementation of the dietetic food legislation.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 13/03/1997

After several compromise proposals presented by past Presidencies, all of which failed to secure the necessary majority, the Council finally rallied, by unanimity against the Commission, with the United Kingdom abstaining, around a last compromise solution presented by the Netherlands chairmanship. The latter therefore concluded that there is now a draft common position on the proposal for a Directive amending Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses ("dietary foodstuffs").

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 28/03/1994 - Legislative proposal

This proposal aimed to amend Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses, with a view to removing from its annex various products for which the directive provided for the subsequent adoption of specific directives. In addition to infant formulae and follow-on formulae, which were already covered by the specific Directive 91/321/EEC, products that no longer had any need to be on the list were removed: - low-sodium foods, including low-sodium or sodium-free dietary salts; - gluten-free foods; -

foods intended to meet the expenditure of intense muscular effort (sport); - foods for diabetics; The following foods remained on the list: - cereal-based foods and other baby foods; - foods for weight control diets; - foods for special medical purposes.

Dietetic foods: approximation of the laws of the Member States (amend. Directive 89/398/EEC)

1994/0076(COD) - 22/07/1997

Following agreement at the Internal Market meeting on 13 March 1997, the Council, acting unanimously with the United Kingdom delegation abstaining, formally adopted its common position on the proposal for a Directive amending Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses (dietary foodstuffs).