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Subject: Notification No 2024/0604/HR

Draft Ordinance on measures for the adaptation to the requirements of regulations concerning food of animal origin

Delivery of comments pursuant to Article 5(2) of Directive (EU) 2015/1535 of 9 September 2015



Within the framework of the notification procedure laid down in Directive (EU) 2015/1535, the Croatian authorities notified to the Commission on 5 November 2024 a draft Ordinance on measures for the adaptation to the requirements of regulations concerning food of animal origin, (hereinafter the ‘notified draft’).

According to the notification message, the notified draft aims to enable business operators to adapt to the requirements of EU regulations concerning food of animal origin in terms of infrastructure, equipment and production procedures, enable small-capacity establishments to continue to use the traditional methods at each stage of the production, processing, or distribution of food of animal origin, and facilitate business operations in geographically restricted areas.

The examination of the notified draft has prompted the Commission to issue the following remarks and comments.

1. REMARKS CONCERNING ARTICLE 13 OF REGULATION (EC) No 852/2004 AND ARTICLE 10 OF REGULATION (EC) No 853/2004

The notified draft is notified under both the procedures laid down in Directive 2015/1535, and Article 13(3) to (7) of Regulation (EC) No 852/2004 on the hygiene of foodstuffs¹ and Article 10(3) to (7) of Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin².

In this regard, it should be underlined that, where a Member State wishes to adopt measures adapting the requirements laid down in the Annexes to Regulations (EC) No 852/2004 and (EC) No 853/2004 (hereinafter the ‘EU Hygiene Regulations’), those measures are subject to Article 13(3) to (7) of Regulation (EC) No 852/2004 or Article 10(3) to (7) of Regulation (EC) No 853/2004, and not to Directive (EU) 2015/1535.

It should also be recalled that Regulation (EC) No 852/2004 provides in Article 13(3) and (4) that:

“3. Member States may, without compromising achievement of the objectives of this Regulation, adopt, in accordance with paragraphs 4 to 7 of this Article, national measures adapting the requirements laid down in Annex II.

4. (a) The national measures referred to in paragraph 3 shall have the aim of:

(i) enabling the continued use of traditional methods, at any of the stages of production, processing or distribution of food; or

(ii) accommodating the needs of food businesses situated in regions that are subject to special geographical constraints.

(b) In other cases, they shall apply only to the construction, layout and equipment of establishments.”

Regulation (EC) No 853/2004 contains similar provisions in Article 10(3) and (4) for national measures adapting the requirements laid down in Annex III to that Regulation.

According to the notification message, Croatia intends to adopt national measures ‘enabling the continued use of traditional methods, at any of the stages of production, processing or distribution of food’, ‘accommodating the needs of food businesses situated in regions that are subject to special geographical constraints’, and ‘enabling the implementation of adaptation measures for small-scale establishments regarding the construction, layout and equipment of establishments’, as provided for in Articles 13(4) of Regulation (EC) No 852/2004 and 10(4) of Regulation (EC) No 853/2004.

Upon a request from the Commission services to provide additional information in this regard, in particular in accordance with Article 13(5) of Regulation (EC) No 852/2004 and Article 10(5) of Regulation (EC) No 853/2004, the Croatian authorities replied on 5 December 2024, clarifying in particular the requirements to be adapted and the nature of the adaptations, the foodstuffs and establishments concerned by the adaptations, the reasons for the adaptations and other relevant information. Following the receipt of the requested information from the Croatian authorities, the Commission services consider the notification under the EU Hygiene Regulations complete (in accordance with Article 13(5) of Regulation (EC) No 852/2004 and Article 10(5) Regulation (EC) No 853/2004).

The Commission will assess the adaptations notified under Regulation (EC) No 852/2004 and Regulation (EC) No 853/2004 according to the procedure laid down in those Regulations.

¹ Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs, OJ L 139, 30.4.2004, p. 1.

² 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.

