

# Legal amendments in 2006 (Part 2)

2006 HAS SEEN A LOT OF NEW AND AMENDED REGULATIONS CONCERNING EUROPEAN FOOD LAW, FOR EXAMPLE REGARDING HEALTH CLAIMS

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dentally, the lists of ingredients voluntarily declared on packagings within the bakery industry now stand on a legal basis. In any case, already approved additives which had been approved already before the Regulation on Additives came into force will be subjected to a risk evaluation according to Article 31.

## Food enzymes

The new legislation proposal for food enzymes covers completely new aspects. Up to now there have been no harmonized EU regulations on food enzymes except for invertase (E 1103) and lysozyme (E 1105) which display a technological effect on the final product.

The EU Commission found that there was a need for harmonized European regulations on enzymes for not only food safety reasons including a uniform safety evaluation of substances used in food, but also because of already existing individual regulations on enzymes in some member states (e.g. Denmark and France). Furthermore, national food enzyme legislation also differs in its enzyme assessments. For example, in Germany, enzymes are either considered to be additives which do not need to be regulated or processing aids which are in a separate class of substances.

✚ The first part of this article, featured in the last issue of *baking+biscuit international*, dealt with regulations on health claims, nutritional information and enrichment of food with vitamins and minerals. The second part will be focusing on legal regulations on additives, enzymes and flavorings.

At the end of July 2006, the Commission of the European Union submitted four proposals for legal regulations on food additives, food enzymes, flavorings and a simplified common approval procedure.

## Food additives

The proposal on food additives combines a large number of EU Directives, which, in general, is a positive approach. It should be emphasized that now a definition on processing aids according to the applicable EU Directives has also been included. The so-called Community lists for food additives correspond to the current legislation so that no major changes are anticipated. New are the labeling rules for food containing food additives which are not intended to be sold to the final consumer but to the industrial processor. Inci-

Article 1 states that the scope of this regulation applies to food enzymes used in food including enzymes used as processing aids. Therefore, a Community list on approved enzymes should be compiled analogously to the regulation on additives. This regulation is not applicable to food enzymes which are already used as food additives, e.g. invertase and lysozyme (article 2 (2)). According to article 3, "food enzyme means a product obtained by extraction from plants or animals or by a fermentation process using microorganisms and containing one or more enzymes capable of catalyzing a specific biochemical reaction; and added to food to perform a technological function in the manufacture, processing, preparation, treatment, packaging, transport or storage of foods". For the authorization of food enzymes, according to article 6 of the draft Regulation, there has to be next to the enzyme's name the specifications for the enzyme and also the origin and purity criteria have to be included. The Community list on enzymes should be drawn up within 24 months after the date of application of the implementing measures (article 18 (2)). The respective applications from the food industry will be submitted to EFSA for respective evaluation. It is striking to note in article 22 of the draft Regulation that article 6 (4) of the so-called la-

belonging directive 2000/13/EC will be amended as follows: "Ingredient' shall mean any substance, including additives and enzymes, used in the manufacture or preparation of a foodstuff and still present in the finished product, even if in altered form." This amendment could be interpreted in a way that enzymes which act as additives, i.e. display a technological effect on the finished product, are considered ingredients.

### Flavorings

Furthermore there is a proposal on a Regulation of the European Parliament and the Council on flavorings and certain food with flavoring properties for use in and on foodstuffs as well as amendments to Council Regulations 1576/89 EEC, 1601/91 EEC, 2232/96 EC and Directive 2000/13/EC. Within the food industry, the scope of application regulated in article 2 of this draft Regulation is seen very critically. According to the proposal, the regulation will not only be applicable to flavorings used in and on foodstuffs but also to certain food ingredients with flavoring properties (article 2 (2)). The respective recital 5 states: "In order to protect human health, the scope of this Regulation should cover flavorings, source materials for flavorings and foods containing flavorings."

It should also cover certain food ingredients with flavoring properties which are added to food for the main purpose of adding flavor and which contribute significantly to the presence in food of certain naturally occurring undesirable substances ('food ingredients with flavoring properties'), their source material and foods containing them. Further it is stated in recital 6 that "flavorings and food ingredients with flavoring properties may only be used if they fulfill the criteria laid down in this Regulation."

In recital 8 it is made clear that "due to their natural occurrence in plants, undesirable substances might be present in flavoring preparations and food ingredients with flavoring properties". Thus, appropriate levels should be established "taking into account both the need to protect human health and their unavoidable presence in food".

In other words, this draft Regulation covers not only the classical flavorings but also spices, fruit and herb teas as well as traditional food ingredients with important flavor providing properties such as e.g. malted flour, malt extracts or sourdough. Despite the fact that in article 5 (2) a so-called "active principle" has been laid down according to which "maximum levels of certain substances, naturally present in flavorings and food ingredients with flavoring properties, in the compound foods listed in Part B of Annex III shall not be exceeded as a result of the use of flavorings and food ingredients with flavoring properties in and on those foods", this does not change the scope of this regulation. The maximum levels apply to compound food in a ready-to-eat stage or after preparation according to the manufacturer's instructions.

This means that the cook decides whether the traditional food ingredients he uses in the respective ready-to-eat product exceeds any maximum levels mentioned in an Annex of the Flavoring Regulation are exceeded or not. Here again it becomes clear that this regulation is far from being practical and applicable. It seems that the prohibition of overkill as a result of the principle of free government under the law has been blatantly exceeded.

Furthermore, the draft of the new Flavoring Regulation lays down the labeling requirements for the terms "flavoring" and "natural flavoring". According to article 14, the term "natural" for the description of a flavoring may only be used if the flavoring component comprises only flavoring preparations and/or natural flavoring substances. Amongst the food industry, the question is currently being discussed in detail as to whether it is sufficient that at least 90% [by w/w] of the flavoring component has been obtained from the source material referred to (article 14 (4)) in order to allow the use of the term "natural". The term "natural-identical flavoring" has been deleted completely from the draft Regulation.

### Harmonization

Furthermore there is a proposal on a Regulation of the European Parliament and the Council on a harmonized authorization procedure for food additives, food enzymes and food flavorings. This approach is, in general, to be welcomed. However, regarding the authorization process there are some issues still under discussion, in particular the question on how to integrate the food industry into the authorization process. This confidentiality matters when handling information provided by applicants on the production processes and origin of their products and has also to be discussed on several levels.

As already mentioned, this package of legislative proposals is not final and modifications can be anticipated. It might take until the end of 2008 until the package is finally passed. +++

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