Basic information

2012/0260(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Production and marketing of honey: pollen in honey; aligning the Directive with the TFEU (Commission delegated and implementing powers) Amending Directive 2001/110/EC 1996/0114(CNS) **Subject** 3.10.03 Marketing and trade of agricultural products and livestock 3.10.06.07 Sugar 3.10.10 Foodstuffs, foodstuffs legislation 4.20 Public health 4.60.02 Consumer information, advertising, labelling 4.60.04.04 Food safety	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ENVI Environment, Public Health and Food Safety	GIRLING Julie (ECR)	14/11/2012
	Shadow rapporteur PETERLE Alojz (PPE) TABAJDI Csaba Sándor (S&D) REIMERS Britta (ALDE) STAES Bart (Verts/ALE) FERREIRA João (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
AGRI Agriculture and Rural Development	GABRIEL Mariya (PPE)	03/07/2013

Council of the European Union

Council configuration	Meetings	Date
Foreign Affairs	3311	2014-05-08

European Commission	Commission DG	Commissioner
	Health and Food Safety	BORG Tonio

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
21/09/2012	Legislative proposal published	COM(2012)0530	Summary
22/10/2012	Committee referral announced in Parliament, 1st reading		
27/11/2013	Vote in committee, 1st reading		
05/12/2013	Committee report tabled for plenary, 1st reading	A7-0440/2013	Summary
14/01/2014	Debate in Parliament		
15/01/2014	Decision by Parliament, 1st reading	T7-0028/2014	Summary
15/01/2014	Results of vote in Parliament		
16/04/2014	Decision by Parliament, 1st reading	T7-0442/2014	Summary
16/04/2014	Results of vote in Parliament		
08/05/2014	Act adopted by Council after Parliament's 1st reading		
15/05/2014	Final act signed		
15/05/2014	End of procedure in Parliament		
03/06/2014	Final act published in Official Journal		

Technical information

Procedure reference	2012/0260(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2001/110/EC 1996/0114(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 043-p2
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/7/10728

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE498.152	20/12/2012	
Amendments tabled in committee		PE519.529	02/10/2013	
Committee opinion	AGRI	PE516.973	06/11/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0440/2013	05/12/2013	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0028/2014	15/01/2014	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0442/2014	16/04/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00065/2014/LEX	15/05/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0530	21/09/2012	Summary
Document attached to the procedure	SWD(2013)0221	17/06/2013	Summary
Commission response to text adopted in plenary	SP(2014)471	09/07/2014	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2012)0530	26/11/2012	
Contribution	IT_SENATE	COM(2012)0530	04/12/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES2304/2012	14/11/2012	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2014/0063
OJ L 164 03.06.2014, p. 0001 Summary

Production and marketing of honey: pollen in honey; aligning the Directive with the TFEU (Commission delegated and implementing powers)

2012/0260(COD) - 21/09/2012 - Legislative proposal

PURPOSE: to align existing Commission implementing powers with the provisions laid down in the Treaty on the Functioning of the European Union (TFUE) and clarify explicitly the status of pollen as a constituent particular to honey rather than an ingredient of honey.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFUE) distinguish two different types of Commission acts:

- **Article 290 of the TFUE** allows the legislator to delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act (delegated acts);
- **Article 291 of the TFUE** allows Member States to adopt all measures of national law necessary to implement legally binding Union acts (implementing acts).

Following a reference for a preliminary ruling under Article 234 EC for the Bayerischer Verwaltungsgerichtshof *(case C-442/09),* the **Court of Justice** issued a ruling, whereby it qualifies pollen in honey as an ingredient within the meaning of Article 6(4)(a) of Directive 2000/13/EC on the approximation of laws of the Member States relating to the labelling, presentation and advertising of foodstuffs.

In light of these considerations, a draft proposal amending Directive 2001/110/EC has been prepared.

IMPACT ASSESSMENT: no significant changes for interested parties are expected and for this reason, no impact assessment has been carried out.

LEGAL BASIS: Article 43 TFEU.

CONTENT : the proposal aims to:

- **identify the delegated and implementing powers** that should be conferred upon the Commission as regards Directive 2001/110/EC and establish the corresponding procedure for adoption of this act in the new legal context determined by the entry into force of Articles 290 and 291 TFUE;
- clarify, in view of the judgement of the Court of Justice in *Case C-442/09,* that **pollen in honey is not an ingredient in the sense of Article 6(4)(a) of Directive 2000/13/EC of the European Parliament and of the Council, but is a constituent of honey,** which is a natural substance that has no ingredients. This clarification will not prevent the applicability of Regulation (EC) No 1829/2003 to honey containing GM pollen, and in particular will not affect the conclusion of the Court of Justice that honey containing GM pollen can be placed on the market only if it is covered by an authorisation in accordance with that Regulation.

