

COMMISSION IMPLEMENTING DECISION (EU) 2015/1918**of 22 October 2015****establishing the Administrative Assistance and Cooperation system ('AAC system') pursuant to Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules***(notified under document C(2015) 7132)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules ⁽¹⁾, and in particular the second subparagraph of Article 63(1) thereof,

Whereas:

- (1) Regulation (EC) No 882/2004 establishes a harmonised framework for the organisation of official controls to verify compliance with food law and feed law and animal health and animal welfare rules laid down in Union legislation. Title IV thereof lays down the rules for administrative assistance and cooperation between competent authorities in the Member States in order to ensure the application of food and feed law.
- (2) In particular, Regulation (EC) No 882/2004 requires Member States to provide each other with administrative assistance, to cooperate and to exchange information in order to ensure that cross-border instances of non-compliance are effectively pursued.
- (3) In addition, Regulation (EC) No 882/2004 provides for the administrative assistance and cooperation obligations of Member States to be complemented by the obligation for the Commission to coordinate the action undertaken by Member States where instances of non-compliance are widespread or recurrent, or where Member States fail to agree on how to address non-compliance.
- (4) To fulfil the obligations laid down in Regulation (EC) No 882/2004, the competent authorities in each Member State are required to exchange information that is necessary to enable the verification of compliance with food and feed law with their counterparts in other Member States, and in certain cases, with the Commission, where the results of official controls require action in more than one Member State.
- (5) For the exchange of information to be conducted as efficiently as possible, an IT system should be set up, namely, the Administrative Assistance and Cooperation system ('AAC system'), to provide the liaison bodies, designated in each Member State in accordance with Article 35 of Regulation (EC) No 882/2004, with the necessary tools to facilitate the practical implementation of the exchange of information required by that Regulation. The AAC system should offer a streamlined method of communication and a structured format for the exchange of information.
- (6) For the development, use and maintenance of the AAC system, the Information Technology (IT) rationalisation policy principles of the Commission apply, which means the reuse of existing systems, in this case, where possible, the reuse of existing data exchange systems, in order to provide the most efficient solution possible and avoid unnecessary duplication of IT systems.
- (7) Access to the AAC System should only be granted to the liaison bodies designated in each Member State in accordance with Regulation (EC) No 882/2004 and to Commission nominated staff. Member States should be able to indicate, among the designated liaison bodies, certain liaison bodies that have been specifically designated to utilise the AAC system in relation to instances of a possible non-compliance perpetrated through deceptive fraudulent practices.

⁽¹⁾ OJ L 165, 30.4.2004, p. 1.

