RECOMMENDATIONS

COMMISSION RECOMMENDATION

of 27 March 2014

on a second coordinated control plan with a view to establishing the prevalence of fraudulent practices in the marketing of certain foods

(Text with EEA relevance)

(2014/180/EU)

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 Article 53 thereof,

Whereas:

(1) Article 53 of Regulation (EC) No 882/2004 empowers the Commission to recommend coordinated control plans where considered necessary, organised on an ad hoc basis, in particular with a view to establishing the prevalence of hazards in feed, food and animals.

(2) Directive 2000/13/EC of the European Parliament and of the Council [2] sets out Union rules on food labelling applicable to all foods.

(3) According to Directive 2000/13/EC, the labelling and methods used should not mislead the consumer, particularly as to the characteristics of the food, including its true nature and its identity. Furthermore, in the absence of specific Union or national rules, the name under which a food is sold should be the name customary in the Member State in which it is sold, or a description of the food which is clear enough to let the purchaser know its true nature.

(4) All ingredients must be mentioned on the label of pre-packaged foodstuffs intended for the final consumer or mass caterers. In particular, foods containing meat as an ingredient, when intended for the final consumer or mass caterers, must also indicate the animal species from which the meat originates directly on the package or on a label attached thereto. If an ingredient is mentioned in the name of the food, its quantity expressed as a percentage must also be provided in the list of ingredients in order to avoid the consumer being misled as regards the identity and the composition of the food.

(5) Regulation (EC) No 853/2004 of the European Parliament and of the Council [3] provides for additional labelling requirements applicable to specific foods of animal origin. In particular, it provides that packages intended for supply to the final consumer containing minced meat, amongst others, from solipeds are to bear a notice indicating that such products should be cooked before consumption, if, and to the extent that, national rules in the Member State in the territory of which the product is placed on the market so require.

(6) Following official controls carried out since December 2012 in a number of Member States, the Commission was informed that certain pre-packaged products contained horse meat which was not declared in the list of ingredients appearing directly on the package or on a label attached thereto. Instead, the name of certain such foods and/or the accompanying list of ingredients misleadingly referred solely to the presence of beef.

(7) In accordance with Article 17 of Regulation (EC) No 178/2002 of the European Parliament and the Council [4], food business operators at all stages of production, processing and distribution within the businesses under their control must ensure that foods satisfy the requirements of food law which are relevant to their activities and must verify that such requirements are met.

[1] OJ L 165, 30.4.2004, p. 1.

[2] Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (OJ L 109, 6.5.2000, p. 29).

[3] Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

[4] Regulation (EC) No 178/2002 of the European Parliament and 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).

(8) Commission Recommendation 2013/99/EU [1] recommended that Member States implement a coordinated control plan with a view to establishing the prevalence of fraudulent practices in the marketing of certain foods for a period of one month. The recommended coordinated control plan consisted of two actions. The first action consisted of appropriate controls carried out at retail level and at other establishments to determine whether pre-packaged food products and non-pre-packaged food products contained horse meat which was not properly labelled on the packaging or, in the case of non-pre-packaged foodstuffs, information relating to its presence was not made available to the consumer or mass caterers. The second action consisted of appropriate controls carried out in establishments handling horse meat destined for human consumption, including foods originating from third countries, for the detection of residues of phenylbutazone.

(9) The results of the coordinated control plan confirmed recurrent non-compliance with legislation applicable to labelling of meat products in most Member States. It is therefore necessary to follow up the coordinated control plan with a second round of controls at retail level and other establishments, to determine whether the practices identified during the first coordinated control plan are still present.

(10) On the other hand, official controls performed to verify the presence of residues of phenylbutazone showed no widespread recurrent non-compliance; it seems therefore not necessary, at this stage, to recommend a second set of coordinated controls on this matter.

(11) During the first coordinated control plan, the European Union Reference Laboratory for Animal Proteins in Feedingstuffs provided advice on the use of methods to detect the presence of proteins of undeclared species in samples. There is still no validated method for this analysis, but following consultation with experts, the advice on the use of a harmonised protocol has been updated by the abovementioned laboratory and is made available on its website.

(12) The Member States should communicate the methods used, the results of controls and the measures taken in case of positive findings to the Commission within a set time frame and in a harmonised format.

(13) After consulting the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS RECOMMENDATION:

1. Member States should implement a coordinated control plan for a period of 4 consecutive weeks within the timeframe 21 April to 16 June 2014, in accordance with Annex I to this Recommendation.

2. Member States should report the results of the official controls carried out in accordance with point 1 and any relevant enforcement measures taken, by 22 July 2014 in the format given in Annex II to this Recommendation.

Done at Brussels, 27 March 2014.

