



**COUNCIL OF
THE EUROPEAN UNION**



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Council clears first hurdle on foods for vulnerable persons

The Council today agreed¹ a general approach² on a new EU regulation on foods considered essential for certain vulnerable persons such as babies and young children, pending the adoption of a first-reading position by the European Parliament ([10086/12](#)).

The proposed regulation seeks to clarify the legal framework relating to these foods by avoiding the overlap between the specific legislation applicable to such foods and the legislation applicable to normal food. It further aims at closing legal loopholes under the existing system and ensuring that the EU rules on such foods are applied in the same manner in all member states. It thereby contributes to providing legal clarity in the interests of both consumers and producers, and to preventing distortions in the internal market.³

¹ The decision was taken, without debate, at a meeting of the Transport, Telecommunications and Energy Council in Luxembourg.

² A general approach is a political agreement of the Council pending the first-reading position of the European Parliament.

³ Currently, similar foods may be marketed in different member states as food for particular nutritional uses and/or as food for normal consumption addressed to the population in general or to certain sub-groups such as pregnant women, older adults, growing children, adolescents and others. This state of affairs undermines the functioning of the internal market, creates legal uncertainty for authorities, producers and consumers and carries the risk of marketing abuse and distortion of competition.

P R E S S

The draft regulation would replace directive 2009/39/EC on foodstuffs intended for particular nutritional uses.

The Council's general approach covers the following four categories of food:

- infant formula and follow-on formula;
- processed cereal-based foods and baby foods for infants and young children;
- foods for special medical purposes;
- total daily diet foods for weight control.

The general approach empowers the Commission to adopt delegated acts to establish specific composition and information requirements for those categories of foods.

Milk-based drinks and similar products marketed as "growing up milks" are excluded from the scope of the new rules. The Commission is, however, invited to report on the desirability of special rules for these products after having consulted the European Food Safety Authority (EFSA).

In the light of the EFSA's expertise the Commission should also assess if special provisions for food intended for sportsmen might be desirable.

"Gluten-free" and "very low gluten" food statements should be covered by regulation (EU) 1169/2011 on the provision of food information to consumers. In fact, the purpose of those statements is to provide consumers with information on the absence of an element in the food. Those statements are not intended to give guarantees in terms of the overall composition of the food which, in contrast, is one of the objectives of the proposed regulation.

Once the European Parliament has adopted its position at first reading the Council will examine the European Parliament's amendments with a view to adopting its first-reading position.