

Minutes
FOOD FRAUD MATTERS
Third meeting of the Contact Points in the Member States
CCAB – 1C
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10:00-17:30

Minutes of the third meeting of the Food Fraud Contact Points

Chair: Carmen Garau/Eric Marin DG SANCO E5

Attendees: 26 Member States (MS), 2 EFTA Member States, Europol, ESA, Commission staff (DG SANCO, DG MARE, DG AGRI, DG ENTR, DG JUST, DG TAXUD, JRC, OLAF)

1. Introduction.

The chair welcomed the participants and gave an update on where the commission is on the IT-system and the preparation of a legal framework, on the list of cases and on handling different types of cases. The chair also pointed out that there seems to be some confusion about the designated food fraud contact points. Not all MS have formally designated a contact point, and we also receive many e-mails from people wishing to be added to the mailing list. There is not a problem to extend the mailing list, but the designated food fraud contact points should be limited to the contacts used for the purpose of the administrative assistance and co-operation (AAC). The Commission will send the MS a letter reminding them that designation of food fraud contact points should be done formally, and this also applies to any alterations in the designation.

2. IT system update. Legal framework and exchange of information in the network. Presentations and Discussion.

A document presenting the material content of a future Implementing Act was distributed ahead of the meeting. A short presentation of the information exchange modalities as they are being planned was given at the meeting.

The IT-system (AACS) is being modelled according to the administrative assistance and co-operation articles in Regulation (EC) No 882/2004, title IV. As part of this work, an Implementing Act is being elaborated for uniform implementation of the information exchange and to fulfil the legal data protection requirements. The Implementing Act will set out the rules for use of the system. The system will give the MS the possibility to fulfil the title IV requirements in a structured manner.

The text is being cleared now with the data protection supervisor and will also need to be go to inter-service consultation. The system will be used first for food fraud offences, but it is based on the general legislation on administrative assistance and co-operation, so that at a later stage it could be expanded to include all such communication.

The main elements of the legal text are description of the users of the system, their responsibilities and the handling of information in the system. Users of the system are the Commission and Member States' liaison bodies. Liaison bodies are those designated according to Reg (EC) No 882/2004, art 35. Data transmitted via TRACES and RASFF relevant for food fraud will automatically be made available in the AACS for administrative follow-up, to avoid the need to re-enter this data. The responsibility of the designated liaison body is to upload requests for assistance and to respond to requests. To avoid open cases lying unused, there will be an automatic reminder after 6 months to confirm whether the case is still ongoing. After another 6 months the system will automatically close the case if there has not been any activity. The Commission will monitor and analyse the information exchange.

The next step after clearing with the data protection officer and the inter-service consultation is a formal consultation with Member States and vote in SCFCAH. Although there may be some changes before the formal consultation, the FFCP could already provide us with feed-back and any initial thoughts based on this presentation.

Until this system is up and running, the Commission is still working with a temporary information exchange system. A note has been circulated on the modalities of this temporary exchange, including the use of RASFF. The Commission would advise that MS choose to use the RASFF system for this temporary information exchange, rather than e-mails, as this ensures a more complete overview of ongoing cases. FFCP are invited to liaise with their RASSF colleagues on this issue and also make sure that RASFF contact points remember to copy FFCP into any notifications or e-mails that have fraud implications.

DISCUSSION

The MS taking part in the discussion welcomed the work done so far.

Some questions were raised.

a. Definition of food fraud, and more specifically the need to exclude the more local non-compliances that may be economically motivated, but are more in a category of saving expenses and cutting corners, rather than fraudulent (f ex where one does not follow-up all hygiene requirements in an establishment).

The Commission explained that the goal is to be operational. There is no common definition of fraud. The Commission will be launching a study to look at the different national definitions, but in the meantime one must ensure that the relevant cases are addressed in an acceptable manner. The Commission expects the MS to be able to make some of these distinctions themselves; suspicions must be about serious violations and deceptions that are economically motivated and that have cross border implications.

b. Will the system also include information exchange with the police and judiciary?

When it comes to judicial procedures there are limitations that are difficult to get around in such a system. This will have to be left to national competence; the system that is being developed here will not cover such national communication. We expect MS to communicate nationally with law enforcement services and judiciary as they do today.

c. Six months to reply is too long a period, a reply should be immediate.

