

European Communities

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DOCUMENT 1-528/82

REPORT

drawn up on behalf of the Committee on Agriculture on the proposal from the Commission of the European Communities to the Council (Doc. 1-84/82 - COM(82) 138 final) for a regulation on the strengthening of controls on the application of Community rules on agricultural products

Rapporteur: Mr P. MARCK

Or. Ne.

PE 79.080/fin.

1.2.1

English Edition

By letter of 31 March 1982 the President of the Council of the European Communities requested the opinion of Parliament on the proposal from the Commission of the European Communities to the Council for a regulation (EEC) on the strengthening of controls on the application of Community rules on agricultural products.

On 28 April 1982 the President of Parliament referred this proposal to the Committee on Agriculture as the committee responsible and to the Committee on Budgetary Control for an opinion.

On 27 April 1982 the Committee on Agriculture appointed Mr MARCK rapporteur.

It considered the Commission proposal and the draft report at its meetings of 22 and 23 June and 12 and 13 July 1982.

At the latter meeting the committee decided by 26 votes to two, with one abstention, to recommend that Parliament should adopt the Commission proposal without amendment, and also adopted the motion for a resolution.

The following took part in the vote: Mr CURRY, chairman; Mr MARCK, rapporteur; Mr ABENS (deputizing for Mr WOLTJER), Mrs BARBARELLA (deputizing for Mr PAPAPIETRO), Mr BOCKLET, Mrs CASTLE, Mr CLINTON, Mr de COURCY LING (deputizing for Mr BATTERSBY), Mr COTTRELL (deputizing for Mr HOWELL), Mr DALSASS, Mr DIANA, Mr EYRAUD, Mr GAUTIER, Mr GOERENS (deputizing for Mr MAHER), Mr HORD, Mr JONKER (deputizing for Mr FRÜH), Mr KALOYANNIS, Mr KIRK, Mr KLEPSCH (deputizing for Mr HELMS), Mr MARTIN (deputizing for Mr MAFFRÉ-BAUGE), Mrs S. MARTIN, Mr MOUCHEL, Mr d'ORMESSON, Mrs PAUWELIJN (deputizing for Mr JURGENS), Mr PRANCHÈRE, Mr PROVAN, Mr SUTRA, Mr THAREAU and Mr TOLMAN.

The opinion of the Committee on Budgetary Control is attached.

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The Committee on Agriculture hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

A

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a regulation on the strengthening of controls on the application of Community rules on agricultural products

The European Parliament,

- A. having regard to the proposal from the Commission of the European Communities to the Council (COM(82) 138 final),¹
 - B. having been consulted by the Council pursuant to Article 43 of the EEC Treaty (Doc. 1-84/82),
 - C. having regard to the report of the Committee on Agriculture and the opinion of the Committee on Budgetary Control, (Doc. 1-528/82),
 - D. having regard to the result of the vote on the proposal from the Commission,
 - E. having regard to the opinion of the Committee on Agriculture on the Memorandum from the Commission to complement the Commission report on the mandate of 30 May 1980 (Doc. 1-682/81),
1. Takes the view that the present proposal forms a sound basis for strengthening the Commission's control powers in respect of Community agricultural law and the proper management of the market which is its aim;
 2. Calls on the Council to approve this proposal without delay so that the Commission may make a start on the necessary controls;
 3. Calls on the Commission to notify Parliament which officers authorized by the Commission will be carrying out the controls;
 4. Calls on the Commission, in close cooperation with the Court of Auditors and Parliament's Committee on Agriculture and Budgetary Control, to draw up, pursuant to Article 4 of the draft regulation, such draft implementing provisions as may be necessary;

¹ OJ No C 79, 31.3.82, page 6

5. Calls on the Council to place the necessary financial resources at the Commission's disposal to enable it to carry out the provisions of this regulation without hindrance;
6. Calls on the Commission to report annually to Parliament on the controls carried out under this regulation, together with any ensuing consequences for the persons or institutions controlled;
6. Instructs its President to forward to the Commission and Council the proposal from the Commission as voted by Parliament and the corresponding resolution as Parliament's opinion.

EXPLANATORY STATEMENTI. INTRODUCTION

1. The proposal for a regulation on the strengthening of controls on the application of Community rules on agricultural products was announced by the Commission in point 52 of its Memorandum to complement the Commission report on the Mandate of 30 May 1980 (COM(81) 608 final),

There the Commission states:

'The Community must tighten up supervision of the implementation of agricultural legislation.