- (8) In order to provide further technical support and facilitate the preparation of administrative assistance and cooperation procedures, upon request of a liaison body, competent authorities at central or regional level, within a Member State, may be given access to a number of technical functionalities of the AAC system. Such access may be given only to the functionalities necessary to enable the exchange of information, relating to requests for assistance or notification of non-compliance, between those authorities and the liaison body that deals with that request or notification.
- (9) In certain cases, information concerning non-compliance with food or feed law is disseminated by and among the competent authorities in the Member States through the Rapid Alert System for Food and Feed (RASFF), established in accordance with Regulation (EC) No 178/2002 of the European Parliament and of the Council ⁽¹⁾, and through the Trade Control and Expert System (TRACES), established by Commission Decision 2004/292/EC ⁽²⁾. In order to avoid unnecessary duplication, that information should be made available through the AAC system to the liaison bodies designated in accordance with Regulation (EC) No 882/2004, so that the Member State notifying that information to the RASFF or TRACES is not required to upload the same information onto the AAC system for the purposes of administrative assistance and cooperation. Accordingly, the RASFF and TRACES applications should be enabled to provide data to the AAC system in order to streamline the process.
- (10) Information exchanged concerning administrative assistance and cooperation pursuant to Regulation (EC) No 882/2004 may include the results of official controls performed on business operators and on premises and goods under their control, and information which permits the identification of such operators, premises or goods. Access to such information should be restricted to those officials who, given their function within the competent authorities, need the information for the purpose of verifying compliance with, or otherwise enforcing, food or feed law.
- (11) The AAC System should permit the closure of an administrative assistance and cooperation procedure by the liaison body that sent a request for assistance or a notification regarding a possible or established cross-border instance of non-compliance, once the assistance or feedback to the notification has been provided by the liaison body that received the request or notification. Arrangements should be put in place to avoid procedures becoming dormant or remaining open unnecessarily and should allow the system to automatically close a procedure where no activity or exchange of information has taken place over a period of 6 months.
- (12) This Decision respects the fundamental rights and observes the principles which are recognised by the Charter of Fundamental Rights of the European Union. In particular, this Decision seeks to ensure full respect for the right to protection of personal data.
- (13) Where the exchange of information provided for in Regulation (EC) No 882/2004 and in this Decision involves the processing of personal data, a careful assessment should be carried out to ensure that the processing is strictly necessary to achieve the purposes of efficient administrative assistance and cooperation, and that such processing is in accordance with the national provisions implementing Directive 95/46/EC of the European Parliament and of the Council ⁽³⁾ and with Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽⁴⁾. Where exemptions and restrictions of certain rights of the data subjects and obligations of the data controller laid down by Directive 95/46/EC and Regulation (EC) No 45/2001 are considered in order to safeguard the interests referred to in Article 13(1)(d) and (f) of Directive 95/46/EC and in Article 20(1)(a) and (e) of Regulation (EC) No 45/2001, those exemptions and restrictions may only be adopted if they are necessary and proportionate to the objective pursued. Restrictions to the rights of data subjects should constitute a necessary measure to prevent interference with the official control tasks of the competent authorities and with the assessment of compliance with food law or feed law. In particular, rights of the data subjects may be restricted, in accordance with Directive 95/46/EC and Regulation (EC) No 45/2001, during the period in which actions are carried out for the purpose of sighting or discrete surveillance, where granting them would jeopardise or undermine the purpose of official controls or investigations. In order to guarantee a high level of data protection, it is appropriate to establish a maximum timeframe to ensure that personal data do not remain in the AAC system longer than it is necessary to achieve compliance with the rules laid down in Title IV of Regulation (EC) No 882/2004. In particular, a retention period of 5 years, starting from the closure of the administrative

⁽¹⁾ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

⁽²⁾ Commission Decision 2004/292/EC of 30 March 2004 on the introduction of the Traces system and amending Decision 92/486/EEC (OJ L 94, 31.3.2004, p. 63).

⁽³⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽⁴⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

assistance and cooperation procedure, should be established, after which time personal data should be removed from the AAC system. The length of the retention period is necessary to give the possibility to the liaison bodies and the Commission to consult the information over a sufficient period of time after the administrative assistance and cooperation procedure has been closed, in order to ascertain the timely identification of reoccurring, connected or widespread non-compliance with food or feed law.

- (14) It is appropriate to lay down rules concerning the rectification of information exchanged through the AAC system in order to ensure that the information stored in that system is accurate. It is also appropriate to lay down minimum requirements for data security to prevent any unauthorised access or use of them.
- (15) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

SECTION I

GENERAL PROVISIONS

Article 1

Subject matter

This Decision lays down the rules concerning the establishment and use of the Administrative Assistance and Cooperation system (the 'AAC system') to support the exchange of information between the competent authorities of the Member States, and between those competent authorities and the Commission, in accordance with Title IV of Regulation (EC) No 882/2004.

Article 2

Definitions

For the purpose of this Decision, the following definitions shall apply:

- (1) 'administrative assistance and cooperation procedure' means an established workflow provided for in the AAC system which permits liaison bodies and the Commission to exchange information concerning possible instances of non-compliance in accordance with Articles 36, 37 and 38 of Regulation (EC) No 882/2004;
- (2) 'closure of an administrative assistance and cooperation procedure' means applying the technical facility provided by the AAC system to close an administrative assistance and cooperation procedure;
- (3) 'withdrawal of an administrative assistance and cooperation procedure' means withdrawing from the AAC system an administrative assistance and cooperation procedure which was erroneously uploaded onto it.

