



European Economic and Social Committee

NAT/610
Animal and plant
health package

Brussels, 10 December 2013

OPINION

of the

European Economic and Social Committee

on the

Proposal for a Regulation of the European Parliament and of the Council on Animal Health

COM(2013) 260 final – 2013/0136 (COD)

Proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material

(plant reproductive material law)

COM(2013) 262 final – 2013/0137 (COD)

Proposal for a Regulation of the European Parliament and of the Council on protective measures against pests of plants

COM(2013) 267 final – 2013/0141 (COD)

Rapporteur: Mr Krauze

On 23 May 2013, the European Parliament and, on 31 May and 7 June 2013, the Council decided to consult the European Economic and Social Committee, under Articles 43(2), 114(3), 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 Animal Health

COM(2013) 260 final -2013/0136 COD

Proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law)

COM(2013) 262 final - 2013/0137 (COD)

Proposal for a Regulation of the European Parliament and of the Council on protective measures against pests of plants

COM(2013) 267 final - 2013/0141 (COD).

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 6 November 2013:

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 146 votes to one with 2 abstentions.

*

* *

1. **Conclusions and recommendations**

1.1 The EESC welcomes and broadly supports the Commission proposal on regulations of the Parliament and the Council on animal health, plant health and the quality of plant reproductive material. It considers that the existence of consistent, transparent rules, provided they are properly implemented in all the EU's Member States, is an essential prerequisite for ensuring fair competition among all market operators in Europe.

1.2 However, the EESC recommends that some drafting changes be made to the proposal on animal health to make the text of the regulation easier to understand.

- 1.3 The EESC calls on the Commission to introduce all necessary safety measures into legislation and to provide for sufficient EU funding to stave off the dangers associated with wild animals which, migrating from third countries and crossing the EU's external land borders, could spread dangerous infectious diseases in the EU.
- 1.4 The EESC points out that EU legislative acts, particularly in the area of plant health, must be consistent with the positions the EU has adopted in the past at international level and notes that, for the time being, the Commission proposal relating to the process for establishing international plant health standards is not in line with the point of view previously expressed by the Union as regards the inclusion of invasive species in the measures on plant health.
- 1.5 The EESC welcomes the new possibility of compensation to the operators concerned for the value of destroyed plants, plant products or other objects subject to eradication or containment measures, introduced in the new plant health law.
- 1.6 The EESC expresses concern that, given the changes the Commission is proposing to make to the plant health regime, the EU risks losing its good record on plant health to an extent that may be detrimental to the export potential of its Member States and may mean producers having to spend more to combat diseases and pests.
- 1.7 The EESC is sceptical about the category of forest reproductive material being included in the draft regulation, as the Commission has not put forward convincing arguments as to the advantages that may arise for the forestry sector.

2. **General information about the legislative initiatives**

- 2.1 In each of the three areas concerned, i.e. animal health, plant health and the movement of plant reproductive material, there are all sorts of stumbling blocks at EU level. These cause difficulties for market operators, so it is very important to amend the legislation so as to reduce the administrative burden that affects producers, service providers, consumers and service users alike, and to improve the business environment.
- 2.2 With regard to animal health, there are a number of problems with the laws currently in force: the policy in this area is complicated, there is a regrettable lack of an overall strategy, and insufficient attention is paid to the prevention of disease, which should focus on the need to establish and apply stricter biosecurity rules for places where animals are kept.
- 2.3 The Commission proposal with regard to animal health places more emphasis on preventive measures, the monitoring of diseases, inspections and research, the aim being to reduce the frequency of such diseases and to reduce the impact of outbreaks when they occur; similarly, there are provisions relating to terrestrial and to aquatic animals.