It is true that checks are made in the Member States at the paying agencies responsible for the management of Community expenditure. When, on the basis of files checked, expenditure is found not to comply with the agricultural rules, it will be barred from Community financing. But such checks are cumbersome without being comprehensive. In order to be able to check that certain operations conform to Community legislation, national staffing levels should be increased. In addition, there should be a team of Commission officials with independent powers entitled, for instance, to make surprise visits. The Commission will put forward appropriate proposals in due course.'

The Commission duly refers to a number of sectors in which control is inadequate, if not non-existent, including fruit and vegetables, cereals and beef, milk, olive oil and viticulture.

In point 15 of the explanatory memorandum (Volume 1) of the proposals fixing prices for certain agricultural products and on certain related measures (1982/3) (Doc. 1-1033/81) the Commission points out that it 'considers that the Community should ensure tightening up of supervision of the implementation of agricultural legislation, and includes proposals for that purpose in this package'. However, the package of proposals debated by Parliament did not include a proposal concerning these control measures. According to information obtained from the Commission by the rapporteur, the subject was evidently too controversial simply to be submitted for approval by the Council as part of the package of accompanying measures. The Commission therefore felt it

advisable to submit this proposal separately.

II. CONTENT OF THE PROPOSAL

2. The proposal aims to establish a legal basis for Community checks on non-financial aspects of the management of the common agricultural policy. To this end independent control powers are to be given to officials appointed by the Commission.

3. Article 1 stipulates that the officials appointed by the Commission may carry out on-the-spot checks in the Member States on the application of Community provisions concerning the common agricultural policy where these are not covered by the checks applied under the EAGGF. The Member State in which the checks are carried out are required to provide all necessary assistance.

Article 2 expressly states that the checks involved are those intended to ensure the proper application of Community rules on agricultural products with a view to proper management of the markets.

Article 3 gives the Commission the discretion to decide whether to inform the Member State concerned of the control and whether to allow agents designated by the Member State to take part. There is also the option to involve Member States other than the Member State concerned to participate in the controls.

Article 4 states that the Council, acting on a proposal from the Commission, may adopt general rules for the application of the regulation.

III. ASSESSMENT OF THE PROPOSAL

4. The Committee on Agriculture has repeatedly stressed that it is essential for the proper application of Community agricultural law that a number of officials should be appointed by the Commission to carry out the

necessary checks. Quite recently, in the opinion of the Committee on Agriculture on the report of the Commission on the mandate of 30 May 1980, the committee stressed the need for the Commission to have the necessary funds and for its controllers to be able to carry out their work throughout Community territory in conjunction with the national governments (see Doc. 1-682/81).

5. This proposal does not include checks on expenditure financed by the EAGGF, as is evident from Article 1 of the draft text. Such checks are covered by Regulation (EEC) No. 729/70 of 21 April 1970 on the financing of the common agricultural policy. Articles 8 and 9 of that regulation define the way in which the Member States and the Commission should monitor the proper application of the relevant provisions on such expenditure.

6. The controls referred to here apply to all provisions of Community regulations for agricultural products whose proper application is indispensable for the sound management of the markets. Since the Commission has not provided an explanatory memorandum with this proposal the rapporteur has sought information from the Commission officials responsible, from which it is clear that controls are proposed primarily in the fruit and vegetables and viticultural sectors. In the memorandum to complement the report of the Commission on the mandate of 30 May 1980, to which reference has already been made, the cereals, beef, milk and olive oil sectors are also mentioned.

7. There are evidently difficulties in the fruit and vegetables sector with price quotations in the various markets, these quotations being forwarded to the Commission as the basis for drawing up Community measures. The recording of these quotations is not standardized at present and can give rise to different interpretations in the various Member States.

In the viticultural sector the main aim is the controlling of the alcohol content of grapes used for wine-making, the use of saccharose and of concentrated grape-must. As is well known, there are divergent provisions in the different wine-growing areas of the Community governing the use of saccharose and concentrated must. This divergence results in an increase in the amount of wine for consumption, with the consequence that more wine has to be diverted for distillation, with the ensuing high costs to the Community budget.

8. The Commission proposal implies that the Commission is not obliged to notify the Member State prior to carrying out a control operation, nor to permit officials designated by the Member State concerned to take part in such an operation.

This means that the Commission may quite independently appoint officials to carry out unexpected checks in places deemed most appropriate by the Commission.

Where the Commission judges that the infringement of Community agricultural law being investigated contains cross-frontier aspects, it may request all the Member States concerned to participate in the control on the territory of a given Member State, provided all the parties agree. This procedure enables the Commission to carry out its checks in full knowledge of the facts.

9. If the present regulation is adopted by the Council, the Commission will be legally in a position to carry out the full range of controls. The opportunity is still left open to the Council, acting on a proposal from the Commission, and as necessary, to adopt general rules for the regulation's application.