SECTION II

FUNCTIONING OF THE AAC SYSTEM

Article 3

Establishment and management of the AAC system

- 1. The Commission shall establish, manage and update, as necessary, the AAC system.
- 2. The Commission shall give access to the AAC system to the liaison bodies designated by each Member State in accordance with Article 35(1) of Regulation (EC) No 882/2004 ('the liaison bodies').

3. Upon request of one of the liaison bodies referred to in paragraph 2, the Commission shall give access to the AAC system to designated staff belonging to competent authorities at central or regional level within the same Member State. Such access shall be limited to the technical functionalities of the AAC system required to exchange information between those competent authorities and the liaison body that requested the access, in relation to the preparation of administrative assistance and cooperation procedures handled by the liaison body.

4. The Commission shall ensure that the Rapid Alert System for Food and Feed (RASFF) established in accordance with Article 50 of Regulation (EC) No 178/2002 and the Trade Control Expert System (TRACES) established in accordance with Article 2 of Decision 2004/292/EC are able to provide the necessary information to the AAC system and thereby to the liaison bodies.

Article 4

Liaison bodies responsible for the exchange of information concerning a possible non-compliance perpetrated through deceptive fraudulent practices

Member States shall specifically indicate which of the liaison bodies referred to in Article 3, paragraph 2 are designated for the purpose of exchanging information regarding possible non-compliances perpetrated through deceptive fraudulent practices.

Article 5

Responsibilities of the liaison bodies in relation to the AAC system

1. The liaison bodies shall be responsible for:

- (a) ensuring that their staff comply with the rules on confidentiality provided for in Article 7(2) and (3) of Regulation (EC) No 882/2004;
- (b) uploading onto the AAC system requests for assistance in accordance with Article 36 of Regulation (EC) No 882/2004 ('requests for assistance'), notifications of a non-compliance in accordance with Articles 37 and 38 of that Regulation ('notifications of non-compliance') and the responses to such requests for assistance or notifications of non-compliance, as appropriate;
- (c) ensuring that the information that must be provided to a liaison body in another Member State, in accordance with Articles 36, 37 and 38 of Regulation (EC) No 882/2004, is uploaded without undue delay on the AAC system;
- (d) taking every reasonable step to ensure that the information uploaded to the AAC system is accurate and, where necessary, is rectified and kept up-to-date;
- (e) withdrawing from the AAC system, no later than 30 days from the upload date, any information erroneously uploaded onto it or no longer necessary to initiate the administrative assistance and cooperation procedure.

2. Requirements in paragraph 1(a), (d) and (e) shall also apply to staff of the competent authorities at central or regional level referred to in Article 3(3). If a liaison body has evidence to suggest that an item of information is inaccurate or was erroneously included in the AAC system, it shall inform the liaison body which included that item in the AAC system as soon as possible.

Article 6

Closure of the administrative assistance and cooperation procedure

1. The administrative assistance and cooperation procedure shall be closed by the liaison body that uploaded the request for assistance or the notification of non-compliance in accordance with Article 5(1)(b) following receipt of an appropriate response to such request for assistance or notification of non-compliance, from the receiving liaison body.

2. If, after a period of 6 months from the date on which the request for assistance or notification of non-compliance was uploaded onto the AAC system as provided for in Article 5(1)(b), the administrative assistance and cooperation procedure has not been closed, the AAC system shall ask the requesting liaison body or notifying liaison body to confirm that the administrative assistance and cooperation procedure is still ongoing.

The requesting liaison body or notifying liaison body shall, within 15 working days either confirm that the administrative assistance and cooperation procedure is still ongoing or close the procedure if it is no longer necessary. If no confirmation is given or the procedure is not closed by the liaison body, the AAC system shall close the procedure automatically.

3. Where confirmation is received in accordance with paragraph 2 that the administrative assistance and cooperation procedure is still ongoing, it shall remain open in the AAC system.

Starting from the date of such confirmation any period of 6 months of no exchange of information shall result in the automatic closure of the administrative assistance and cooperation procedure.

