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Objection to an implementing act: Specifications for titanium dioxide (E 171)

European Parliament resolution of 8 October 2020 on the draft Commission regulation amending the Annex to Regulation (EU) No 231/2012 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 as regards specifications for titanium dioxide (E 171) (D066794/04 — 2020/2795(RPS))

(2021/C 395/03)

The European Parliament,

— having regard to the draft Commission regulation amending the Annex to Regulation (EU) No 231/2012 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 as regards specifications for titanium dioxide (E 171) (D066794/04,

— having regard to Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives ([1]), and in particular Article 14 thereof,

— having regard to Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings ([2]), and in particular Article 7(5) thereof,

— having regard to the summary report delivered on 13 May 2019 by the Standing Committee on Plants, Animals, Food and Feed ([3]),

— having regard to the statement adopted by the European Food Safety Authority (EFSA) on 10 May 2019, and published on 12 June 2019 ([4]),

— having regard to Article 5a(3)(b) and Article 5a(5) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([5]),

— having regard to Rule 112(2) and (3), and (4)(c) of its Rules of Procedure,

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

A. whereas Regulation (EC) No 1333/2008 lays down rules on food additives used in foods with a view to ensuring the effective functioning of the internal market whilst ensuring a high level of protection of human health and a high level of consumer protection, including the protection of consumer interests and fair practices in food trade, taking into account, where appropriate, the protection of the environment;

B. whereas Regulation (EC) No 1331/2008 lays down a common procedure for the assessment and authorisation of food additives, inter alia, which contributes to the free movement of food within the Union and to a high level of protection of human health and to a high level of consumer protection, including the protection of consumer interests;

([1]) OJ L 354, 31.12.2008, p. 16.
([2]) OJ L 354, 31.12.2008, p. 1.
([3]) https://ec.europa.eu/food/sites/food/files/safety/docs/reg-com_toxic_20190513_sum.pdf
([4]) EFSA statement on the review of the risks related to the exposure to the food additive titanium dioxide (E 171) performed by the French Agency for Food, Environmental and Occupational Health and Safety (ANSES), *EFSA Journal 2019*;17(6):5714, https://www.efsa.europa.eu/en/efsajournal/pub/5714
([5]) OJ L 184, 17.7.1999, p. 23.

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Use of titanium dioxide (E 171) in food

C. whereas titanium dioxide (E 171) is a food additive partly made of nanoparticles and mainly found in food such as confectionery, cakes, desserts, ice-cream, biscuits, chocolate bars, bakery and pastry products; whereas its main function is to impart the white colour or opacity of products;

D. whereas titanium dioxide (E 171) is mainly used in food products which are particularly popular with children, such as chewing gum, candies, chocolates, and ice cream, which raises concerns as to the potential high exposure of this vulnerable section of the population;

Safety risk assessment

E. whereas the scientific opinion of 28 June 2016 by EFSA ([6]) on titanium dioxide (E 171) already pointed to a lack of data hindering the full risk assessment of the additive; whereas the uncertainties concerning the safety of titanium dioxide (E 171) partly result from manufacturers' failure to provide the necessary data to conduct the risk assessment;

F. whereas a significant number of recent scientific publications ([7]) have questioned the safety of titanium dioxide (E 171) and highlighted potential risks related to its consumption;

G. whereas the French Agency for Food, Environmental and Occupational Health and Safety's (ANSES's) opinion of 12 April 2019 ([8]) identified possible carcinogenic impacts of titanium dioxide (E 171), amongst other adverse effects, and concluded that scientific uncertainties concerning the safety of titanium dioxide (E 171) and data gaps remain, which means that any concerns over the potential toxicity of titanium dioxide (E 171) for consumers cannot be dispelled; whereas the Dutch Office for Risk Assessment and Research (BuRO) ([9]) has also highlighted data gaps and uncertainties;

H. whereas EFSA's latest statement on titanium dioxide (E 171) in food ([10]) refers to the ANSES opinion and also acknowledges a number of uncertainties in relation to the safety of its use;

I. whereas 19 scientists from eight countries met in February 2016 at the International Agency for Research on Cancer (IARC), in Lyon, France, to reassess the carcinogenicity of titanium dioxide (E 171) and concluded that it should be classified as possibly carcinogenic to human beings (i.e. group 2B) ([11]);

J. whereas the US National Institute for Occupational Safety and Health (NIOSH) has determined that exposure to ultrafine titanium dioxide (E 171) should be considered a potential occupational carcinogen ([12]);

([6]) Re-evaluation of titanium dioxide (E 171) as a food additive, *EFSA Journal 2016*;14(9):4545, https://www.efsa.europa.eu/en/efsajournal/pub/4545

([7]) See Avicenn's list of 'Recent academic publications on adverse effects of E171 and/or TiO_2 nanoparticles via oral exposure' available at http://veillenanos.fr/wakka.php?wiki=RisQIngestionNpTiO2/download&file=20190911AvicennE171recentpublications.pdf; Skocaj, M., Filipic, M., Petkovic, J., and Novak, S., 'Titanium dioxide in our everyday life; is it safe?', *Radiology and Oncology*, 2011 Dec; 45(4): 227–247, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3423755/; and Pinget, G., et al, 'Impact of the Food Additive Titanium Dioxide (E171) on Gut Microbiota-Host Interaction', *Frontiers in Nutrition*, 14 May 2019, https://www.frontiersin.org/articles/10.3389/fnut.2019.00057/full

