

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 444 final - SYN 368

Brussels, 10 December 1991

Proposal for a COUNCIL DIRECTIVE

on colours for use in foodstuffs

(presented by the Commission)

EXPLANATORY MEMORANDUM

Directive 89/107/EEC of 21 December 1988 states in Article 3(1) and (2):

- "1. Particular provisions in respect of the additives in the categories given in Annex I shall be laid down in a comprehensive Directive, including existing specific Directives. That Directive may, however, be drawn up in stages.
2. The Council shall, acting on a proposal from the Commission under the procedure laid down in Article 100a of the Treaty, adopt:
 - (a) a list of additives the use of which is authorized to the exclusion of all others;
 - (b) the list of foodstuffs to which these additives may be added, the conditions under which they may be added and, where appropriate, a limit on the technological purpose of their use;
 - (c) the rules on additives used as carrier substances and solvents, including where necessary their purity criteria."

As a first stage in the establishment of the comprehensive Directive mentioned above, a proposal for a Council Directive on sweeteners for use in foodstuffs has already been made. The present proposal is dealing with colours.

The Scientific Committee for Food has been consulted on those substances awaiting Community provision. Their opinions are published in the series of Reports of the Scientific Committee for Food.

Specifications of identity and purity for those food additives, which as yet lack them, will be drawn up according to the procedure laid down in Article 11 of Directive 89/107/EEC.

Proposal for a
COUNCIL DIRECTIVE

on colours for use in foodstuffs

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission⁽¹⁾,

In cooperation with the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Having regard to Council Directive 89/107/EEC of 21 December 1988, on the approximation of the laws of the Member States concerning food additives authorized for use in foodstuffs intended for human consumption⁽⁴⁾, and in particular Article 3(2) thereof,

Whereas differences between national laws relating to the conditions of use of colours in food hinder the free movement of foodstuffs; whereas this may create conditions of unfair competition;

Whereas the prime consideration for any rules on these food additives and their conditions of use should be the need to protect the consumer and to prevent him from being misled;

Whereas a food additive may only be used when there is evidence that the use of this additive has an advantage for the consumer;

Whereas colours are used to restore original appearance of food whose colour has been affected by processing, storage, packaging and distribution, whereby visual acceptability may have been impaired;

Whereas colours are used to make food more visually appealing and help identify flavours normally associated with particular foods and to give colour to food otherwise colourless;

Whereas colours are used to reinforce colours already present in food;

Whereas it is generally recognized that unprocessed foodstuffs and certain other basic foodstuffs should be free from food additives;

Whereas, having regard to the most recent scientific and toxicological information on additives, some of these are to be permitted only for certain foodstuffs and under certain conditions of use;

(1)

(2)

(3)

(4) OJ No L 40, 11.2.1989, p. 27.

Whereas it is necessary to lay down strict rules for the use of additives in food for infants and young children;

Whereas the Commission should adapt certain Community provisions to accord with the rules laid down in this Directive;

Whereas the Scientific Committee for Food has been consulted for those substances not yet being the subject of a Community provision;

Whereas it is desirable that when a decision is taken on whether a particular foodstuff belongs to a certain category of foods, the consultation of the Standing Committee for Food procedure be followed;

Whereas this Directive replaces partially the Council Directive of 23 October 1962 on the approximation of the rules of the Member States concerning the colouring matters authorized for use in foodstuffs intended for human consumption, as last amended by the Act of Accession of Spain and Portugal⁽⁵⁾;

Whereas the modification of existing purity criteria on colouring matters and new specification for those where no purity criteria exist, will be proposed in accordance with the procedure of Article 11 of Directive 89/107/EEC,

(5) OJ No 115, 11.11.1962, p. 2045/62.

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive is a specific Directive forming a part of the comprehensive Directive within the meaning of Article 3 of Directive 89/107/EEC.
2. Colours are substances which add or restore colour in a food, and include natural components of foodstuffs and natural sources, which are normally not consumed as foodstuffs as such and not normally used as characteristic ingredients of food.
3. The following substances shall not be considered colours for the purposes of this Directive:
 - foodstuffs, flavourings and their components, incorporated during the manufacturing of compound foodstuffs, because of their aromatic, sapid or nutritive properties together with a secondary colouring effect, such as paprika, turmeric and saffron.
 - colours used for the colouring of egg shells and for stamping meat and the inedible external parts of foodstuffs, such as cheese coatings and sausage casings.

