



Committee of the Regions

NAT-V-033

104th plenary session, 28 and 29 November 2013

OPINION

Regulation on Official Controls

THE COMMITTEE OF THE REGIONS

- welcomes the fact that the Commission acknowledges the need to strengthen the instruments available to the competent authorities in the Member States for the purposes of verifying compliance with EU legislation;
- notes that the proposal gives the Commission the power to adopt delegated acts in practically all regulatory areas; rejects, in particular, the reasons given in Articles 15 to 25 and Articles 110, 132 and 133 of the proposal for authorising the adoption of delegated acts concerning specific rules for the performance of official controls; It is imperative that any rules with significant repercussions for countries' supervisory activities and budgets be explicitly included in the Regulation;
- points out that the numerous powers to adopt delegated acts reduce the possibility for the Member States to participate and regions are therefore unable to anticipate whether additional staffing and financial costs will be entailed;
- notes that the requirement to produce a report on every official control performed, and to make it available to the operator, significantly increases the burden on the competent authorities. This is unacceptable in view of the administrative burden and the resulting by no means negligible possibility of recourse to legal protection;
- in principle shares the Commission's view that the interests of small enterprises should be taken into account when calculating fees. However, the general exemption is at odds with the principles of Article 76 which are designed to ensure adequate provision of staff and financial resources. It is proposed that a provision corresponding to Article 27 (6) of Regulation (EC) No 882/2004 be included in the new cost arrangements so that the Member States can themselves determine the form and the scope of the exemptions;
- draws attention to the need to ensure an effective (appropriate) level of protection for the data and information within the systems created for implementing the rules on redundancy and unauthorised access whilst at the same time taking into account the needs and obligation of the competent authorities to notify the public about significant events in the agri-food chain.

Rapporteur:

Ewa Panasiuk, Member of the Lubelskie Regional Assembly(PL/ECR)

Reference document

COM(2013) 265 final – 2013/0140 (COD) Proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 151/2012, [...] /2013 [Office of Publications, please insert number of Regulation laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material],and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official Controls Regulation)

Opinion of the Committee of the Regions - Regulation on Official Controls

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

General comments

1. notes the Commission proposal on official controls and other official activities to ensure the application of food and feed law, and rules on animal health and welfare, plant health, plant reproductive material and plant protection products in view of the Regulation's principal objectives i.e. to ensure a high level of human health protection, and to guarantee the smooth functioning of the internal market;
2. welcomes the fact that the Commission acknowledges the need to strengthen the instruments available to the competent authorities in the Member States for the purposes of verifying compliance with EU legislation (controls, inspections and tests);

References to the Common Agricultural Policy

3. confirms that the quality of the EU's agricultural products is one of the principal factors determining the Common Agricultural Policy's added value and represents one of its main assets on the global market. Effective monitoring of compliance with the rules of food and feed law and other rules on animal health and welfare, plant health, plant reproductive material and plant protection products serves to build a stable market which is based on public confidence in these products;
4. it will only be possible to ensure competitiveness at both local and global level through constant improvements to the European agri-food market. Therefore welcomes this initiative which will serve to ensure the quality of agricultural products by means of various official controls and other official activities.
5. considers that the regulation satisfies the need to ensure the broad-based competitiveness of businesses in the food chain which are subject to official controls performed by the competent authorities;

Subsidiarity, proportionality and better law making

6. notes that the proposal gives the Commission the power to adopt delegated acts in practically all regulatory areas (see Articles 15 to 24); rejects, in particular, the reasons given in Articles 15 to 25 and Articles 110, 132 and 133 of the proposal for authorising the adoption of delegated acts concerning specific rules for the performance of official controls. It is imperative that any rules with significant repercussions for countries' supervisory activities

and budgets be explicitly included in the Regulation. In addition, the Commission is asked to clarify, in connection with the adoption of delegated acts under Article 139, how it intends to implement the procedure described in recital 81, under which it is to carry out appropriate consultations during its preparatory work, including at expert level. The Committee believes that consultation with Member State experts should be included in Article 139 itself;

7. confirms that it is useful and important to harmonise legislation on official controls to ensure a sufficient level of safety for food and feed and to ensure the free movement of goods on the internal market, to protect the internal market, free competition and consumer interests and information effectively against fraud and the influx of products which are non-compliant with European requirements and to maintain confidence in goods exported from or transported (transit) through the EU area;
8. welcomes the fact that the Regulation incorporates a series of measures on official controls in the agri-food chain, including measures against pests of plants, rules governing the production, with a view to their placement on the market, of plant reproductive material and rules on animal by-products;
9. confirms that the best way of providing effective protection for EU agri-food products is to ensure that all products sold in the EU, regardless of their origin, are subject to the same or equivalent controls in the area of hygiene and food safety and quality. Considers that in specific cases, the Regulation does not limit the right of the Member States to take action to provide a higher level of consumer protection by means of official controls;
10. welcomes the simplifications in the rules concerning: the introduction of border control posts, which are governed by a common set of rules, the introduction of a Common Health Entry Document (CHED), which replaces the current system where different documents are used in each sector subject to control, the standardisation of documents and quality assurance with regard to their authenticity, and the introduction of an EU system of supervision for European official controls and its digitalisation;
11. states that the rules currently applicable to official controls on residues of veterinary medicinal products are being replaced with rules that are based to a larger extent on risk assessments, without prejudice to the need to maintain appropriate conditions for health protection;

