



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.10.2006
COM(2006) 607 final

2006/0195 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No .../... on nutrition and health claims made on foods

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The proposal aims to amend Regulation (EC) No .../... of the European Parliament and of the Council on nutrition and health claims made on foods (Regulation on claims), in order to align it with the new Council Decision (EC) 2006/512 amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission.

- **General context**

The Council adopted Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. This Decision provided for a limited number of procedures for the exercise of such powers. The Council Decision (EC) 2006/512 introduced a new Committee procedure named regulatory procedure with scrutiny.

The new Committee procedure has to be followed to adopt measures of general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia* by deleting some of those elements or by supplementing the instrument by the addition of new nonessential elements.

The Regulation on claims covers nutrition and health claims used in the labelling, presentation and advertising of foods. Only nutrition and health claims that are in conformity with the provisions of this Regulation are allowed on the labelling, presentation and advertising of foods placed on the market within the Community and delivered as such to the final consumer. The Regulation always refers to the regulatory procedure when implementing powers are conferred to the Commission, and therefore has to be adapted, when necessary, to the new Committee regulatory with scrutiny procedure.

Due to the urgency of the matter it will be necessary that the adoption of this proposal by the Parliament and Council take place by December 2006.

2) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The present proposal aims to introduce in the Regulation a reference to the new regulatory procedure with scrutiny procedure in all cases where the Commission is empowered to adopt quasi-legislative measures within the meaning of Article 2 of Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred to the Commission, as amended by Decision 2006/512/EC.

- **Legal basis**

Article 95 of the EC Treaty

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason.

The proposal is limited to the amendments strictly necessary to align the Regulation to the new Comitology Decision.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason.

The proposal concerns amendments to an existing Regulation

3) **BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) Regulation (EC) No.../... of the European Parliament and of the Council⁵ provides that the regulatory procedure established by Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁶ is to be applied for the adoption of implementing measures concerning that Regulation.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced a regulatory procedure with scrutiny to be used for the adoption of implementing measures of general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.
- (3) The regulatory procedure with scrutiny should therefore be followed for measures of general scope designed to amend non-essential elements of Regulation (EC) No.../.....

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ L , , p. .

⁶ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (4) On the grounds of efficiency the normal time-limits laid down for the regulatory procedure with scrutiny should be curtailed in certain cases.
- (5) Regulation (EC).../... should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No .../... is amended as follows:

- (1) In Article 1(2), second subparagraph, Article 3(d), and Article 4(1), first and sixth subparagraphs, “Article 25(2)” is replaced by “Article 25 (3)”.
- (2) In Article 4(5), Article 8(2), Article 13(3) and (4), and Article 17(3), “Article 25(2)” is replaced by “Article 25 (4)”.
- (3) Article 25 is replaced by the following:

*"Article 25
Committee procedure*

1. The Commission shall be assisted by the Committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The time-limits provided for in Article 5a(3)(c) and 4(b) and (e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively."

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President