

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 4 February 1998

laying down certain detailed rules concerning on-the-spot checks carried out in the veterinary field by Commission experts in the Member States

(Text with EEA relevance)

(98/139/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat⁽¹⁾, as last amended by Directive 95/23/EC⁽²⁾, and in particular Article 12 thereof, and to the corresponding provisions of the other Directives and Decisions in the veterinary field, especially those concerning health problems affecting intra-Community trade in products of animal origin, laying down the animal health requirements applicable to intra-Community trade in live animals and in products of animal origin, concerning the examination of animals and fresh meat for the presence of residues, introducing measures for the control or the eradication of certain diseases, setting up standards for the animal welfare, introducing financial measures for the eradication of certain diseases and concerning expenditure in the veterinary field,

Whereas the Commission should adopt the general implementing rules establishing the conditions under which the on-the-spot checks referred to in the Direct-

ives and Decisions concerned must take place, in collaboration with the Member States concerned;

Whereas, in the framework of the on-the-spot checks provided for in Article 12 of Directive 64/433/EEC and in Article 10 of Council Directive 71/118/EEC of 15 February 1971 on health problems affecting the production and placing on the market of fresh poultrymeat⁽³⁾, as last amended by Directive 96/23/EC⁽⁴⁾, the Commission may, without warning, verify the application of the provisions of Council Directive 85/73/EEC of 29 January 1985 on the financing of veterinary inspections and controls covered by Directives 89/662/EEC, 90/425/EEC, 90/675/EEC and 91/496/EEC⁽⁵⁾, as last amended by Directive 96/43/EC⁽⁶⁾;

Whereas, where this is necessary to ensure the uniform application of the Community legislation, the on-the-spot checks should be included in programmes established after discussion with the Member States concerned and an exchange of views in the Standing Veterinary Committee;

Whereas that collaboration should continue during the on-the-spot checks and in addition it should be possible for Commission experts to be accompanied by experts appointed by the Commission who are subject to certain obligations and have their travel and subsistence costs reimbursed;

⁽¹⁾ OJ L 121, 29. 7. 1964, p. 2012/64.

⁽²⁾ OJ L 243, 11. 10. 1995, p. 7.

⁽³⁾ OJ L 55, 8. 3. 1971, p. 23.

⁽⁴⁾ OJ L 125, 23. 5. 1996, p. 10.

⁽⁵⁾ OJ L 32, 5. 2. 1985, p. 14.

⁽⁶⁾ OJ L 162, 1. 7. 1996, p. 1.

Whereas, in the interests of efficiency, deadlines should be established for the despatch by the Commission of the results of on-the-spot checks to the Member States in which the checks were undertaken, and for the receipt of comments from those Member States;

Whereas it is necessary to ensure that the results of on-the-spot checks are taken into account by the Member States concerned;

Whereas, in the interests of transparency, the European Parliament, the consumer and the producer should be kept informed, within the limits of the Treaty and in particular the need to respect the obligation of professional secrecy laid down by Article 214 of the Treaty, of the findings of, and recommendations for action following from, the on-the-spot checks;

Whereas provision should also be made for a rapid procedure enabling Community Decisions to be adopted, where necessary, particularly in cases where on-the-spot checks have revealed a serious health risk or where it is found that measures acknowledged as indispensable after the checks have not been taken;

Whereas, in the interests of clarity, Commission Decision 96/345/EC⁽¹⁾ should be repealed;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

1. This Decision lays down certain rules relating to the on-the-spot checks carried out in the veterinary field in Member States by Commission experts.

For the purposes of this Decision, 'on-the-spot checks in the veterinary field' (hereinafter referred to as 'checks') means auditing actions necessary to ensure that the provisions of Community legislation are complied with in a uniform manner.

2. The provisions of this Decision shall apply without prejudice to the provisions of any agreements on sanitary measures applicable to trade in live animals and animal products reached between the European Community and third countries.

Article 2

The checks shall be performed in each Member State. The Commission shall establish a general programme of checks for the legislation concerned and submit it for an exchange of views in the Standing Veterinary Committee.

The general programme shall include information on all actions to be undertaken by the Commission in the context of the checks.

⁽¹⁾ OJ L 133, 4. 6. 1996, p. 29.

Article 3

1. The programmes of checks shall be organised and carried out in collaboration with the Member State concerned which shall appoint one or several experts for that purpose.

2. The Commission may defer or bring forward certain checks or carry out additional checks when it regards that as necessary in particular for health reasons, animal welfare reasons or on the basis of the results of previous checks, after discussion with the Member State concerned.

3. In every case, the Commission shall give notice to the Member State concerned of at least ten working days before the beginning of the programme of checks.