For the Commission

Tonio BORG

Member of the Commission

[1] Commission Recommendation 2013/99/EU of 19 February 2013 on a coordinated control plan with a view to establish the prevalence of fraudulent practices in the marketing of certain foods (OJ L 48, 21.2.2013, p. 28).

ANNEX I

Second coordinated control plan with a view to establishing the prevalence of fraudulent practices in the marketing of certain foods

ACTIONS AND SCOPE OF COORDINATED CONTROL PLAN

A. Product scope

1. Foodstuffs marketed and/or labelled as containing beef (e.g. minced meat, meat preparations and meat products) as a dominant meat ingredient falling within the following categories:

   (a) Pre-packaged foodstuffs destined for the final consumer or mass caterers, which are labelled as containing beef as a dominant ingredient;

   (b) Foodstuffs offered for sale to the final consumer or to mass caterers without pre-packaging and foodstuffs packaged on sales premises at the consumer's request or pre-packaged for direct sale, which are marketed and/or otherwise indicated as containing beef as a dominant ingredient in the meat fraction of the product.

2. For the purpose of this coordinated control plan, the definition of 'pre-packaged foodstuff' in Article 1(3)(b) of Directive 2000/13/EC shall apply.

3. For the purpose of this coordinated control plan, the definitions of 'minced meat', 'meat preparations' and 'meat products' in points 1.13, 1.15 and 7.1 of Annex I to Regulation (EC) No 853/2004 shall apply.

B. Objective

Competent authorities should carry out official controls in order to establish whether the products referred to in point A contain horse meat which is not properly labelled on the packaging or, in the case of non-pre-packaged foodstuffs, whether information relating to its presence is not made available to the consumer or mass caterer, in accordance with Union and, where appropriate, national provisions.

C. Sampling points and procedure

1. The sample should be representative of the products concerned in the Member State and covering a variety of products.

2. The sampling of the products should be carried out at retail level (e.g. supermarkets, smaller retail shops and local butchers) and could also be extended to other establishments (e.g. cold stores).

D. Sample numbers and modalities

The table below gives an overview on the indicative recommended number of samples to be taken within the period provided in point 1 of the Recommendation. The distribution of samples per Member State is based on population figures with a minimum of 10 samples of the products concerned per Member State per 30 days.

Foodstuffs marketed as containing beef	
Country of sale	Recommended sample numbers
France, Germany, Italy, United Kingdom, Spain, Poland	150
Romania, Netherlands, Belgium, Greece, Portugal, Czech Republic, Hungary, Sweden, Austria, Bulgaria	100
Lithuania, Slovakia, Denmark, Ireland, Finland, Latvia, Croatia	50
Slovenia, Estonia, Cyprus, Luxembourg, Malta	10

E. Method

The following protocol should be used:

1. All samples should be submitted to an initial screening test aimed at detecting the presence of horsemeat in meat (as a ratio of mass fraction w/w) at the level of 0,5 % or above. The choice of screening method is up to the Member State.

2. Only samples positive to the screening test under para 1 should be subject to a confirmatory test using RT-PCR and targeting mitochondrial DNA aimed at detecting the presence of horsemeat in meat (as a ratio of mass fraction w/w) at the level of 1 % or above. The method used for confirmation must be calibrated to a standardised control sample of fresh meat delivered from the European Union Reference Laboratory for Animal Proteins in Feedingstuffs.

3. All confirmatory tests under para 2 in a Member State should be performed at a laboratory designated for that purpose by the Competent Authority. The designated laboratory may be in another Member State following an agreement with the Competent Authority in that Member State. The designated laboratory should as a minimum be ISO 17025 certified for comparable tests. The designated laboratory may also have taken part in the initial screening round.

   The name and address of the designated laboratories taking part in the confirmatory testing should be transmitted to the European Union Reference Laboratory for Animal Proteins in Feedingstuffs who will publish this information on their website.

   More detailed guidance on the confirmatory method is available on the website of the European Union Reference Laboratory for Animal Proteins in Feedingstuffs, at http://eurl.craw.eu/en/164/legal-sources-and-sops

ANNEX II

Report format for results referred to in point 2

Category of product	Number of samples	Test method used (type of test and brand name) in 1st round of screening	Number of positive results after 1st round of screening (=/> 0,5 %)	Test method used in confirmatory round	Number of positive results after 2nd round at designated laboratory (=/> 1 %)	Comments

Total number of samples	
Total positive after 1st round of screening	
Total positive after 2nd round confirmation at designated laboratory	

Report format for enforcement measures referred to in point 2

Number of positive findings where enforcement measures have been imposed to date	
If possible, detail the most common enforcement measures used (maximum three bullet points)	
Number of positive findings where no enforcement measures have been imposed to date	
If possible, detail the most common reasons for no enforcement measures (maximum three bullet points)	