EUROPEAN PARLIAMENT 2009 - 2014

Plenary sitting

5.2.2014 B7-0000/2014

MOTION FOR A RESOLUTION

pursuant to Rule 87a(3) of the Rules of Procedure

on the Commission delegated regulation of 12 December 2013 amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers as regards the definition of 'engineered nanomaterials'
(C(2013)8887 final)

Committee on the Environment, Public Health and Food Safety

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European Parliament resolution on the Commission delegated regulation of 12 December 2013 amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers as regards the definition of 'engineered nanomaterials'
(C(2013)8887)

The European Parliament,

– having regard to the Commission Delegated Regulation of 12 December 2013 amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers as regards the definition of 'engineered nanomaterials' (C(2013)08887),[1],

– having regard to Article 290 of the Treaty on the Functioning of the European Union,

– having regard to 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, and in particular Articles 2(2t), 18(3) and 18(5) thereof[2]

– having regard to the Commission proposal for a Regulation of the European Parliament and the Council on novel foods[3],

– having regard to Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives[4],

– having regard to the Union lists that were established by Commission Regulation (EU) No 1129/2011 of 11 November 2011 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council by establishing a Union list of food additives[5] and Commission Regulation (EU) No 1130/2011 of 11 November 2011 amending Annex III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives by establishing a Union list of food additives approved for use in food additives, food enzymes, food flavourings and nutrients[6],

– having regard to Commission Regulation (EU) No 257/2010 of 25 March 2010 setting up a programme for the re-evaluation of approved food additives in accordance with Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives[7],

– having regard to Commission Recommendation 2011/696/EU of 18 October 2011 on the

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1 C(2013) 8887 final
2 OJ L 304, 22.11.2011, p. 18.
3 COM(2013) 0894
4 OJ L 354, 31.12.2008, p. 16
5 OJ L 295, 12.11.2011, p. 1
6 OJ L 295, 12.11.2011, p. 178
7 OJ L 80, 26.3.2010, p. 19

definition of nanomaterial[1],

– having regard to the opinion of the Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) of 8 December 2010 concerning the 'Scientific basis for the definition of the term "Nanomaterial"'[2]

– having regard to the preliminary conclusions from the 32nd Management Board Meeting of the European Chemical Agency (ECHA) of 27 December 2013[3],

– having regard to the motion for a resolution by the Committee on the Environment, Public Health and Food Safety,

– having regard to Rule 87a(3) of its Rules of Procedure,

A. whereas Article 18(3) of Regulation (EU) No 1169/2011 on Food Information to Consumers ("FIC") provides that all food ingredients present in the form of engineered nanomaterials have to be clearly indicated in the list of food ingredients to ensure consumer information; whereas accordingly, FIC provides for a definition of 'engineered nanomaterials';

B. whereas Article 18(5) of FIC empowers the Commission to adjust and adapt the definition of 'engineered nanomaterials' referred therein to technical and scientific progress or to definitions agreed at international level, by means of delegated acts, for the purposes of achieving the objectives of that Regulation;

C. whereas Commission Recommendation 2011/696/EU sets out a general definition of nanomaterials;

D. whereas comprehensive Union lists were established by Commission Regulations (EU) No 1129/2011 and (EU) No 1130/2011, setting out the food additives that were permitted for use prior to the entry into force of Regulation (EC) No 1333/2008 after a review of their compliance with the provisions thereof;

E. whereas the Commission delegated Regulation excludes all food additives included in the Union lists from the the new definition of 'engineered nanomaterial' and instead suggests that the need for specific nano-related labelling requirements relating to those additives should be addressed in the context of the re-evaluation programme in accordance with Commission Regulation (EU) No 257/2010, by amending, if necessary, the conditions of use in Annex II to Regulation (EC) No 1333/2008 and the specifications of those food additives, set out in Commission Regulation (EU) No 231/2012[4];

F. whereas currently, it is precisely food additives that may be present as nanomaterials in food;

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1 OJ L 275, 20.10.2011, p. 38

2 http://ec.europa.eu/health/scientific_committees/emerging/docs/scenihr_o_032.pdf.