- 2.4 Plant health is also crucial to the protection of biodiversity and ecosystem services. Pests from other continents are especially dangerous. When they are introduced into the EU, these alien species cause significant economic damage. If they become established in our territory, these new pests can cause non-EU countries to adopt trade restrictions, thus harming our exports.
- 2.5 With regard to plant health, the Commission proposal suggests defining the concept of quarantine pests and dividing these into categories, these criteria then being used to determine that a harmful organism is designated as a quarantine pest. The Commission is authorised to adopt, using implementing acts, lists of specific plants, plant products and other items that are subject to prohibitions and specific rules regarding their import into and circulation within the EU, as well as rules governing the introduction and movement of plants, plant products and other items into protected areas.
- 2.6 With regard to plant reproductive material, the Commission proposal seeks to complement legislation in the area of the marketing of seeds and other plant-propagating materials, taking account of the technical progress made in plant selection, the rapid development of the international market, and the need to support plant biodiversity and reduce administrative costs and burdens both for competent authorities and for market operators.

3. **Background and gist of the Commission proposal**

- 3.1 On 6 May 2013, the European Commission adopted and published for public scrutiny reviews relating to animal health, the health of plants and the quality of plant reproductive material.

Animal health

- 3.2 The legal framework on animal health currently in force in the European Union currently consists of some 50 directives and regulations and 400 pieces of secondary legislation. In 2004 the Commission undertook an assessment of legislative texts in the policy area of animal health. Following that assessment, a new animal health strategy was drawn up in 2007. In its communication dated 6 May 2013, the Commission sets out the legal framework based on that EU animal health strategy, as published in 2007.
- 3.3 The Commission proposes a simplification of the legal framework based on good governance, compliant with international standards, focusing on long-term preventive measures and establishing cooperation with all interested parties.
- 3.4 The Commission proposal suggests that provision be made for effective mechanisms for a rapid response to disease events, not least in the light of new challenges such as those that are now emerging; that clear, balanced roles be assigned to the competent authorities, the European Union institutions, the farming sector and animal owners and that the division of their respective responsibilities be defined; and that the duties of different stakeholders such

as operators, veterinarians, pet owners and animal professionals be defined, as all these matters are crucial to maintaining animal health.

- 3.5 It is important for the Commission to have the willingness to reduce disturbances in trade, to take account of the particularities of small livestock farms and micro-enterprises, and to put in place simplified procedures in order to avoid undue red tape and disproportionately high costs whilst ensuring strict application of high animal health standards.
- 3.6 It is important to reduce as far as possible the repercussions of animal diseases on animal and public health, animal welfare, the economy and society by boosting awareness of diseases, the preparatory measures for responding to them, monitoring and rapid response measures at national and EU level.
- 3.7 One of the most important aims of the Commission proposal is to ensure the proper functioning of the single market in animals and animal products whilst ensuring a high level of protection of animal and public health, and supporting the objectives of the Europe 2020 strategy.

Plant health

- 3.8 The Proposal for a Regulation of the European Parliament and of the Council on protective measures against pests of plants, which includes provisions on the identification of plant health risks arising from these organisms and the reduction of those risks to acceptable levels, was drawn up on the basis of the Commission's 2008 proposal suggesting a revision of Directive 2000/29/EC on plant health. The proposal repeals several control directives relating to the management of certain quarantine pests known to be present in the EU.
- 3.9 With regard to the import of plants, the Commission proposal establishes a new framework which brings its competences into play in the form of the adoption of implementing acts aimed at combating the risks posed by different plant species that come from non-EU countries and require precautionary measures. It contains additional conditions imposed on quarantine stations and stipulates that, for regulated plants brought into the EU in passenger luggage, there will be no more derogations. Their import via this route will therefore require a plant health certificate in future.
- 3.10 With regard to the movement of plant products within the EU, the Commission proposal divides operators into categories depending on whether or not they are professional, and establishes their responsibilities and duties arising from the rules on such movement of plants, plant products and other regulated items. Provision is made for mandatory registration of professional operators in a register that will also include those required to register under the terms of the draft regulation on plant reproductive material and will thus reduce the burden of administrative formalities.

- 3.11 The proposal includes plans for an electronic reporting system so that Member States can report quickly and uniformly that a pest has appeared on their territory; similarly, there are plans to raise public awareness, increase the number of reports, statements and other programmes, and to carry out simulations of emergency situations.