BUDGETARY IMPLICATIONS: the proposal has no implications for the EU budget.

Production and marketing of honey: pollen in honey; aligning the Directive with the TFEU (Commission delegated and implementing powers)

2012/0260(COD) - 17/06/2013 - Document attached to the procedure

This Commission staff working document aims to give further explanations as regards the legality of the proposal for a Directive of the European Parliament and of the Council amending Council Directive 2001/110/EC relating to honey.

The legal certainty of the proposal was questioned by the Council Legal Service as regards the qualification of pollen as a “constituent” of honey as opposed to an ingredient within the context of the ruling of the Court of Justice of the EU dated 6 September 2011, Bablok, C-442/09.

The Commission concludes that this proposal is based on different factual considerations than those put forward to the Court in the Bablok ruling and that it amends one of the acts (Directive 2001/110/EC) which was interpreted by the Court in the Bablok ruling.

Therefore, the Commission continues to consider that the proposal, as it stands, is **fully compatible with the existing case-law and is therefore legal**.

Production and marketing of honey: pollen in honey; aligning the Directive with the TFEU (Commission delegated and implementing powers)

2012/0260(COD) - 05/12/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Environment, Public Health and Food Safety adopted the report by Julie GIRLING (ECR, UK) on the proposal for a directive of the European Parliament and of the Council amending Council Directive 2001/110/EC relating to honey.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows:

Transformation of the ECJ-ruling of 6 September 2011: the report recalled that following the judgment of the Court of Justice of 6 September 2011 in case C-442/09, pollen derived from genetically modified crops is to be considered as an ingredient of honey, or of food supplements containing pollen, within the meaning of Regulation (EU) No 1169/2011 on the provision of food information to consumers.

In order to ensure freedom of information and choice for consumers, and taking into account the special characteristics of honey, this Directive should **consider pollen to be an ingredient**, but solely within the meaning of Article 2 and Article 12(2) of Regulation (EC) No 1829/2003 on genetically modified food and feed.

The report stressed that honey and other foods or food supplements, containing pollen derived from genetically modified crops are to be **labelled as foodstuffs containing ingredients produced from genetically modified organisms**. As honey is a natural product, it should be exempted from the requirement to bear a list of ingredients.

Alignment with the Lisbon Treaty (delegated acts): the proposal seeks to allow the Commission to amend the technical characteristics related to names, product descriptions and definitions in Annex I and composition criteria in Annex II to the present Directive. However, Members considered that these are all **essential elements** of the Directive. Therefore, the Commission proposal, in allowing amendment of essential elements, goes beyond the scope of delegated acts as outlined in the Treaty. For this reason, the report has removed these references from the Commission proposal.

The power to adopt delegated acts relating to non-essential elements should still to be conferred on the Commission. Therefore, Members called for **the proposal in Article 4** for delegated acts to set out methods for the verification of compliance of honey with the provisions of this Directive to be maintained.

Members have also amended the length of time for which the power to adopt delegated acts can be conferred on the Commission. This has been changed from an indeterminate period to **five years with tacit extension**.

Production and marketing of honey: pollen in honey; aligning the Directive with the TFEU (Commission delegated and implementing powers)

2012/0260(COD) - 15/01/2014 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted amendments to the proposal for a directive of the European Parliament and of the Council amending Council Directive 2001/110/EC relating to honey.

The matter was **referred back for reconsideration to the committee responsible**. The vote was postponed to a later session.

The main amendments adopted in plenary are as follows:

Geneticially modified pollen: Parliament rejected a proposal by its Environment Committee to consider GM pollen as an ingredient rather than a natural constituent of honey, in line with a Court of Justice ruling in 2011.

The amended text stipulates that **pollen, being a natural constituent particular to honey**, **shall not be considered an ingredient**, within the meaning of Article 2 (2)(f) of Regulation (EU) No 1169 /2011 on the provision of food information to consumers. Current EU legislation on labelling will continue to apply.