Article 4

1. In addition to experts from the Member State inspected, the Commission's experts may be accompanied during the checks by one or more experts, listed in accordance with paragraph 2, from one or more other Member States.

When checks are organised, the participation of an expert from another Member State may be refused by the Member State where those checks are to be carried out. This opportunity may only be used once.

2. Each Member State shall propose to the Commission at least two experts with specific expertise in designated areas of competence, and shall communicate to it their names, their fields of expertise, their exact official addresses, fax and telephone numbers.

The Commission shall maintain a list of those experts and shall consult the competent authority of the Member State of the expert before issuing an invitation to the expert to accompany the Commission's experts during the checks referred to in paragraph 1.

Where a Member State considers that one of the experts proposed by it should no longer be included in the list, it shall so inform the Commission. If the number of experts would thereby fall below the minimum required, the Member State shall propose one or more replacements to the Commission.

Article 5

1. During the checks, the Member State expert or experts appointed by the Commission shall comply with the Commission's administrative rules.

2. Information acquired or conclusions reached by the Member State expert or experts during the course of checks may on no account be used for personal purposes or divulged to persons who are not part of the competent departments of the Commission or the Member States.

3. The travel and subsistence costs incurred by the Member State expert or experts appointed by the Commission shall be reimbursed in accordance with its rules governing travel and subsistence costs incurred by persons who are not officials of the Commission and who are called on to perform the tasks of an expert.

Article 6

1. A Member State in whose territory checks are carried out in accordance with this Decision shall provide the experts of the Commission and the experts appointed by the Commission with the assistance they require in order to perform their tasks. In particular, access on the same basis as officials of the competent authority shall be given to all concerned persons, information and documentation as well as access to places, establishments, installations and means of transport in order for the checks to be carried out.

2. During the checks, the experts shall comply with the administrative rules which officials of the competent authorities of the Member State referred to in paragraph 1 must follow, without prejudice to the provisions of Article 5(1).

Article 7

1. Once the checks are concluded, the Commission's experts shall inform the Member State concerned orally of their conclusions and, where necessary, of the corrective measures they deem necessary and their degree of urgency.

The Commission shall confirm the results of the checks within 20 working days in a written report, subject to the receipt of any additional information requested during the checks but not available at that time.

The Member State shall give its comments within 25 working days of the receipt of the written report from the Commission.

However, in the event of an emergency, or where a significant risk to health or animal welfare has been identified during the on-the-spot check, the Member State shall be informed of the findings of the mission in a written report as quickly as possible and in any case within ten working days of the end of the mission. The Member State shall also give its comments as quickly as possible and in any case within ten working days of the receipt of the written report from the Commission.

In providing information on the findings of missions, the Commission shall in particular comply with the requirements laid down in Article 214 of the Treaty.

These provisions are without prejudice to the powers of the Commission to take interim protection measures

under the provisions of Community legislation in the veterinary field.

2. The Member State shall take the corrective measures to take account of the results of the checks carried out.

3. If, during checks, the Commission experts discover significant instances of non-compliance with Community legislation in a Member State or in one or more regions of that Member State, the latter must, at the request of the Commission, thoroughly investigate the general situation in the area concerned. If appropriate, the Member State, after consultation with the Commission, may restrict the investigation to the region(s) concerned by the programme of checks; it shall notify the Commission within the time set by the latter of the results of the checks and of the measures taken to remedy the situation.

4. If, after the checks, appropriate corrective measures are not taken by the Member State concerned within the prescribed period, in particular where the checks have revealed a serious public-health or animal-health or animal-welfare risk, the Commission shall, in accordance with the procedure laid down in Article 17 of Council Directive 89/662/EEC⁽¹⁾, take all the measures which it deems necessary.

Article 8

1. The Commission shall regularly notify by written reports all Member States, in the Standing Veterinary Committee, of the findings of, and recommendations for action following from, the on-the-spot checks carried out in each Member State.

The Commission shall inform the European Parliament of those findings and recommendations.

The Commission shall also make those findings and recommendations publicly available on a regular basis.

2. In undertaking the actions provided for in this Article, the Commission and the Member States shall in particular comply with the requirements laid down in Article 214 of the Treaty.

Article 9

The provisions of this Decision shall be re-examined before 31 December 1998 on the basis of a report by the Commission to the Member States.

Article 10

Decision 96/345/EC is hereby repealed.

⁽¹⁾ OJ L 395, 30. 12. 1989, p. 13.

Article 11

This Decision is addressed to the Member States.

Done at Brussels, 4 February 1998.

For the Commission
Emma BONINO
Member of the Commission