The fact that an entirely new area is being created in this instance, in that this is the first time the Commission will be entitled to carry out checks without involving the Member States in them, could give rise to some difficulties. It will therefore probably be necessary to lay down implementing provisions on the procedure to be followed where the person or company being inspected refuses to cooperate with the Commission controllers, or complaints arise as a result of the controls effected. The fact is that this proposal does not contain any provision making clear whether differences between the parties involved are to be settled by the national courts or whether a Community ruling should be obtained.

IV. CONCLUSIONS

10. The rapporteur agrees with the Commission proposal, which will certainly help to improve the proper application of Community agricultural law and hence the sound market management of the market which is its aim. He is conscious of the fact that it is a minimal proposal, geared to the Commission's

objectives, as laid down in its report on the mandate of 30 May 1980, and that experience will show what kind of further proposals for regulations the Commission will have to submit to the Council to enable its control powers to be applied correctly. He also agrees with the conclusions contained in the opinion of the Committee on Budgetary Control, which asks the Council to adopt this proposal without delay, and calls on the Commission to work in close collaboration with the Court of Auditors and the Committee on Budgetary Control of the European Parliament when drawing up the various proposals for the implementing provisions concerned, at which point he would add that the Committee on Agriculture must also be involved in this process.

OPINION OF THE COMMITTEE ON BUDGETARY CONTROL

Draftsman: Mr Konrad SCHÖN

On 27 April 1982 the Committee on Budgetary Control appointed Mr Konrad SCHÖN draftsman and unanimously adopted the draft opinion at its meeting of 17/18 May 1982.

The following took part in the vote: Mr Cluskey, 1st vice-chairman and acting chairman; Mrs Boserup, 2nd vice-chairman; Mr Price, 3rd vice-chairman; Mr Gabert, Mr Gontikas, Mr Gouthier, Mr Irmer, Mr Jürgens, Mr Langes (deputizing for Mr Erdh), Mr Notenboom, Mr Patterson, Mr Ryan, Mr Saby and Mr Simpson (deputizing for Mr Kellett-Bowman).

1. The purpose of the proposal for a regulation is to create a legal basis for on-the-spot checks which are not yet permitted for regulations applicable to expenditure financed by the EAGGF.
2. For several years Parliament, on the initiative of the present chairman of the Committee on Budgetary Control, Mr AIGNER, has been proposing the creation of a 'flying squad' of Community inspectors responsible for carrying out the investigations, checks and controls the Commission may need in order to meet the responsibility conferred on it by the Treaty to guarantee proper application of Community rules, particularly in the EAGGF Guarantee Section.
3. More recently, Parliament noted, following the Court of Justice's finding in the 'Como butter' case, that the Commission's powers of control in the Member States were inadequate and proposed in the Gabert report¹ that the Commission should be empowered to conduct independent investigations in the Member States.
4. In its guidelines for European agriculture², one of the documents drawn up pursuant to the mandate of 30 May 1980, the Commission notes (paragraph 52) that there is little or no check on several sectors of the EAGGF Guarantee Section. It adopts Parliament's suggestion and proposes the creation of a 'team of Commission officials with independent powers entitled, for instance, to make surprise visits'.

¹ Doc. 1-695/80 - Resolution of 18 June 1981, paragraph 6

² COM(81) 608 final

5. The Commission text is a first step that will make it possible in the immediate future to close a serious loophole in the Community's present budgetary control system: although the Commission is responsible in principle for the implementation of the budget, implementing powers are in fact delegated to the national administrations, and the Commission has hitherto been very ill-equipped to verify at the appropriate stage that Community rules are being properly applied.
6. The Commission is not calling into question the principles of the present system under which the responsibility for control lies as a general rule with the national administrations and the Commission can conduct or arrange supplementary investigations. The present text deals only with sectors in which national controls are inadequate, but there are many of those.
7. The proposal for a regulation will have to be supplemented later. From the point of view of form, the procedure proposed by the Commission in Article 4 for the adoption of implementing texts, which moreover are not needed to bring the regulation into force, presents some advantages. As far as substance is concerned, however, it would be advisable for the Commission to draw up any proposals in close collaboration with the Court of Auditors and Parliament's Committee on Budgetary Control.

Conclusions

8. The Committee on Budgetary Control proposes that the Committee on Agriculture should include the following paragraphs in its motion for a resolution:
 - (a) Supports the Commission's proposal wholeheartedly and urges the Council to adopt it forthwith;
 - (b) Invites the Commission to draw up further proposals for regulations pursuant to Article 4 of the draft regulation in close collaboration with the Court of Auditors and Parliament's Committee on Budgetary Control.