([8]) Opinion of the French Agency for Food, Environmental and Occupational Health and Safety (ANSES) on the risks associated with ingestion of the food additive E171, available at https://www.anses.fr/en/system/files/ERCA2019SA0036EN.pdf

([9]) https://www.nvwa.nl/documenten/consument/eten-drinken-roken/overige-voedselveiligheid/risicobeoordelingen/advies-van-buro-over-de-mogelijke-gezondheidseffecten-van-het-voedseladditief-titaniumdioxide-e171

([10]) EFSA statement on the review of the risks related to the exposure to the food additive titanium dioxide (E 171) performed by the French Agency for Food, Environmental and Occupational Health and Safety (ANSES); *EFSA Journal 2019*; 17(6):5714, https://efsa.onlinelibrary.wiley.com/doi/10.2903/j.efsa.2019.5714

([11]) 'Carbon Black, Titanium Dioxide, and Talc', *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans*, Volume 93, https://publications.iarc.fr/Book-And-Report-Series/Iarc-Monographs-On-The-Identification-Of-Carcinogenic-Hazards-To-Humans/Carbon-Black-Titanium-Dioxide-And-Talc-2010

([12]) 'Occupational Exposure to Titanium Dioxide', *Current Intelligence Bulletin 63*, https://www.cdc.gov/niosh/docs/2011-160/pdfs/2011-160.pdf

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Risk management decisions

K. whereas, as a consequence of the ANSES opinion and the subsequent EFSA statement which could not dispel the concerns, the French Government adopted a decree preventing sales of food products containing titanium dioxide (E 171) as of 1 January 2020, as a precautionary measure to protect consumers' health;

L. whereas, despite this background the Commission, instead of proposing to phase out the use of titanium dioxide (E 171) in food products, presented a draft regulation changing the definition and specifications of this food additive, which continues to allow titanium dioxide (E 171) to be legally placed, and maintained, on the market;

M. whereas any decision not to ban titanium dioxide (E 171) from the market disadvantages companies that have chosen to apply the precautionary principle and substituted or removed titanium dioxide (E 171) from their products;

Precautionary principle and 'other factors'

N. whereas Article 191(2) of the Treaty on the Functioning of the European Union (TFEU) sets out the precautionary principle as one of the fundamental principles of the Union;

O. whereas Article 168(1) TFEU states that 'a high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities';

P. whereas more than 85 000 citizens across Europe have already signed a petition ([13]) to support the French ban on titanium dioxide (E 171) and have asked for the implementation of the precautionary principle in view of uncertainties in relation to food additives that serve no nutritional purpose and may present a risk for consumers;

Q. whereas the approval of food additives may also take into account other factors relevant to the matter under consideration, including societal, economic, traditional, ethical and environmental factors, the precautionary principle and the feasibility of controls as referred to in Regulation (EC) No 1331/2008;

Authorisation conditions and alternatives

R. whereas Article 6 of Regulation (EC) No 1333/2008 provides that a food additive may only be authorised if its use is safe, technologically justified, and if its use does not mislead, but on the contrary benefits, the consumer;

S. whereas titanium dioxide (E 171) is only used for aesthetic purposes and has no nutritional value, nor does it fulfil any beneficial technological function in food;

T. whereas there is no convincing technological need for the use of titanium dioxide (E 171), and many food manufacturers and retailers operating on the French market have successfully managed to remove titanium dioxide (E 171) from their products to comply with the French decree suspending the placing on the market of foodstuffs containing the additive ([14]); whereas some multinational companies have committed to remove titanium dioxide (E 171) from their food portfolio ([15]);

([13]) https://you.wemove.eu/campaigns/support-the-french-ban-on-potentially-harmful-food-additive-e171

([14]) At least 340 foodstuffs which used to contain titanium dioxide (E 171) have been reformulated to become 'E 171 free' in a very short period of time, according to the (non-exhaustive) Online inventory by Agir pour l'Environnement, https://infonano.agirpourlenvironnement.org/liste-verte/. Smaller producers, who might arguably face greater technological hurdles than bigger operators, have been offered support from their professional organisations to get rid of titanium dioxide (E 171) in their products, according to a 2018 press release by the French Ministry of Economy and Finance, https://www.economie.gouv.fr/files/files/directions_services/dgccrf/presse/communique/2018/CP_Nanoparticules201804.pdf

([15]) https://www.centerforfoodsafety.org/press-releases/4550/top-candy-company-mars-commits-to-phasing-out-harmful-nanoparticles-from-food-products

U. whereas most Member States have been struggling to enforce the requirement to label nanoparticles in food so far; whereas tests by consumer groups carried out in Spain, Belgium, Italy and Germany have found nanoparticles of titanium dioxide (E 171) in proportions greater than 50 %, without the additive being labelled as 'nano' ([16]), including in foodstuffs such as sweets, chewing-gums, and cakes frequently consumed by children and other vulnerable sections of the population;

1. Opposes adoption of the draft Commission regulation;

2. Considers that the draft Commission regulation is not compatible with the aim and content of Regulations (EC) No 1333/2008 and (EC) No 1331/2008;

3. Considers that continuing to allow titanium dioxide (E 171) to be placed and sold on the market as a food additive runs counter to the provisions of Article 6 of Regulation (EC) No 1333/2008 and may have adverse effects on the health of European consumers;

4. Calls on the Commission to withdraw the draft regulation;

5. Calls on the Commission to apply the precautionary principle and to remove titanium dioxide (E 171) from the Union list of permitted food additives;

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

([16]) Including Altroconsumo in Italy, OCU in Spain, Test-Achats in Belgium and UFC — Que Choisir in France.