Article 2

1. Only the substances listed in Annex I may be used as colours in foodstuffs.
2. Colours may be used only in the foodstuffs listed in Annexes III, IV and V and under the conditions specified therein.
3. Colours may not be used in the foodstuffs listed in Annex II except where specifically provided for in Annex III, Annex IV or Annex V.
4. Colours permitted for certain uses only are listed in Annex IV.
5. Colours permitted in general in foodstuffs and the conditions of use therefor are listed in Annex V.
6. Maximum levels indicated in the Annexes refer to foodstuffs as marketed, unless otherwise stated.

Article 3

Without prejudice to other Community provisions, the presence of a colour in a foodstuff is permissible:

- in a compound foodstuff other than one mentioned in Annex II to the extent that the colour is permitted in one of the ingredients of the compound foodstuff;
- or
- if the foodstuff is destined to be used solely in the preparation of a compound foodstuff and to such an extent that the compound foodstuff conforms to the provisions of this Directive.

Article 4

It may be decided by the procedure laid down in Article 6, whether a particular foodstuff belongs to a category of foods mentioned in Article 2(2), (3), (4) and (5), and whether substances are colours in the meaning of Article 1.

Article 5

Any provision necessary to adapt existing Community provisions to the rules laid down in this Directive shall be adopted within 6 months of notification, in accordance with the procedure laid down in Article 6.

Article 6

Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Standing Committee for Foodstuffs, hereinafter referred to as "the Committee", either on his own initiative or at the request of the representative of a Member State.

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 7

In accordance with the General Criteria of point 4 of Annex II to Directive 89/107/EEC, within 5 years from the adoption of this Directive, the Commission shall review the conditions of use mentioned in this Directive, and propose modifications where necessary.

Article 8

Articles 1 to 7, Article 8(1), second indent and (2), and Articles 9 to 15 of the Directive of 23 October 1962 are hereby repealed.

References to the repealed provisions shall be construed as references to the corresponding provisions of this Directive.

Article 9

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 November 1992 in order to:

- allow trade in and use of products conforming to this Directive not later than 1 November 1993,
- prohibit trade in and use of products not conforming to this Directive not later than 1 November 1994.

They shall at once inform the Commission thereof.

When Member States adopt these measures, these shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The procedure for such reference shall be laid down by Member States.

Article 10

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

ANNEX I

LIST OF PERMITTED FOOD COLOURS

Note : Aluminium lakes prepared from colours mentioned in this annex are authorised.

EEC N°	COMMON NAME	COLOUR INDEX NUMBER (1) OR DESCRIPTION
E 100	Curcumin	75300
E 101	i) Riboflavin ii) Riboflavin-5'-phosphate	
E 102	Tartrazine	19140
E 104	Quinoline Yellow	47005
E 110	Sunset Yellow FCF, Orange Yellow S	15985
E 120	Cochineal, Carminic acid Carmines	75470
E 122	Azorubine, Carmoisine	14720
E 123	Amaranth	16185
E 124	Ponceau 4R, Cochineal Red A	16255
E 127	Erythrosine	45430
E 128	Red 2G	18050
E 129	Allura Red AC	16035
E 131	Patent Blue V	42051
E 132	Indigotine, Indigo Carmine	73015
E 133	Brilliant Blue FCF	42090

(1) Colour Index numbers are taken from the 3rd edition 1982, volumes 1-7, 1315. Also amendments 37-40 (125), 41-44 (127-50), 45-48 (130), 49-52 (132-50), 53-56 (135).

EEC N°	COMMON NAME	COLOUR INDEX NUMBER (1) OR DESCRIPTION
E 140	Chlorophylls and Chlorophyllins I) chlorophylls II) chlorophyllins	75810 75815
E 141	Copper complexes of chlorophylls and chlorophyllins I) copper complexes of chlorophylls II) copper complexes of chlorophyllins	75815
E 142	Green S	44090
E 150a	Plain caramel (2)	
E 150b	Caustic sulphite caramel	
E 150c	Ammonia caramel	
E 150d	Sulphite ammonia caramel	
E 151	Brilliant Black BN, Black PN	28440
E 153	Vegetable Carbon	
E 154	Brown FK	
E 155	Brown HT	20285

(1) Colour Index numbers are taken from the 3rd edition 1982, volumes 1-7, 1315. Also amendments 37-40 (125), 41-44 (127-50), 45-48 (130), 49-52 (132-50), 53-56 (135).

