

Farmhouse and
Artisan
Cheese & Dairy Producers
European Network

**REGULATION (EU) 2017/625 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL, ON THE OFFICIAL CONTROLS
RELEVANT POINTS AND PROPOSALS FOR ACTING**

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June 2017

INTRODUCTION

The Hygiene Package includes two Regulations on official controls: Regulation (EC) No 854/2004¹, laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, and Regulation (EC) No 882/2004², on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.

In March 15th 2017, Regulation (EU) 2017/625³ 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 has been published. This new Regulation repeals Regulation (EC) No. 854/2004 and Regulation (EC) No. 882/2004.

The new Regulation will enter into force after 20 days from publication (April 7th 2017) and will apply from December 14th 2019.

It seems convenient for FACEnetwork to define a position on the new official controls scenario and perform immediate actions in order to protect and defend small producers.

MAIN CHARACTERISTICS AND ELEMENTS ON THE NEW OFFICIAL CONTROLS REGULATION. DISCUSSION, CONCLUSIONS AND PROPOSALS.

1. FEES AND CHARGES

Fees and charges are not new as they are also considered on Regulation (EC) No. 882/2004, Title II, Chapter VI.

For certain controls, Regulation (EU) No. 2107/625(OCR) establishes **mandatory fees or charges** (art. 79). Competent authorities should collect fees or charges to cover the costs they incur when performing official controls on certain operators and certain activities. These operators and activities include milk production.

Fees or charges are mandatory (art.79.1.) for the official controls on **milk production**. Nevertheless, this quantity may be reduced on an objective and non-discriminatory basis, taking into account the interests of operators with a low throughput; the traditional methods used for production, processing and distribution; the needs of operators located in regions subject to specific geographical constraints; and the operators' records of compliance. There is a need to **defend factors like the use traditional methods of production, low throughput and the eventual geographical location of small producers in order to reduce as much as possible the amount of money to be paid for the official controls**.

Where fees or charges are applied on the basis of the actual cost of individual official controls, operators with a good record of compliance should bear lower overall charges than the non-compliant ones, as they should be subject to less frequent official controls.

The OCR also establishes (art. 79.2.c.) mandatory fees or charges for the official controls **not originally planned**, and which:

- a) Have become necessary after the detection of a case of non-conformity by the same operator, during an official control already planned; and

- b) Are performed to assess the extent and the impact of the case of non-compliance or to verify that the non-compliance has been solved.

A fee or charge shall only be applied if an official control performed **on the basis of a complaint** leads to the confirmation of non-compliance.

The identification of non-real non conformities while carrying out planned official controls might lead, among other obstacles, to pay a charge for the subsequent official controls.

Care should be taken to avoid misidentification of non conformities.

Fees or charges can also be collected from operators to compensate the official controls performed in view of issuing an official certificate or attestation.

Finally, **other fees or charges** may be established by Member States, according to article 80. Nowadays, some Member States collect fees or charges for the planned activities of official controls, for instance, in cheese and dairy products production, and this situation might continue following the application of OCR.

The system to collect fees or charges from operators should be fully transparent and understandable. Member States shall apply **transparency** on the mandatory fees or charges according to the OCR, as well as on other fees or charges established according to article 80. This includes the method and data used to establish fees or charges; the amount of fees or charges applied to each category of operator and for each category of official controls; and the breakdown of the costs. Each competent authority shall make available to the public the information referred for each reference period and the costs to the competent authority for which a fee or charge is due.

According to art. 85.3 of OCR, Member States shall **consult relevant stakeholders** on the general methods used to calculate the fees or charges.

CONCLUSIONS AND PROPOSAL

Fees or charges are applied on milk production (**mandatory**) and on cheese and dairy production (**not mandatory but existing nowadays in some Member States and will probably continue**). Other fees or charges might be applied as a result of any complaint or for the official controls not initially planned but necessary after the detection of non conformities.

FACEnetwork and the national farmhouse and artisan cheese and dairy products associations should act to ensure transparency and might be consulted as relevant stakeholder in the dairy sector when establishing the methods to calculate the fees and charges.

Particularly interesting would be the role of FACEnetwork and the national farmhouse and artisan cheese and dairy products associations in **being vigilant on the factors that could cause fee or charge costs, or the reduction of them**, like:

- a) Low throughputs
- b) The use of traditional methods of production
- c) Small producers located in regions subject to specific geographical constraints
- d) Records of compliance
- e) Eventual identification of non-real non conformities

2. TRANSPARENCY

Regulation (EU) 2017/625 on official controls (OCR) increases **transparency** for official control activities.