Alignment with the Lisbon Treaty (delegated acts): the proposal seeks to allow the Commission to amend the technical characteristics related to names, product descriptions and definitions in Annex I and composition criteria in Annex II to the present Directive. However, Members considered that these are all **essential elements** of the Directive and should not be amended through delegated acts in accordance with Article 290 of the TFEU. Therefore, they deleted these parts of the Commission proposal.

The power to adopt delegated acts relating to **non-essential elements is still to be conferred on the Commission.** Accordingly, Members called for the proposal in Article 4 for delegated acts to set out methods for the verification of compliance of honey with the provisions of this Directive to be maintained.

Members have also amended the length of time for which the power to adopt delegated acts can be conferred on the Commission. This has been changed from an indeterminate period to **five years** with tacit extension.

Production and marketing of honey: pollen in honey; aligning the Directive with the TFEU (Commission delegated and implementing powers)

2012/0260(COD) - 16/04/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 283 votes to 248, with 45 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Council Directive 2001/110/EC relating to honey.

The report was referred back to the committee at the 15 January 2014 plenary sitting.

Parliament adopted its position at first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement reached between the European Parliament and the Council. They amended the proposal as follows:

Pollen: the compromise text stipulated that pollen, being a **natural constituent** particular to honey, should not be considered to be an ingredient, within the meaning of point (f) of Article 2(2) of Regulation (EU) No 1169/2011 on the provision of food information to consumers.

Labelling requirements: requirements as regards the case where honey originates in more than one Member State or third country have been clarified. If the honey originates in more than one Member State or third country, the indication of the countries of origin may be replaced with one of the following, as appropriate: (i) 'blend of EU honeys', (ii) 'blend of non-EU honeys', (iii) 'blend of EU and non-EU honeys'.

Commission powers: in order to ensure fair commercial practices and protect consumer interests and enabling the setting out of relevant methods of analysis, the Commission should be empowered to adopt **delegated acts** to supplement this Directive by laying down the quantitative parameters relating to the following: (a) the criterion of “mainly” as regards the floral or vegetable origin of honey; and, (b) the minimal content of pollen in filtered honey following removal of foreign inorganic or organic matter.

The duration of the delegation of power conferred on the Commission has been set at **5 years** which may be tacitly extended.

Production and marketing of honey: pollen in honey; aligning the Directive with the TFEU (Commission delegated and implementing powers)

2012/0260(COD) - 15/05/2014 - Final act

PURPOSE: to amend Council Directive 2001/110/EC to align the implementing power of the Commission on the provisions laid down in the Treaty on the Functioning of the European Union (TFEU) and explicitly clarify the status of pollen, being a natural constituent particular to honey, rather than an ingredient of honey.

LEGISLATIVE ACT: Directive 2014/63/EU of the European Parliament and of the Council amending Council Directive 2001/110/EC relating to honey.

CONTENT: the Directive lays down that **pollen is a natural constituent of, not an ingredient of, honey**. It also clarifies the labelling requirements for the cases where honey originates in more than one Member State or third country. In these cases, the indicator of the country of origin may replaced by one of the the following indications, as appropriate: i) “blend of EU honeys”; ii) “blend of non-EU honeys”, iii) “blend of EU and non-EU honeys”.

Finally, the Directive **reviews the scope of the existent power conferred on the Commission**, in the light of the distinction between the delegated powers and the implementing competences of the Commission, introduced by articles 290 and 291 of the TFEU.

The Commission may, taking into account international standards and technical progress, by means of **implementing acts**, set out methods of analysis to verify whether honey is compliant with the provisions of this Directive.

In order to ensure fair commercial practices, to protect consumer interests and to enable the setting out of relevant methods of analysis, the power to **adopt delegated acts** should be delegated to the Commission to supplement the Directive lay down two parameters for the criterion of ‘mainly’ as regards the floral or vegetable origin of honey and the minimal content of pollen in filtered honey following removal of foreign inorganic or organic matter.

The power to adopt the delegated acts shall be conferred on the Commission for a period of **five years (with tacit extension) from 23 June 2014**. The European Parliament or the Council may object to a delegated act within a period of **two months** from the date of notification (this period can be extended for two months). If the European Parliament or the Council make objections, the delegated act will not enter into force.

ENTRY INTO FORCE: 23.06.2014.

TRANSPOSITION: by 23.06.2015. The measures shall apply from 24.06.2015.

Products placed on the market or labelled before 24.06.2015, in line with Directive 2001/110/EC, may continue to be marketed until the exhaustion of stocks.