More stringent controls of products from third countries

12. welcomes the Commission's proposal which includes, among others, rules geared towards making controls of products from third countries more stringent in order to address the challenges arising in the food chain and the related risks for the safety of EU citizens;

13. welcomes the simplification in the rules, involving the replacement of border inspection posts (for animals and animal by-products), designated points of entry (for food and feed products of plant origin) and points of entry (for plants and plant products) by border control posts governed by a common set of rules. This approach will make it easier to protect the European market against an influx of non-compliant agri-food products;
14. welcomes the creation of mechanisms in the area of "administrative assistance", which will allow national control authorities to cooperate on the cross-border enforcement of rules in a uniform and consistent manner. Draws attention to the fact that infringements of EU rules will not only be pursued in the Member State in which the infringement was reported but also in the Member State in which the infringement took place;

Local and regional impact

15. states that the new approach to controls based on risk assessment enables swift action and decisions to be taken on the various categories of products appropriate to the current level of knowledge;
16. notes that the requirement to produce a report on every official control performed, and to make it available to the operator, significantly increases the burden on the competent authorities. This is unacceptable in view of the administrative burden and the resulting by no means negligible possibility of recourse to legal protection.

Should the Commission not withdraw this requirement, a detailed impact assessment should be undertaken to quantify the additional administrative and financial burden. On the same grounds, Article 34 of the Commission proposal should also make it clear that the second expert opinion mentioned refers to the already customary practice of taking a second/duplicate sample, with subsequent investigations by the operator, and does not aim to introduce a new procedure.

17. in principle shares the Commission's view that the interests of small enterprises should be taken into account when calculating fees. However, the general exemption, provided for in the legislative proposal, from the payment of fees for enterprises which employ fewer than ten people and whose annual turnover or annual balance sheet total is not more than EUR 2 million is at odds with the principles of Article 76 which are designed to ensure adequate provision of staff and financial resources. It is proposed that a provision corresponding to Article 27 (6) of Regulation (EC) No 882/2004 be included in the new cost arrangements so that the Member States can themselves determine the form and the scope of the exemptions;
18. Article 80 stipulates that consistently compliant operators should be granted more favourable conditions, when control fees are collected on the basis of a flat rate in accordance with Article 79(1)(a). Instead of this, a provision in accordance with Article 27(6) of Regulation

(EC) No 882/2004 should be included in the new cost arrangements, so that the Member States can themselves determine the form and scope of the exceptions, including for micro-enterprises;

19. draws attention to the need to ensure an effective (appropriate) level of protection for the data and information within the systems created for implementing the rules on redundancy and unauthorised access whilst at the same time taking into account the needs and obligation of the competent authorities to notify the public about significant events in the agri-food chain. Since in some Member States different bodies share responsibility for food chain controls, it is essential, when developing the information systems, that a single document be drawn up setting out all the different official control measures and that an integrated information management system for official controls be established and developed;
20. alongside the expansion in the scope of the existing disciplinary measures, the Committee also welcomes the introduction of minimum compliance periods for measures involving the application of incentives in the form of exemptions or reductions in official fees for operators which meet or maintain the required level of compliance with the rules of food and feed law and other rules relating to the food chain; however, the decision on mandatory fees for routine controls should be left to the Member States;
21. points out that the numerous powers to adopt delegated acts reduce the possibility for the Member States to participate and regions are therefore unable to anticipate whether additional staffing and financial costs will be entailed;

II. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

Article 1.1

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>1. This Regulation lays down rules for:</p> <p>(a) the performance of official controls and other official activities performed by the competent authorities of the Member States;</p> <p>(b) the financing of official controls;</p> <p>(c) the administrative assistance and cooperation between Member States in view of the correct application of the rules referred to in paragraph 2;</p> <p>(d) the performance of Commission controls in Member States and in third countries;</p> <p>(e) the adoption of conditions to be met by</p>	<p>1. This Regulation lays down rules for:</p> <p>(a) the performance of official controls and other official activities performed by the competent authorities of the Member States;</p> <p>(b) the financing of official controls;</p> <p>(c) the administrative assistance and cooperation between Member States in view of the correct application of the rules referred to in paragraph 2;</p> <p>(d) the performance of Commission controls in Member States and in third countries;</p> <p>(e) the adoption of conditions to be met by</p>

animals and goods entering the Union from a third country; (f) the establishment of a computerised information system to manage information and data in relation to official controls.	animals and goods entering the Union from a third country; (f) the establishment of a computerised information system to manage information and data in relation to official controls <u>including data protection mechanisms in conformity with applicable rules, namely Directive 95/46/EC, and with proposed Regulation COM(2012)11 final and proposed Directive COM(2012)10 final.</u>
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Reason

Data protection should be one of the issues requiring attention as the system is set up at EU level and one of its main functions is sharing the data on official controls performed.

Amendment 2

Article 13.2 d)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
an assessment of procedures on good manufacturing practices (GMP), good hygiene practices (GHP), good farming practices and hazard analysis critical control points (HACCP);	an assessment of procedures on good manufacturing practices (GMP), good hygiene practices (GHP), good farming practices (<u>GAP</u>), and —hazard analysis critical control points (HACCP), <u>and other comparable systems whose use is required by the rules referred to in Article 1 (2);</u>

Reason

It is essential to broaden the range of rules (systems) which could become compulsory.

Amendment 3

Article 82

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
Fees refunds and exemption for microenterprises 1. Fees provided for in Article 77 shall not directly or indirectly be refunded, unless unduly collected. 2. Enterprises employing fewer than 10 persons and whose annual turnover or annual balance sheet total does not exceed EUR 2 million shall	Fees refunds and exemption for microenterprises 1. Fees provided for in Article 77 shall not directly or indirectly be refunded, unless unduly collected. 2. Enterprises employing fewer than 10 persons and whose annual turnover or annual balance sheet total does not exceed EUR 2 million <u>may</u>

<p>be exempted from the payment of the fees provided for in Article 77. 3. The costs referred to in Articles 77, 78 and 79 shall not include those incurred for the performance of official controls on the enterprises referred to in paragraph 2.</p>	<p>shall be exempted from the payment of the fees provided for in Article 77. 3. The <u>Member States may adopt separate rules on calculating</u> costs referred to in Articles 77, 78 and 79 shall not include those incurred for the performance of official controls on the enterprises referred to in paragraph 2, <u>insofar as this is consistent with the principles of European Union competition policy as set out in Articles 101-109 of the Treaty on the Functioning of the European Union (TFEU).</u></p>
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Reason

Member States should be allowed to adopt separate rules in this area, given the significant variations in the balance between companies of different sizes in EU countries. In particular, this applies to countries with fragmented economies (large numbers of micro-enterprises).

Amendment 4

Article 131

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>The IMSOC shall: (a) allow for the computerised handling and exchange of information, data and documents necessary for the performance of official controls, resulting from the performance of official controls or the recording of the performance or outcome of official controls in all cases where the rules referred to in Article 1(2) and the delegated acts provided for in Articles 15 to 24 provide for the exchange among competent authorities, between the competent authorities and the Commission, and where appropriate with other authorities and the operators, of such information, data and documents; (b) provide a mechanism for the exchange of data and information in accordance with the provisions of Title IV; (c) provide a tool to collect and manage the reports on official controls provided by the</p>	<p>The IMSOC shall: (a) allow for the computerised handling and exchange of information, data and documents necessary for the performance of official controls, resulting from the performance of official controls or the recording of the performance or outcome of official controls in all cases where the rules referred to in Article 1(2) and the delegated acts provided for in Articles 15 to 24 provide for the exchange among competent authorities, between the competent authorities and the Commission, and where appropriate with other authorities and the operators, of such information, data and documents; (b) provide a mechanism for the exchange of data and information in accordance with the provisions of Title IV; (c) provide a tool to collect and manage the reports on official controls provided by the</p>

Member States to the Commission; (d) allow for the production, handling and transmission, including in electronic form, of the journey log referred to in Article 5(4) of Regulation (EC) No 1/2005, of the records obtained by the navigation system referred to in Article 6(9) of Regulation (EC) No 1/2005, of official certificates and of the common health entry document referred to in Article 54 of this Regulation.	Member States to the Commission; (d) allow for the production, handling and transmission, including in electronic form, of the journey log referred to in Article 5(4) of Regulation (EC) No 1/2005, of the records obtained by the navigation system referred to in Article 6(9) of Regulation (EC) No 1/2005, of official certificates and of the common health entry document referred to in Article 54 of this <u>Regulation.</u> <u>e) contain data protection mechanism in conformity with applicable rules, namely Directive 95/46/EC, and proposed Regulation COM(2012)11 final and proposed Directive COM(2012)10 final.</u>
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Reason

Data protection should be one of the issues requiring attention as the system is set up at EU level and one of its main functions is sharing the data on official controls performed.

Brussels, 29 November 2013.

The President
of the Committee of the Regions

Ramón Luis Valcárcel Siso

The Secretary-General
of the Committee of the Regions

Gerhard Stahl

III. PROCEDURE

Title	Regulation on Official Controls
References	COM(2013) 265 final
Legal basis	TFEU 307(1)
Procedural basis	Mandatory referral
Date of Council/EP referral Date of Commission letter	7 June 2013 / 6 May 2013
Date of Bureau/President's decision	24 May 2013
Commission responsible	Commission for Natural Resources (NAT)
Rapporteur	Ewa Panasiuk (PL/ECR), Member of the Lubelskie Regional Assembly
Analysis	July 2013
Discussed in commission	1 October 2013
Date adopted by commission	1 October 2013
Result of the vote in commission (majority, unanimity)	Adopted by a majority
Date adopted in plenary	29 November 2013
Previous Committee opinions	
Date of Subsidiarity Monitoring Consultation	n/a