Transparency is a new concept regarding official controls. Up to now, some Member States (MS) made publicly available some information on the results of the official controls carried out in specific food sectors (restaurants and other meal service establishments), by means of a “Food Hygiene Rating” , a classification into 4-5 categories depending on the results of the official controls, seen at the entrance of the establishments. Nevertheless, the rating criteria was not fully objective.

By means of transparency, the competent authorities are accountable to the operators and to the consumers for the efficiency and effectiveness of the official controls they performed

Member States **must publish, at least once per year**, relevant information about the outcome of the official controls performed, types and number of cases of non-compliance, actions taken, etc. (art. 8 and 11).

Member States are also given **the option to make publicly available** the information about the outcome of official controls regarding **individual operators**(art. 8.5 and art. 11.3). The rating process should be fair, consistent and transparent. The rating criteria must be objective, transparent and publicly available. In this case, the operator concerned are given the possibility to make comments on the information, prior to its publication, and these comments need to be reflected in the information published, or will be released together with such information.

This is of high concern because **it might influence the consumers’ purchase decision** and could cause a dramatic irreversible effect on food businesses. **For this reason, the national associations of artisan cheese and dairy producers should be given the possibility to act, before the publication of individual operators information regarding official controls.**

Any rating scheme used by MS should offer appropriate guarantees of fairness, consistency, transparency and objectiveness. The rating should be based on the outcome of several official controls, or when based on the outcome of one single official control and the findings are unfavourable, subsequent official controls should be carried out within a reasonable time.

Any information on individual operators intended to be published shall be the result of official inspectors' work. It's crucial for the **official inspectors to be specifically trained** on the cheese and dairy technology and processes in order to **avoid the identification of "non-real" non conformities**. This is of high concern in farmhouse and artisan dairies, as the traditional methods of production used are generally less understood by official inspectors, which could unfairly lead to the identification of non-real non-compliances. On the other hand, the lack of flexibility provisions granted by the competent authorities might result in more non real deficiencies identified: *“Establishments and their operations showed more deficiencies where national measures for flexibility were not available”⁴, “The mission team identified some compliance issues in different areas which could have been addressed appropriately by providing flexibility to small establishments”⁴.*

CONCLUSIONS. PROPOSAL

The OCR sets the option for MS to make **publicly available information on the outcome regarding individual operators**, which is of **high concern because of the consequences it might lead to**.

FACEnetwork and the national farmhouse and artisan cheese and dairy products associations should act both **at european and national level** in order to:

- A. Be sure that fairness, consistency, transparency and objectiveness are applied in any rating scheme intended to be applied to individual food operators.
- B. Guarantee that when publishing individual operators information regarding official controls, they are given the possibility to comment the information before its publication, and that their comments are taken into account or released together with such information. **National associations of artisan cheese and dairy producers shall demand to take part in this process, as a relevant stakeholder, before the publication of individual operators information regarding official controls.**
- C. Convince the competent authorities about the need for official inspectors to be specifically trained on the traditional production methods and processes used in farmhouse and artisan cheese and dairy producers, to avoid non-real non conformities identification.
- D. Go further on the implementation of flexibility provisions, according to the Hygiene Package.

3. TRAINING

According to DG(SANTE) 2015-7752 – MR⁵, more focused training for national control staff would contribute to greater consistency in official controls and more appropriate administrative burden for small food business operators.

All competent authorities control staff in every Member State have received training in HACCP principles, although this does not ensure that all inspectors are provided with the required knowledge necessary to deliver an appropriate level of official assessment of HACCP in all specific sectors. The Food Veterinary Office has found that the level of competence of official control staff varied significantly⁵. Stakeholders expressed high concern about the training of official inspectors for the evaluation of HACCP-based systems, including hazard analysis and flexible implementation⁵. This report, strongly affirms that inspectors undertaking official controls have to be better trained so that they can perform better and more consistent controls.

Not only inspectors should be trained on the evaluation of prerequisites and HACCP, but also on process technology in order to avoid the risk of superficial inspections, and this is an issue of particular concern in the dairy processing sector⁵.

The OCR admits that the safety and health of humans also depends on the availability to the control authorities of well trained staff possessing an appropriate knowledge of all the matters relevant for the correct application of the Union legislation. Annex II, Chapter I of OCR describes the main points for training of staff of the competent authorities.

Training should be provided both at national and european level.

At national level, the different competent authorities shall have, or have access to, a sufficient number of suitably qualified and experienced staff so that official controls can be performed

efficiently and effectively (art. 5.1.e). Staff performing official controls shall receive, for their area of competence, appropriate training enabling them to undertake their duties competently and to perform official controls and other official activities in a consistent manner (art. 5.4.a.). This staff shall keep up-to date in their area of competence and receive regular additional training as necessary (art. 5.4.b.).

Member States must provide **regular training for competent authorities' staff** performing official controls. Official controls shall be performed on the basis of a multi-annual national control plan. This plan shall contain information about the training of the staff of the competent authorities (art. 110.2.h.).