3 http://echa.europa.eu/documents/10162/13608/preliminary_conclusions_mb32_en.pdf

4 Commission Regulation (EU) No 231/2012 of 9 March 2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council (OJ L 83, 22.3.2012, p. 1).

G. whereas this blanket exemption annuls the labelling provisions for all food additives that are engineered nanomaterials; this deprives the law of the main '*effet utile'* and violates the basic aim of the Directive to pursue a high level of protection of consumers health and interests by providing a basis for final consumers to make informed choices;

H. whereas the Commission justifies this blanket exemption for all existing food additives by stating that "*indicating such food additives in the list of ingredients followed by the word 'nano' in brackets may confuse the consumers as it may suggest that those additives are new while in reality they have been used in foods in that form for decades*";

I. whereas this justification is erroneous and irrelevant, as FIC does not foresee a distinction between existing and new nanomaterials, but explicity requires labelling of *all* ingredients present in the form of engineered nanomaterials;

J. whereas the Commission's stated intention to address the need for specific nano-related labelling requirements relating to food additives on the Union lists in the context of the re-evaluation programme is inappropriate as it confuses safety issues with general labelling requirements to inform consumers; whereas this also suggests that the Commission questions the very need for specific nano-labelling, which violates the provisions of Article 18(3) of FIC; either a food additive is a nanomaterial or not, and such labelling requirements are to be implemented for all authorised food additives that are nanomaterials irrespective of the conditions of use or other specifications;

K. whereas moreover it is unacceptable to refer to an unrelated re-evaluation programme that already existed at the time when the legislator decided to introduce explicit labelling requirements into FIC in the attempt to undo those labelling requirements three years later;

L. whereas the Commission suggests applying the standard definition of Commission Recommendation 2011/696/EU with a threshold of 50%, subject to a general review, but with no deadline for this review;

M. whereas according to that Commission Recommendation, in specific cases and where warranted by concerns for the environment, health, safety or competitiveness the number size distribution threshold of 50 % may be replaced by a threshold between 1 and 50 %;

N. whereas according to the opinion SCENIHR, a threshold value of 0,15 % based on a statistical approach could be used for the identification of a nanomaterial;

O. whereas the European Food Safety Authority, in consultation with its Scientific Committee and its Network for nanomaterials in food and feed, informed the Commission on 3 October 2012 that "*In view of the current uncertainties over safety, a lower nanoparticle number threshold, e.g. 10%, should be considered for food related applications instead of the currently proposed (50%) in the Recommendation"*;

P. whereas according to preliminary conclusions from the 32nd Management Board Meeting of the ECHA, "*the Board and the Executive Director of the European Chemicals Agency were of the opinion that the presently available information on nanomaterials is*

insufficient to adequately judge their potential impact; an improvement of this situation is needed with respect to the aim to protect human health and environment";

Q. whereas according to a representative study about public perceptions of nanomaterials by the German Federal Institute for Risk Assessment (BfR) of 2008, public acceptance of nanomaterials is lowest in food[1];

R. whereas according to the Commission proposal for a Regulation on novel food, the definition of 'engineered nanomaterials" as laid down in FIC would also apply for novel foods;

S. whereas in light of the opinions by SCENIHR, EFSA and ECHA and the study by the BfR, there are potential concerns with regard to the safety of nanomaterials in food;

T. whereas the threshold of 50% as proposed by the Commission thus violates the basic aim of the Directive to pursue a high level of protection of consumers health and interests; whereas a threshold of 10% as recommended by EFSA would be more appropriate, subject to a review;

1. Objects to the Commission delegated regulation of 12 December 2013 amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers as regards the definition of 'engineered nanomaterials';

2. Considers that the Commission delegated regulation is not compatible with the aim and content of the basic act and that it exceeds the delegated powers conferred on the Commission under the basic act;

3. Calls on the Commission to submit a new delegated act which takes into account the position of Parliament;

4. Instructs its President to forward this resolution to the Commission and to notify it that the delegated regulation cannot enter into force;

5. Instructs its President to forward this resolution to the Council and to the governments and parliaments of the Member States.

[1] http://www.bfr.bund.de/cm/349/public_perceptions_about_nanotechnology.pdf