Plant reproductive material

- 3.12 In the area of plant reproductive material, the Commission has adopted a proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law), which codifies and amends the legislation on the marketing of such material. It repeals and replaces twelve Council Directives.
- 3.13 The legislation on plant reproductive material needs revising as the directives mentioned in the proposal are outdated, have been amended several times, and are inconsistent in their reasoning and their approach: they are confused and Member States regularly encounter difficulties understanding them with a view to their transposition, which results in this in turn creating distortions between market operators as they affect the conditions in which they work. Moreover, given the large number of directives governing the area, they are not very well coordinated with other legislation relating to plant health or market control.
- 3.14 The draft regulation on plant reproductive material covers seeds for agricultural varieties, propagating material for cultivated plants (vegetables, fruit trees, berry bushes and decorative plants) and forest reproductive material. Accordingly, it introduces the generic phrase "plant reproductive material" which applies both to seeds and to propagating material.
- 3.15 The only cases to which the draft regulation will not apply relate to the movement of plant reproductive material intended for testing and scientific purposes and intended for breeding (selection) purposes or for storage in a gene bank, and to material exchanged in kind between persons other than professional operators.
- 3.16 The provisions contained in the draft regulation relating to forest reproductive material specify that Member States may stipulate stricter requirements for material available to final users. In the case of such forest reproductive material, the new draft regulation imposes excessive additional administrative formalities on the authorities, which may lead to an increased administrative burden to the operators.

4. General and specific comments

Animal health

- 4.1 The EESC has reservations about the Commission's power to adopt delegated acts and implementing acts under the Lisbon Treaty. Its concerns relate in particular to sensitive issues

for Member States in that they will not be able, in the case of delegated acts, to ensure that specific national or regional circumstances are taken into account.

- 4.2 The EESC draws attention to the fact that near the EU's external land borders there is an increased danger of wild animals spreading infectious animal diseases in the Member States. However, the proposal attempts to widen the potential scope of disease control measures which can now be applied more coherently to wild animals and provides for a number of biosecurity and other preventive measures that can be taken at EU borders. In this respect, the EESC calls on the Commission to provide for all necessary safety measures and sufficient European funding to stave off this danger.
- 4.3 The range of people who are required to report their suspicions relating to an outbreak of animal disease needs to be specified. The owners of animals have a duty to monitor the health of the animals they own.
- 4.4 The EESC notes inconsistencies in the use of the terms "operator" and "animal professionals", and suggests that an explanation of these terms be given so as to specify that the right of ownership belongs to the "operator". It points out that the role attributed to "animal professionals" is not made clear anywhere in the text of the proposal.
- 4.5 The EESC calls on the European Commission to publish, as soon as possible, a structured list of animal diseases so that the measures for preventing and controlling them can be evaluated. It is important to adopt a flexible approach so that it can be updated where necessary. It should be drawn up in close cooperation with Member States and other interested parties.
- 4.6 The EESC wishes to point out that there is an inconsistency in terminology between the Regulation of the European Parliament and of the Council on the non-commercial movement of pet animals (hereinafter the "pets regulation") on the one hand, and the Commission proposal being discussed here, on the other. This needs to be put right. It is difficult to understand the legal relationship between the natural person (keeper) and the owner of the animals, although the pets regulation defines an "authorised person" as "any natural person who has authorisation in writing from the owner to carry out the non-commercial movement of the pet animal on behalf of the owner".
- 4.7 In order to avoid having to use interpretative standards, the EESC suggests that it be specified that the Commission is drawing up a delegated act on the acquisition of basic skills by operators and animal professionals.
- 4.8 With regard to health examinations for certain sectors, such as aquaculture and beekeeping, it recommends that only properly trained and accredited specialists be authorised to perform veterinary tasks.

- 4.9 The EESC calls on the Commission to ensure that the mechanisms for compensating livestock owners in the event of the spread of dangerous infectious disease are identified clearly and comprehensibly in legislation.
- 4.10 The EESC recommends including sectors like poultry in the rural development programmes for the funding of farm investments required to comply with the new rules on animal health.