(2) The term caramel relates to products of a more or less intense brown colour which are intended for colouring. It does not correspond to the sugary aromatic product obtained from heating sugar and which is used for flavouring food (e.g. confectionery, pastry, alcoholic drinks).

EEC N°	COMMON NAME	COLOUR INDEX NUMBER (1) OR DESCRIPTION
E 160a	Carotenes : I) Mixed carotenes II) Beta-carotene	75130 40800
E 160b	Annatto, bixin, norbixin	75120
E 160c	Paprika extract, capsanthin, capsorubin	
E 160d	Lycopene	
E 160e	Beta-apo-8'-carotenal (C 30)	40820
E 160f	Ethyl ester of Beta-apo-8'- carotenic acid (C 30)	40825
E 161b	Lutein	
E 161g	Canthaxanthin	
E 162	Beetroot Red, betanin	
E 163	Anthocyanins	Prepared by physical means from fruits and vegetables
E 170	Calcium carbonate	77220
E 171	Titanium dioxide	77891
E 172	Iron oxides and hydroxides	77491, 77492 77499
E 173	Aluminium	
E 174	Silver	
E 175	Gold	
E 180	Litholrubine BK	

(1) Colour Index numbers are taken from the 3rd edition 1982, volumes 1-7, 1315. Also amendments 37-40 (125), 41-44 (127-50), 45-48 (130), 49-52 (132-50), 53-56 (135).

ANNEX II

FOODSTUFFS WHICH MAY NOT CONTAIN ADDED COLOURS, EXCEPT WHERE SPECIFICALLY PROVIDED FOR IN ANNEX III, ANNEX IV OR ANNEX V

Unprocessed foodstuffs (*)

Mineral water as mentioned in directive 80/777/EEC(1)

Milk, semi-skimmed and skimmed milk, pasteurized or sterilized (including UHT sterilisation) (**)

Fermented milk(**)

Preserved milks as mentioned in the directive 76/118/EEC(**) (2)

Butter-milk(**)

Cream and cream powder(**)

Virgin oils and olive oil

Egg yolk, egg white, whole egg and egg powder

Flour and starch

Bread

Pasta

Sugars as defined in directive 73/437/EEC(3)

Tomato paste and tomato preserves

Fruit juice and fruit nectar as mentioned in directive 75/726/EEC(4)

Fruit preserves

Extra Jam, extra jelly, and chestnut puree as mentioned in the directive 79/693/EEC(5)

Fish, meat and poultry

Cocoa and chocolate products as mentioned in directive 73/241/EEC(6)

Coffee, including instant coffee

Tea, tea extracts and infusions, including instant tea mixes

Spices

Wine as defined by the regulation 87/822/EEC(7)

Foods for infants and young children as mentioned in directive 89/398/EEC(8)

Honey

(*) Within the meaning of this directive, unprocessed foodstuffs are foodstuffs that have not undergone any treatment resulting in a substantial change in the original state of the foodstuffs. However, they may have been, for example, divided, parted, severed, boned, skinned, pared, peeled, ground, cut, cleaned, trimmed, frozen or chilled.

(**) unflavoured

(1) OJ L229,30.8.80, p.1

(2) OJ L24,30.1.76, p.49

(3) OJ L356,27.12.73 p.71

(4) OJ L311,1.12.75, p.40

(5) OJ L205,13.8.79, p.5

(6) OJ L63,5.3.74, p.34

(7) OJ L84,27.3.87, p.1

(8) OJ L186,30.6.89, p.27

ANNEX III

FOODSTUFFS TO WHICH ONLY CERTAIN PERMITTED COLOURS MAY BE ADDED

FOODSTUFFS	PERMITTED COLOUR	MAXIMUM LEVEL
Wholemeal, brown or malt bread	E 150a Plain caramel E 150b Caustic sulphite caramel E 150c Ammonia caramel E 150d Sulphite ammonia caramel	quantum satis
Beer	E 150a Plain caramel E 150b Caustic sulphite caramel E 150c Ammonia caramel E 150d Sulphite ammonia caramel	quantum satis
Butter (including reduced fat butter and concentrated butter)	E 160a Carotenes E 160b Annatto, Bixin, Norbixin	quantum satis
Margarine, minarine, other fat emulsions, and fats essentially free from water	E 100 Curcumin E 160a Carotenes E 160b Annatto, Bixin Norbixin	quantum satis

FOODSTUFFS	PERMITTED COLOUR	MAXIMUM LEVEL
Cheese	E 131 Patent blue V E 140 Chlorophylls and chlorophyllins E 141 Copper complexes of chlorophylls and chlorophyllins E 153 Vegetable carbon E 160a Carotenes E 160b Annatto, Bixin, Norbixin E 171 Titanium dioxide	q u a n t u m s a t i s
Refined vegetables oils except olive oil (for colour restoration only)	E 100 Curcumin E 160a Carotenes E 160b Annatto, Bixin Norbixin	quantum satis
Chorizo	E 120 Cochineal, Carminic acid, Carmines E 124 Ponceau 4R, Cochineal Red A	200 mg/kg 250 mg/kg
Sobrasada	E 110 Sunset yellow FCF E 124 Ponceau 4R Cochineal Red A	135 mg/kg 200 mg/kg

FOODSTUFFS	PERMITTED COLOUR	MAXIMUM LEVEL
"Pasturmas" (edible external coating)	E 100 Curcumin E 101 I) Riboflavin II) Riboflavin -5'- phosphate E 120 Cochineal, Carminic acid, Carmines	quantum satis
Sausages (including eg salami, cervelat, hot dog), patés, meat pies and luncheon meat, burger meat containing minimum content meat/fat of 82% and a minimum of 6% of cereals	E 100 Curcumin E 110 Sunset yellow E 120 Cochineal, carminic acid, carmines E 124 Ponceau 4R E 129 Allura Red E 150a Plain caramel E 150b Caustic sulphite caramel E 150c Ammonia caramel E 150d Sulphite ammonia caramel E 160a Carotenes E 160b Annatto Bixin, Norbixin E 160c Paprika extract, Capsanthin, Capsorubin E 162 Beetroot red, betanin	20 mg/kg 50 mg/kg 100 mg/kg 40 mg/kg 150 mg/kg quantum satis quantum satis quantum satis quantum satis 20 mg/kg 20 mg/kg 10 mg/kg quantum satis

ANNEX IV

COLOURS PERMITTED FOR CERTAIN USES ONLY

COLOUR	FOODSTUFFS	MAXIMUM LEVEL
<i>E 127 Erythrosine</i>	<i>Cocktail cherries and candied cherries Cherries in syrup and cherries in cocktails</i>	<i>200 mg/kg 150 mg/kg</i>
<i>E 128 Red 2G</i>	<i>Sausages and burgers with a starch content of more than 6 % Decorations and coatings Vegetable protein flour</i>	<i>20 mg/kg 50 mg/kg 150 mg/kg</i>
<i>E 154 Brown FK</i>	<i>Smoked and cured fish</i>	<i>20 mg/kg</i>
<i>E 161g Canthaxanthin</i>	<i>Cooked sausages</i>	<i>30 mg/kg</i>
<i>E 173 Aluminium</i>	<i>External coating of sugar confectionery for the decoration of cakes and pastries</i>	<i>quantum satis</i>
<i>E 174 Silver</i>	<i>External coating of confectionery (chocolate excluded) Liqueurs</i>	<i>quantum satis</i>
<i>E 175 Gold</i>	<i>External coating of confectionery (chocolate excluded) Liqueurs</i>	<i>quantum satis</i>
<i>E 180 Litholrubine BK</i>	<i>Edible Cheese surface</i>	<i>quantum satis</i>

