

DIRECTIVE 2014/.../EU
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of xxxx 2014

amending Council Directive 2001/110/EC relating to honey

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C [...], [...], p. [...].

Whereas:

- (1) *Council Directive 2001/110/EC¹ defines honey as the natural sweet substance produced by bees. Honey consists essentially of different sugars, predominantly fructose and glucose as well as other substances such as organic acids, enzymes and solid particles derived from honey collection. Directive 2001/110/EC preserves the natural character of honey by limiting human intervention that could alter composition of honey. In particular, that Directive prohibits the addition of any food ingredient to honey, including food additives, or to make any other additions other than honey. Similarly, that Directive prohibits the removal of any constituent particular to honey, including pollen, unless it is unavoidable in the removal of foreign matter. Those requirements are in line with the Codex Alimentarius standard for honey (Codex Stan 12-1981).*
- (2) *Pollen is part of the composition criteria for honey set out by Directive 2001/110/EC. Available evidence, including empiric and scientific data, confirms that honeybees are at the origin of presence of pollen in honey. Pollen grains fall into nectar which is collected by honeybees. In the hive, collected nectar containing pollen grains is transformed into honey by the bees. According to the available data, additional pollen in honey can come from pollen on bees' hair, pollen in the air inside the hive and from pollen packed by bees in cells which might incidentally open during the extraction of honey by operators. It follows that pollen enters into the hive as a result of the activity of the bees and is naturally present in honey regardless of whether or not operators extract the honey. Furthermore, there is no intentional addition of pollen into honey by operators, such addition being prohibited by Directive 2001/110/EC.*

¹ Council Directive 2001/110/EC of 20 December 2001 relating to honey (OJ L 10, 12.1.2002, p. 47).

- (3) *Regulation (EU) 1169/2011 of the European Parliament and of the Council¹ defines 'ingredient' as any substance used in the manufacture or preparation of a foodstuff and still present in the finished product, even in altered form. This definition implies an intentional use of a substance in the manufacture or preparation of a food. Taking into account the natural character of honey, and in particular the natural origin of the presence of constituents particular to honey, including pollen, in honey, it is necessary to provide that pollen, being a natural constituent particular to honey, should not be considered as 'ingredient' of honey within the meaning of Regulation (EU) 1169/2011.*
- (4) *This Directive is without prejudice to the application of Regulation (EC) No 1829/2003 of the European Parliament and of the Council² to honey containing genetically modified pollen, since such honey constitutes food produced from genetically modified organisms within the meaning of that Regulation. In Case C-442/09³, Karl Heinz Bablok and Others v Freistaat Bayern the Court ruled that the determining criterion for the application of Regulation (EC) No 1829/2003, as set out in the recital 16 thereof, is whether or not material derived from the genetically modified source material is present in food . Honey containing genetically modified pollen should therefore be regarded as being "food (partially) produced from a GMO" within the meaning of point (c) of Article 3(1) of Regulation (EC) No 1829/2003.*

The provision that pollen is not an ingredient of honey does not therefore affect the Court's conclusion in the above mentioned case that honey containing genetically modified pollen is subject to Regulation (EC) No 1829/2003, in particular to the requirements thereof concerning authorisation prior to placing on the market, supervision and, where applicable, labelling.

¹ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

² Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ L 268, 18.10.2003, p. 1).

³ OJ C 311, 22.10.2011, p. 7.

As far as the labelling requirements pursuant to Regulation (EC) No 1829/2003 are concerned, a presence of GM pollen in honey should not be indicated on the label of honey if the following conditions are met: such pollen does not exceed 0,9% of honey, and its presence in honey is adventitious or technically unavoidable. It should be recalled that, according to Directive 2001/18/EC of the European Parliament and of the Council¹, Member States may take appropriate measures to avoid unintended presence of genetically modified organisms in honey.

- (5) *According to Directive 2001/110/EC, if the honey originates in more than one Member State or third country, the mandatory indication of the countries of origin may be replaced by one of the following, as appropriate: 'blend from EC honeys', 'blend of non-EC honeys', 'blend of EC and non-EC honeys'. Following the entry into force of the Treaty of Lisbon, the Union replaced and succeeded the European Community. It is thus appropriate to clarify the relevant labelling requirements by replacing the reference to "EC" by a reference to "EU".*
- (6) Directive 2001/110/EC confers powers on the Commission in order to implement some of its provisions. *In particular, Directive 2001/110/EC confers powers on the Commission to adopt measures necessary for its implementation relating to adaptation to technical progress and bringing that Directive into line with general Union legislation on foodstuffs. Furthermore, Directive 2001/110/EC confers powers on the Commission to adopt methods to permit verification of compliance of honey with that Directive. It is necessary to review the scope of those powers.*

¹

Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2001, p. 1).

- (7) In order to ensure *fair commercial practices and the protection of consumer interests and to enable the setting out of relevant methods of analysis*, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to *define quantitative parameters for the criterion of "mainly" as regards floral or vegetable origin of honey and the minimal content of pollen in filtered honey following removal of foreign inorganic or organic matter*.

It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (8) Following the adoption of Regulation (EC) No 178/2002 of the European Parliament and of the Council¹, which applies to all stages of production, processing and distribution of food and feed at Union and national level, general Union provisions on foodstuffs apply directly to the products covered by Directive 2001/110/EC. As a consequence, it is no longer necessary for the Commission to have the powers to align the provisions of that Directive to the general Union legislation on foodstuffs. The provisions conferring such powers should therefore be deleted.
- (9) *Following the adoption of Regulation (EU) No 182/2011 of the European Parliament and of the Council² which repealed Council Decision 1999/468/EC, it is appropriate to adapt relevant provisions of Directive 2001/110/EC to that Regulation.*

- (10) *In order to allow Member States to adopt national laws, regulations and administrative provisions necessary to comply with this Directive, a transposition period of twelve months should be established. During that period, the requirements of Directive 2001/110/EC, without the amendments introduced by this Directive, remain applicable.*

¹ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

² Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2001, p. 1).

- (11) *In order to take into account the interest of economic operators who place on the market or label their products in accordance with the requirements applicable before the application of the national provisions transposing this Directive, it is necessary to establish appropriate transitional measures. Therefore, this Directive should provide that the products placed on the market or labelled before the application of those provisions may continue to be marketed until the exhaustion of stocks.*
- (12) Directive 2001/110/EC should therefore be amended accordingly.
- (13) Since the amendments related to *conferral of powers on the Commission* concern *only* the Commission powers ■ , they do not need to be transposed by the Member States.
- (14) *Since the objectives of this Directive, namely to provide that pollen being a natural constituent particular to honey should not be considered an ingredient of honey, to clarify the labelling requirements for the cases where the honey originates in more than one Member State or third country, and to review the scope of the existent powers conferred on the Commission, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.*

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2001/110/EC is *hereby* amended as follows:

(1) *In Article 2, point (a) of paragraph 4 is replaced by the following:*

"(a) the country or countries of origin where the honey has been harvested shall be indicated on the label.

Notwithstanding the previous subparagraph, 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:

- 'blend of EU honeys',*
- 'blend of non-EU honeys',*
- 'blend of EU and non-EU honeys'.*

(2) In Article 2, the following point is added:

"5. Pollen, being a natural constituent particular to honey, shall not be considered an ingredient, within the meaning of point (f) of Article 2(2) of Regulation (EU) No 1169/2011, of the products defined in Annex 1 to this Directive".

(3) Article 4 is replaced by the following:

"Article 4

1. For the purposes of second paragraph of Article 9, the Commission may, taking into account international standards and technical progress, by means of implementing acts adopted in accordance with Article 7 and in compliance with Regulation 882/2004, set out methods of analysis to verify the compliance of honey with the provisions of this Directive. Until the adoption of such methods, Member States shall, whenever possible, use internationally recognised validated methods of analysis such as those approved by Codex Alimentarius to verify compliance with the provisions of this Directive.

2. *For the purpose of ensuring fair commercial practices, protecting consumer interests and enabling the setting out of relevant methods of analysis, the Commission shall be empowered to adopt delegated acts, in accordance with Article 6, to supplement this Directive by defining the quantitative parameters related to the following:*

- (a) *the criterion of "mainly" as regards floral or vegetable origin of honey as laid down in the first indent of Article 2(2)(b); and,*
- (b) *the minimal content of pollen in filtered honey following removal of foreign inorganic or organic matter referred to in point 2(b)(viii) of Annex I.*

In such delegated acts, the Commission shall provide for appropriate transitional arrangements for products placed on the market before their date of application."

(4) Article 6 is replaced by the following:

■

"Article 6

1. The power to adopt the delegated acts referred to in **Article 4(2)** is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in **Article 4(2)** shall be conferred on the Commission for *a period of five years* from *. ■

The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

* *O.J. - please insert the date: date of entry into force of this amending directive."*

3. The delegation of power referred to in **Article 4(2)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication **of the decision** in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to **Article 4(2)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months from the date of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

(5) Article 7 is ***replaced by the following:***

"Article 7

1. ***The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health established by Article 58(1) of Regulation (EC) No 178/2002. That Committee is a committee within the meaning of Regulation (EU) No 182/2011.***
2. ***Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.***

Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply."

(6) *In Annex II, paragraph 3 is replaced by the following:*

"Without prejudice to Annex I, point 2(b)(viii), neither pollen, nor any other constituent particular to honey, may be removed except where this is unavoidable in the removal of foreign inorganic or organic matter."

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with *points (1), (2) and (6) of Article 1 and Article 3*. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. *Member States shall apply the provisions referred to in paragraph 1 from ...¹*

Article 3

Transitional measures

Products which are placed on the market or labelled before ...² in accordance with Directive 2001/110/EC may continue to be marketed until the exhaustion of the stocks.

Article 4

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

¹ *OJ, please insert the date: 12 months after the entry into force of the Directive.*

² *OJ, please insert the date: 12 months after the entry into force of the Directive.*

Article 5

This Directive is addressed to the Member States

Done at

For the European Parliament

For the Council

The President

The President