Article 7

Responsibilities of the Commission in relation to the AAC system

The Commission shall:

- (a) ensure the development, maintenance, support and any necessary update of the software and IT infrastructure for the AAC system;
- (b) monitor the exchange of information through the AAC system for the purpose of identifying activities that are, or appear to be, contrary to food or feed law and are of particular interest at Union level, as provided for in Article 40(1) of Regulation (EC) No 882/2004;
- (c) analyse the information exchanged through the AAC system for the purpose of its coordination tasks, as provided for in Article 40(1) of Regulation (EC) No 882/2004, and in view of producing reports to facilitate the implementation of that Regulation;
- (d) provide the necessary formats and guidance for the use of the AAC system.

Article 8

Exchange of information through the AAC system

1. Information shall be exchanged through the AAC system by using the format made available by the Commission in accordance with point (d) of Article 7.

2. In relation to each instance, the information exchanged through the AAC system shall at least include:

- (a) contact details of the competent authorities and officials dealing with the instance;
- (b) a description of the possible non-compliance;
- (c) the identification, where possible, of the business operators associated with it;
- (d) details of animals or goods associated with a possible instance of non-compliance with food or feed law;
- (e) an indication of whether the information is exchanged for the purpose of:
 - (i) formulating a request for assistance or replying to one; or
 - (ii) introducing a notification of non-compliance or responding to one;
- (f) an indication of the liaison body to which the request for assistance or notification of non-compliance is addressed;
- (g) an indication of whether the request for assistance or the notification of non-compliance relates to a possible instance of a non-compliance perpetrated through deceptive fraudulent practices and whether access to it is to be limited to the liaison bodies referred to in Article 4.

SECTION III

PROCESSING OF PERSONAL DATA AND SECURITY*Article 9***Purpose limitation**

1. The liaison bodies and the Commission shall exchange and process personal data through the AAC System only for the purposes of implementing the requirements on administrative assistance and cooperation laid down in Title IV of Regulation (EC) No 882/2004.
2. In no instance shall personal information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership and information concerning the health or sex life of an individual be included in the data exchange.

*Article 10***Data protection**

1. Directive 95/46/EC and Regulation (EC) No 45/2001 shall apply to the extent that the information exchanged through the AAC system contains personal data as defined in Article 2(a) of Directive 95/46/EC and in Article 2(a) of Regulation (EC) No 45/2001.
2. In relation to their responsibilities to transmit the relevant information to the AAC system and the processing of any personal data that might result from that activity as well as from the exchanges referred to in Article 3(3), the competent authorities and the liaison bodies of the Member States shall be regarded as controllers, as defined in Article 2(d) of Directive 95/46/EC.
3. In relation to the responsibility to manage the AAC system, for the processing of any personal data that might result from Article 5 of this Decision, the Commission shall be regarded as controller as defined in Article 2(d) of Regulation (EC) No 45/2001.
4. Member States may restrict the rights and obligations under Article 6(1), Article 10, Article 11(1) and Article 12 of Directive 95/46/EC as necessary to safeguard the interest referred to in Article 13(1)(d) and (f) of that Directive.
5. The Commission may restrict the rights and obligations under Article 4(1), Article 11, Article 12(1), and Articles 13 to 17 of Regulation (EC) No 45/2001 where such restriction constitutes a necessary measure to safeguard the interests referred to in Article 20(1)(a) and (e) thereof during the period in which actions are being planned or performed to verify compliance with food or feed law or to ensure the enforcement of food or feed law in the specific case to which the information relates.

*Article 11***Retention of personal data**

The Commission shall remove the personal data processed in the AAC system as soon as they are no longer necessary for the purpose for which they were collected and processed and, as a general rule, no later than 5 years after the closure of the administrative assistance and cooperation procedure.

*Article 12***Data security**

The Commission and Member States shall ensure that the AAC system complies with the rules on data security adopted pursuant to Article 22 of Regulation (EC) No 45/2001 and to Article 17 of Directive 95/46/EC respectively.

*Article 13***Date of application**

This Decision shall apply from the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 14***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 22 October 2015.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission
