



European Economic and Social Committee

NAT/611
Regulation on official
controls

Brussels, 16 October 2013

OPINION

of the

European Economic and Social Committee

on the

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 1151/2012, [...]/2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation)

COM(2013) 265 final – 2013/0140 (COD) and on the

Proposal for a Regulation of the European Parliament and of the Council 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, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC

COM(2013) 327 final - 2013/0169 (COD)

Rapporteur: **José María Espuny Moyano**

On 23 May 2013, and 7, 13 and 21 June 2013, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 43(2), 114, 168(4)(b) and 304 of the Treaty on the Functioning of the European Union, on the following proposals:

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 1151/2012, [...] /2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation)
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The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 1 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 133 votes to 2 with 4 abstentions.

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1. **Conclusions**

Controls

- 1.1 The EESC generally supports the proposal on official controls, which is aimed at guaranteeing a high level of human, animal and plant health and ensuring that the EU's internal market functions smoothly.
- 1.2 The EESC welcomes both the establishment of a common analysis system and the existence of reference laboratories in each Member State.

- 1.3 The EESC views the setting of control fees by each Member State using their discretion as problematic, given that they may be implemented in different ways. The Committee is therefore in favour of harmonising these fees in terms of the criteria and the methodology used to manage them, though not in terms of their actual financial amount, which will have to reflect the circumstances of each country.
- 1.4 The EESC is against financing 100% of official controls in each Member State purely on the basis of these fees, since there is a risk that the competent authorities will not give priority to making their controls more efficient.
- 1.5 As regards exemptions from payment of fees by microenterprises, the EESC highlights the risk of market distortion arising from possible differences in the way in which these fees are applied in the Member States. The risk of distortion would be reduced if the legislative proposal, or subsequent versions, were to include criteria for granting payment exemptions which were uniform across the EU and which were more precise and sufficiently broad so as to reflect the diverse reality of the sector and to take special account of SMEs and microenterprises.
- 1.6 At the same time, in such a way as to complement the above, it is necessary to recognise that some businesses have effective self-controls carried out by their own qualified staff. This may result in lower "public control fees" in these businesses, since it is possible to reduce substantially the work carried out by public officials in those enterprises. These officials will therefore be able carry out their control duties in those businesses which do not have the adequate human resources to carry out self-control measures themselves.
- 1.7 The EESC feels it is important that, for the future application of the legislation, account should be taken of the lack of uniformity in application of control measures in various Member States, especially given that differences in human and financial resources in the inspection work of each country may give rise to distortions in the controls of the respective agricultural and livestock markets, with adverse consequences for all.

Expenditure

- 1.8 The EESC generally supports the proposal on management of expenditure, which is aimed at guaranteeing a high level of safety of food and food production systems, improving the health and welfare of animals, detecting and eradicating pests and ensuring that official controls are carried out effectively.
- 1.9 The EESC is in favour of replacing the current financial provisions in multiple legal bases by one single, clear and modern financial framework which optimises the implementation and the functioning of financial management of expenditure in the field of food and feed.

- 1.10 The EESC welcomes the fact that the proposal promotes "better training for safer food" on the basis of a harmonised approach with a view to improving the way in which national and EU control systems function.
- 1.11 Regarding the establishment of a specific maximum amount and given that this amount does not allow for any upward revision because it is included in a predetermined multiannual plan, the EESC believes that the proposed regulation is unclear concerning many aspects of expenditure management. The Committee is therefore unable to say whether or not this amount is sufficient.
- 1.12 As regards access to the reserve for crises in the agricultural sector in certain circumstances, the EESC believes that clarification is required on how the Member States will be able to avail themselves of this in the event of an emergency. Furthermore, given that this reserve is granted in emergency situations relating to animal and plant health, the EESC believes that the term "crises in the agricultural sector" should be changed to "crises in the agro-industrial sector".
- 1.13 Finally, as regards survey programmes to detect the presence of pests and sanitary measures for the outermost territories of Member States, the EESC calls on the Commission to also consider potential pests from third countries which for the EU represent a substantial proportion of the supply of raw materials and processed products used by the food chain sector, and to include relevant items of expenditure under the harmonisation of plant health or production standards with these countries.

2. **Summary of the proposal on controls**

- 2.1 The Commission proposal seeks to revise the legislation on official controls to overcome shortcomings identified in its wording and in its application. It aims to put in place a robust, transparent and sustainable regulatory framework that is better 'fit for purpose'. The *ratio legis* of the proposal also covers shortcomings in the control systems of certain Member States, identified by the Food and Veterinary Office.
- 2.2 The document includes three major reviews to modernise the animal health, plant health and plant reproductive material *acquis*. It aims to modernise and integrate the system of official controls in a manner that consistently accompanies the upgrade of EU policies in these sectors.
- 2.3 As regards official controls performed on goods arriving from third countries, the provisions of the regulation currently apply together with sectoral provisions which govern respectively the imports of animals and animal origin products, those of plant and plant products, and the controls on food and feed.

- 2.4 The Commission states that the comprehensive body of legislation currently in place allows the EU to deal with emerging risks or emergency situations without causing distortions to trade but points out that the Union's system of import controls could be made more consistent by reviewing and consolidating the existing sectoral acts.
- 2.5 As regards the financing of official controls, the regulation confirms the general principle that each Member State will have to allocate adequate financial resources of its own to official controls, and also the obligation to collect, in certain areas, so-called 'control fees'.
- 2.6 The proposal maintains the obligation on Member States to designate national reference laboratories for each European Union reference laboratory designated by the Commission.
- 2.7 Finally, it will include a new provision on sanctions for non-compliance requiring Member States to ensure that financial penalties applicable to intentional infringements offset the economic advantage sought by the perpetrator of the violation.

3. **Summary of the proposal on expenditure**

- 3.1 The objective of the Commission's proposed regulation is to contribute to a higher level of health for humans, animals and plants along the food chain, a higher level of consumer protection and information and a high level of protection of the environment while favouring competitiveness and creation of jobs.
- 3.2 In order to reach these objectives, adequate financial resources are required. In order to ensure that expenditure is channelled effectively towards the right goals, specific objectives should be laid down and indicators should be set to assess the achievement of those objectives.
- 3.3 EU financing is based on grants, procurement and payments to international organisations geared towards these sectors. The regulation lays down the list of eligible measures which may benefit from EU financing as well as the eligible costs and applicable rates.
- 3.4 As stipulated in the proposal for the 2014-2020 Multiannual Financial Framework, the Commission is proposing a maximum amount of EUR 1 891 936 000 for expenditure in relation to food and feed. The proposal also suggests the creation of an emergency mechanism to respond to crisis situations.
- 3.5 As regards the final rate to be established for the reimbursement of eligible costs and given the importance of the objectives laid down in this regulation, the proposal stipulates that 100% of the eligible costs should be financed, provided that the implementation of those actions also implies incurring costs which are not eligible.

- 3.6 For national programmes on the eradication, control and monitoring of animal diseases and zoonoses, the proposed regulation stipulates that these programmes should benefit from EU funding in order to reduce the number of disease outbreaks in animals and zoonoses posing a risk to human and animal health.
- 3.7 As regards emergency measures to eradicate organisms harmful to plants or plant products (pests), the proposed regulation states that the EU must make a financial contribution to eradicating these organisms and make financing available for emergency measures to contain potential pests. In addition, it is stipulated that the EU should finance appropriate surveys to ensure the timely detection of the presence of certain pests.
- 3.8 The regulation confirms that the EU will provide financial support for official controls. In particular, EU reference laboratories will be funded in order to help them bear the costs arising from the implementation of the Commission's work programmes. A financial contribution will also be granted for the establishment and operation of databases and computerised information management systems.
- 3.9 Finally, to ensure responsible and effective use of the EU's financial resources, the regulation authorises the Commission to check that this funding is used effectively for the implementation of eligible measures.

4. **General comments**

Controls

- 4.1 The Committee welcomes the proposal and the Commission's intention to protect the single market and guarantee a uniformly high level of health protection across the EU, helping to avoid legal vacuums.
- 4.2 The EESC supports the objective of modernising and strengthening control tools and official controls, so as to increase their use and make them more effective.
- 4.3 The EESC is concerned by the fact that each Member State sets its own control fees without the establishment of a predetermined amount. This could give rise to differences between countries, making some operators less competitive than others.
- 4.4 The Committee welcomes the provisions on sampling and analysis which stipulate that analysis be carried out in official laboratories, establishing a common system for conducting counter-analysis.
- 4.5 The EESC greatly welcomes coordination between countries and between laboratories, and therefore supports the existence of a reference laboratory in each Member State.

Expenditure

- 4.6 The Committee welcomes the proposed regulation and the Commission's intention to attain a high level of safety of food and food production systems, improve the health and welfare of animals, detect and eradicate pests and ensure that official controls are implemented effectively.
- 4.7 The EESC supports the objective to set measures and eligible costs.
- 4.8 The Committee welcomes the regulation's provisions on rationalising funding rates by setting standard funding at 50% of eligible costs - a percentage which under certain conditions could rise to 75 or 100%.
- 4.9 The EESC welcomes the fact the regulation sets a minimum grant amount of EUR 50 000 with the aim of avoiding red tape.
- 4.10 The EESC welcomes the access to a funding reserve in the event of a crisis in the agro-industrial sector, as well as financial support for surveying and detecting pests.
- 4.11 Finally, as regards official controls, the EESC welcomes the possibility established in the regulation of financial support for EU reference laboratories and projects aimed at improving them.

5. Specific comments

Controls

- 5.1 The Commission proposal is excessively general when it comes to determining the amount of the fees, or the option of a model with a variable amount or based on modules (based on national or European criteria), or even with a flat rate. At operational level, the absence of a uniform administrative culture regarding the setting of fees for services in the various EU Member States may mean that in practice there is an uneven playing field among Member States, depending on whether or not they implement the fees or whether they do so according to different timetables.
- 5.2 The Commission proposal regarding the reasons for exemption from the fees may not correspond to the diverse reality of industry operators in the EU. There should be greater precision or various categories for reducing fees could even be created in order to avoid an unjustified uneven playing field among businesses based on size, which distorts the single market.

- 5.3 The proposal needs to explain and spell out in more detail the tasks to be carried out by vets and control personnel on farms.

Expenditure

- 5.4 The regulation's proposal to reduce the number of Commission decisions, as in the case of reimbursement of funding, is not considered to be sufficiently clear, since the document makes no mention of which body will carry out this action.
- 5.5 The Commission proposal stipulates that the European Union must make a financial contribution to emergency measures stemming from the outbreak and development of particular animal diseases or zoonoses, even if the proposal does not specify what the particular financial measures will be.
- 5.6 As regards emergency measures for plant health, it is important that the Commission proposal considers the possibility of making an EU financial contribution for the creation and management of survey programmes to detect the presence of pests and plant health support measures for third countries, available throughout the EU for all interested users.
- 5.7 As regards the training of public officials from the Member States, the EESC welcomes the Commission's plan, but believes that it is essential to harmonise the rules relating to the scope of this regulation in advance, so that the control systems function more effectively in practice.
- 5.8 Finally, as regards third countries, which for the European Union represent a substantial proportion of the supply of raw materials and processed products used by the food chain sector, the EESC believes that the proposal should take account of the possibility of harmonising plant health and animal health regulations with those countries.

Brussels, 16 October 2013.

The President
of the
European Economic and Social Committee

Henri Malosse