Plant health

- 4.11 With regard to quarantine, the draft text on plant health contains streamlined provisions and procedures: it provides for a simplified plant health regime for sales in limited quantities. However, small quantities of infected or infested plants or plant products could have a major impact on the EU's situation in plant health terms.
- 4.12 For the purposes of defining pests, the proposal uses criteria that are not in line with the principles of the International Plant Protection Convention (hereinafter IPPC). It also uses terms and definitions that deviate substantially from the terminology and meanings used in that convention and in standards for plant health measures. These discrepancies could lead to misunderstandings with third countries and, as a result, create difficulties for exports of plants and plant products.
- 4.13 The EESC welcomes the new possibility of compensation to the operators concerned for the value of destroyed plants, plant products or other objects subject to eradication or containment measures, introduced in the new plant health law. A similar approach is already in place for animals within the EU Veterinary Fund. The compensation for the value of destroyed plants, etc. will be legally implemented after the adoption of the plant health law. It would be desirable to ensure this already from the beginning of the Multiannual Financial Framework 2014-2020, without further delay.
- 4.14 Given that the EU, along with each of its Member States, has signed the International Plant Protection Convention and the Agreement on the Application of Sanitary and Phytosanitary Measures, it may be expected that the changes made to definitions will result in the principles of that convention and the international agreement not being applied.
- 4.15 The EESC has reservations about the changes to the requirements relating to the implementation of the plant passport for plants and plant products intended for planting in protected areas, given that the proposal provides that this will no longer be a requirement for end users, as the risk of dissemination of new plants that constitute quarantine pests will be increased as a result.
- 4.16 The EESC cannot support the proposal to require operators and particularly farmers, in the event of quarantine pests being detected, to rapidly apply all plant quarantine measures necessary to remove these pests, as guaranteeing long-term plant health is a task and

economic investment for the competent authority and additional costs would weaken operators' competitiveness.

- 4.17 Whilst welcoming the Commission's approach to exports to non-EU countries and the possibility of receiving a pre-export certificate, the EESC fears that this new legislation will not resolve problems that currently exist as regards the certification of exportable goods when their country of origin is not the certifying state. Similarly, it remains concerned about the duplicate examinations and inspections to which European business will continue to be subject at their expense.

Plant reproductive material

- 4.18 According to the draft regulation under discussion, the definition of "operator" does not include private individuals. A "professional operator" is defined as any natural or legal person carrying out, as a profession, at least one of the following activities with regard to plant reproductive material: producing, breeding, maintaining, providing services, storing, or making available on the market. To make inspections easier, these professional operators are required to register.
- 4.19 The wording of the new provision relating to professional operators needs to be clarified, as it is difficult to understand its scope: specifically, does it relate only to them or does it also apply to non-professionals?
- 4.20 The draft regulation proposed by the Commission contains many other grey areas, for example regarding the way in which the provisions of that regulation are to apply to the production of forest reproductive material and the monitoring of its sale, which differ from those applicable to propagating material of agricultural crops as regards the system of classification, definitions and indeed the fundamental principles for inspection and supervision, which it would be helpful not to change. Moreover, the measures in place to produce and certify such forest reproductive material are compliant with the OECD framework.
- 4.21 The EESC cannot accept that the producer be required to cover all the costs connected with raw materials used for the production of forest reproductive material, given that such a provision is likely to reduce the interest in registering new material of high genetic quality of this type, which could have a negative impact on new plantations in the EU. Making such raw material for the production of forest reproductive material is a long term endeavour, which provides a return on investment only after several decades.

- 4.22 The EESC welcomes the fact that plant reproductive material exchanged in kind between two people other than professional operators is to be excluded from the scope of the regulation, which must be drawn up in such a way as to allow collectors or neighbours to exchange seeds or plants without having to worry that they might be breaking the law by doing so.

Brussels, 10 December 2013.

The President
of the
European Economic and Social Committee

Henri Malosse