The Commission may establish rules governing official controls, including rules on the qualification and training of staff. The identification of specific training needs for official inspectors is crucial. Appropriate and dedicated training should be provided by the Commission to promote a uniform approach to official controls and other official activities by the competent authorities.

By means of implementing acts according to art. 13.6 of OCR, the Commission can organise training for the competent authorities that shall include, among others, training on production, processing and marketing methods and techniques (art. 130.1, and 130.2.c). Competent authorities shall ensure that the knowledge acquired through these training activities is disseminated as necessary and appropriately used.

CONCLUSIONS. PROPOSAL

Appropriate training of official inspectors is considered a major point for improvement in the OCR.

Training on technology processes is needed for official inspectors to avoid superficial controls. This is an issue of high concern in the dairy processing sector.

Official inspectors must be suitably qualified to perform efficient and effective official controls. Both the Commission and the competent authorities at national level have the responsibility to provide an appropriate training for official inspectors.

FACEnetwork and the national **farmhouse and artisan cheese and dairy products associations should act both at european and national level** in order to:

- A. Identify those cases where the **lack of appropriate knowledge in official inspectors on dairy technology and artisan dairy methods of production, is a recurrent issue that may affect the normal development of farmhouse and artisan cheese and dairy producers.**
- B. Work together with national competent authorities in the design and content of the **multi-annual national control plan** which shall contain, according to art. 110.2.h., of OCR, information about the training of the staff of the competent authorities .
- C. **Participate, as a relevant stakeholder, in different working and advisory groups at the european level, to suggest, propose and discuss those implementing acts or draft rules,** according to art. 130.6 of OCR, regarding training of official inspectors.

4. OFFICIAL CONTROLS ON RAW MILK AND DAIRY PRODUCTS

According to Regulation (EC) No. 854/2004, official controls on the production of raw milk are necessary to check for the compliance with criteria and targets laid down in Community legislation.

Official controls shall take place following Annex IV of this Regulation in order to verify, among others:

- a) The health requirements for raw milk production
- b) The health status of the milking animals
- c) The use of veterinary medicinal products
- d) Hygiene requirements in milk production holdings
- e) The checks carried out in accordance with Annex III, Section IX, Chapter I, part III to Regulation (EC) No. 853/2004⁶ (plate count and somatic cell count)
- f) That raw milk that does not meet the criteria regarding plate count and/or somatic cell count is subjected to requirements concerning its treatment and use, necessary to protect the public health.
- g) The compliance of requirements concerning dairy and colostrum-based products according to Regulation (EC) No. 853/2004, Annex III, Section IX, Chapter II.
- h) The compliance of requirements regarding wrapping and packaging set down in Regulation (EC) No. 853/2004, Annex III, Section IX, Chapter III
- i) Labelling requirements, according to Regulation (EC) No. 853/2004, Annex III, Section IX, Chapter IV.
- j) The use of the identification mark according to Regulation (EC) No. 853/2004, Annex III, Section IX, Chapter V.
- k) General hygiene requirements laid down in Regulation (EC) No. 852/2004⁷.

Regulation (UE) No. 2017/625 repeals Regulation (EC) No. 854/2004, with effect from 14 December 2019. Nevertheless, OCR establishes (art. 18.1) that official controls performed to verify compliance with the rules of OCR in relation to products of animal origin intended for human consumption shall include the verification of compliance with the requirements laid down in Regulations (EC) No 852/2004 and 853/2004.

According to OCR, art. 18.8.a., **The Commission** shall, by means of **implementing acts**, lay down rules on uniform practical arrangements for the performance of the official controls regarding **specific requirements for the performance of official controls and the uniform minimum frequency of those official controls**, having regard to the specific hazards and risks which exist in relation to each product of animal origin and the different processes it undergoes, where a minimum level of official controls is necessary to respond to recognised uniform hazards and risks which might be posed by products of animal origin. **The OCR admits that specific requirements are needed for the performance of official controls and the uniform minimum frequency for those official controls on raw milk and milk products** (art. 18.8.f).

All things considered, it's known that **The Commission (DG(SANTE)) is working** on a draft document regarding official controls on raw milk and milk products. That paper should be approved before OCR will apply (December 14th 2019).

CONCLUSIONS. PROPOSAL

The current framework for official controls in raw milk and milk products is going to be deleted before the end of 2019. However, DG (SANTE) is working on a new regulation to be applied instead.

FACEnetwork is a major actor implied in the interests of small milk and dairy producers. **Qualified members of FACEnetwork should be present in working groups, civil dialogue groups and other similar participation groups at the european level to propose, discuss with solid arguments and defend a more rational and professional framework for official controls in the dairy sector.**

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