ANNEX V

COLOURS PERMITTED IN FOODSTUFFS OTHER THAN
THOSE MENTIONED IN ANNEX II AND III

1. The following colours may be used in all foodstuffs other than those listed in Annex II, III at quantum satis :

- E 101 i) Riboflavin
 ii) Riboflavin-5'-phosphate
- E 140 Chlorophylls and chlorophyllins
- E 141 Copper complexes of chlorophylls and chlorophyllins
- E 150a Plain caramel
- E 150b Caustic sulphite caramel
- E 150c Ammonia caramel
- E 150d Sulphite ammonia caramel
- E 153 Vegetable carbon
- E 160a Carotenes
- E 160c Paprika extract, capsanthin, capsorubin
- E 162 Beetroot red, betanin
- E 163 Anthocyanins
- E 170 Calcium carbonate
- E 171 Titanium dioxide
- E 172 Iron oxides and hydroxides

2. *The following colours may be used singly or in combination in the following foods up to the maximum level specified in the table.*

<i>E 100</i>	<i>Curcumin</i>
<i>E 102</i>	<i>Tartrazine</i>
<i>E 104</i>	<i>Quinoline Yellow</i>
<i>E 110</i>	<i>Sunset Yellow FCF</i> <i>Orange Yellow S</i>
<i>E 120</i>	<i>Cochineal, Carminic acid, Carmines</i>
<i>E 122</i>	<i>Azorubine, Carmoisine</i>
<i>E 123</i>	<i>Amaranth (*)</i>
<i>E 124</i>	<i>Ponceau 4R, Cochineal Red A</i>
<i>E 129</i>	<i>Allura Red AC</i>
<i>E 131</i>	<i>Patent Blue V</i>
<i>E 132</i>	<i>Indigotine, Indigo Carmine</i>
<i>E 133</i>	<i>Brilliant Blue FCF</i>
<i>E 142</i>	<i>Green S</i>
<i>E 151</i>	<i>Brilliant Black BN, Black PN</i>
<i>E 155</i>	<i>Brown HT</i>
<i>E 160b</i>	<i>Annatto, Bixin, Norbixin</i>
<i>E 160d</i>	<i>Lycopene</i>
<i>E 160e</i>	<i>Beta-apo-8'-carotenal (C 30)</i>
<i>E 160f</i>	<i>Ethyl ester of Beta-apo-8'- carotenic acid (C 30)</i>
<i>E 161b</i>	<i>Lutein</i>

(*) *For E 123 Amaranth, the maximum level should not exceed 30 mg/kg or 30 mg/l as appropriate.*

FOODSTUFFS	MAXIMUM LEVEL
<i>Non-alcoholic flavoured drinks (*)</i>	100 mg/l
<i>Jams, jellies, marmelades and other similar fruit preparations</i>	200 mg/kg
<i>Candied fruits</i>	200 mg/kg
<i>Preserves of red fruits</i>	200 mg/kg
<i>Confectionery</i>	300 mg/kg
<i>Decorations and coatings (*)</i>	500 mg/kg
<i>Breakfast cereals</i>	200 mg/kg
<i>Fine bakery wares (e.g. viennoiserie, biscuits, cakes and wafers) (*)</i>	200 mg/kg
<i>Edible ices (*)</i>	150 mg/kg
<i>Processed cheese</i>	200 mg/kg
<i>Desserts (*)</i>	150 mg/kg
<i>Vegetables and fruits in vinegar, brine or oil</i>	150 mg/kg
<i>Sauces, Seasonings and condiments (*)</i>	500 mg/kg
<i>Mustard</i>	300 mg/kg
<i>Fish and crustacean pastes, fish roe, salmon substitute, surimi, smoked or preserved fish</i>	500 mg/kg
<i>Ready-to-eat savouries</i>	200 mg/kg
<i>Edible cheese rind and edible collagen casings</i>	quantum satis
<i>Fruit wines, aromatized wines and spirits (*)</i>	200 mg/l
<i>Cider or perry</i>	100 mg/l
<i>Formulae for particular nutritional uses (*)</i>	50 mg/kg
<i>Dietary supplements</i>	quantum satis
<i>Soups and broths(*)</i>	300mg/kg
<i>Canned mushy and processed legumes</i>	200 mg/kg
<i>Vegetable protein flour</i>	100 mg/kg

(*) Maximum levels refer to ready-for-consumption foodstuffs prepared according to the manufacturer's instructions.

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