It should also be recalled that, in accordance with Article 13(7) of Regulation (EC) No 852/2004

“A Member State may adopt national measures adapting the requirements of Annex II only:

(a) in compliance with a decision adopted in accordance with paragraph 6; or

(b) if, one month after the expiry of the period referred to in paragraph 6, the Commission has not informed Member States that it has received written comments or that it intends to propose the adoption of a decision in accordance with paragraph 6.”

Regulation (EC) No 853/2004 contains similar provisions in Article 10(7).

Without prejudice to any decision which might be taken under Article 13 of Regulation (EC) No 852/2004 or Article 10 of Regulation (EC) No 853/2004, the Commission wishes to make the following comments under Article 5(2) of Directive (EU) 2015/1535.

2. COMMENTS

Article 10 of the notified draft provides in its point 2:

“(2) In small slaughterhouses for ungulates and farmed game in which the animals that originate from the Republic of Croatia or have been reared in the Republic of Croatia for more than three months are slaughtered, the slaughtering shall be carried out no later than 21 days from the delivery of the animals, provided that they did not leave the rooms for the reception and temporary accommodation of animals in the slaughterhouse during this period and that the welfare and health of the animals were not jeopardised.”

Article 6 of the notified draft provides the following definition of small slaughterhouses for ungulates and farmed game:

“1. ‘small slaughterhouses for ungulates and farmed game’ – an establishment for slaughtering of ungulates and farmed game with a slaughter capacity not exceeding 20 livestock units per week and a total slaughter capacity not exceeding 1 000 livestock units per year;”

The Commission notes that Regulation (EC) No 1099/2009 on the protection of animals at the time of killing³ provides in point 1.2 of Annex III related to operational rules for slaughterhouses, that:

“Animals shall be unloaded as quickly as possible after arrival and subsequently slaughtered without undue delay.

Mammals, except rabbits and hares, which are not taken directly upon arrival to the place of slaughter, shall be lairaged.

Animals which have not been slaughtered within 12 hours of their arrival shall be fed, and subsequently given moderate amounts of food at appropriate intervals. In such cases, the animals shall be provided an appropriate amount of bedding or

³ Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing, OJ L 303, 18.11.2009, p. 1.

equivalent material which guarantees a level of comfort appropriate to the species and the number of animals concerned. This material shall guarantee an efficient drainage or ensure adequate absorption of urine and faeces.”

It follows in particular from this provision that animals delivered to a slaughterhouse - including a small slaughterhouse in the meaning of the notified draft - shall be slaughtered without undue delay after their arrival to the slaughterhouse and, if they are not slaughtered within 12 hours of their arrival, they shall be provided appropriate amounts of food and bedding or equivalent material which guarantees an appropriate level of comfort. It also follows, in the view of the Commission, that the expression “without undue delay” refers in principle to a very short period of time.

The Commission notes that not only the maximum period of 21 days set by Article 10(2) of the notified draft but also shorter but still significantly long periods that may be allowed under the notified draft without reaching that maximum appear excessive in light of the wording, context and purpose of the above-mentioned EU rules. Furthermore, the notified draft does not specify the conditions in which the animals shall be kept at the slaughterhouse, and merely stating that the welfare of the animals shall not be jeopardised does not appear in line with the above-mentioned requirements in Regulation (EC) No 1099/2009.

Furthermore, the condition that animals originate from Croatia or have been reared in Croatia for more than three months may constitute an indirect discrimination towards animals reared in other Member States and slaughtered in Croatia and animals that have been reared in Croatia for less than three months, as they would not benefit from the same maximum pre-slaughter period. This is liable to make slaughtering in Croatia of those animals more difficult.

The Commission therefore invites the Croatian authorities to consider reviewing the approach in Article 10(2) of the notified draft in light of the above comments, and if appropriate specifying periods after arrival of the animals at the slaughterhouse that comply with point 1.2 of Annex III of Regulation (EC) No 1099/2009, and to also ensure compliance with that provision as regards the accommodation of animals at slaughterhouses.

The Croatian authorities are invited to take these comments into account.

The Commission furthermore recalls that once the definitive text has been adopted, it must be communicated to the Commission in accordance with Article 5(3) of Directive (EU) 2015/1535.



For the Commission

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