The Commission explained that the deadline to respond to a request is not 6 months. The deadline to respond in the legislation today is "without undue delay". This has been proposed strengthened in the new proposal for official controls regulation, to 10 days. The 6 months referred to is the deadline to show activity on an open case before it is closed in the system.

d. Will e-commerce be included in the system?

The Commission confirmed that the system should be able to include suspicion of food fraud in internet marketing. The problem though is that it is very difficult to do something about the sites that are often set up in countries where you do not have any legal jurisdiction. The EU Food Fraud network could discuss this issue more specifically in a separate expert working group. Also FLEP (Food Law Enforcement Practitioners) has been looking into this subject. There is a specific FLEP working group that is discussing best practices. MS that wish to join this group could contact the NL food fraud contact point. The Commission is also planning separate BTSF training sessions starting this year on e-commerce controls.

e. When will the system be piloted at MS level?

The Commission does not expect the pilot to be finalised before 2015. It is therefore important to use the temporary guidelines for use of the RASFF as much as possible, as this enables the Commission to keep an overview of ongoing cases.

3. Coordinated Control Plans. Result of questionnaire. Discussion.

The Commission presented the findings of the questionnaire (21 responses) while inviting the MS to continue providing inputs as appropriate. Most production areas have been mentioned (milk and milk products, meat and meat based products, fish and fish products, honey, fruits and fruit products, olive oil, coffee, cocoa, spices, food supplements, feed and feed additives, organic food and feed products) for several different malpractices (replacement of a food ingredient or valuable authentic constituent with a less expensive substitute, addition of a non-authentic substance, removal or intentional omission of an authentic constituent or a specific treatment without the proper consumer's information, false declarations etc.) according to the cases.

The Commission also presented a preliminary analysis of the parameters for coordinated control plans on honey adulteration and fish species substitution. It appears that laboratory checks should be an essential component, with significant difficulties to detect certain frauds in a reliable manner especially in the case of honey. IRMM-JRC has been mandated to define and validate relevant testing protocols and will enter into consultation with national laboratory experts.

The internal work will continue on this basis and should be further discussed with the MS at the next meeting.

The MS welcomed this preliminary work on coordinated control plans and were positive to go ahead on honey adulteration and fish substitution.

4. Food Integrity Project. Information and status by Project Coordinator Paul Brereton.

The Food and Environment Research Agency (FERA) in the UK is leading a 12 M € research project on food authenticity funded by DG RTD. The span is 5 years, and there are 38 participating institutions.

The background for this call was identification of the need for authenticity research in Europe. Some of the rationale being that the results produced must be robust enough to stand up in court. Also, looking at the tight network of EU laboratories working in the field of food safety one is quite surprised by the lack of collaboration on food authenticity. The RTD call came before the horse meat incident. With the massive new initiatives that have started up since, many things have changed. The project coordinator is aware of the need to make sure that there is good coordination between this project and other Commission initiatives, especially in DG SANCO, to avoid duplication of efforts. There needs to be two-way communication.

The project is divided into many sub-projects. Some of the ones mentioned at the meeting were the authenticity of fish using mass-balance considerations, development of an early warning system using historical data, web and text mining, trade data and data on economic triggers and the development of risk evaluation methods that are not related to food safety.

The project is very interested in keeping in contact with the food fraud network, and would be very interested to receive feedback if there are particular areas the project should address. Institutions interested in more information or co-operation should contact the project coordinator Mr Paul Brereton at FoodIntegrity@fera.gsi.gov.uk

The Commission will in future invite the project manager to update the food fraud network on ongoing initiatives in the project when relevant.

5. EU policy cycle to combat organised crime groups. Presentation of relevant actions in the operational action plan for 2014.

DG HOME leads on a policy cycle to combat organised crime groups. One of the priority areas for the 2014-2017 policy cycle is food fraud. The operational actions for the priority area are decided on annually. For 2014 the following operational actions are relevant for the food fraud network: OPSON, Pesticide controls at ports, Mapping of public-private partnerships and the 2014 Conference on food fraud.

The Commission gave a more detailed explanation of the action on mapping public-private partnerships as an introduction to an e-questionnaire that will be sent to all MS for response within 5 September 2014. The responses will be summarised in a report to the DG HOME action plan and a copy of this will also be distributed to the food fraud contact points. Any further follow-up will depend on the results of the survey.

6. Member State presentations

6.1. UK – The UK representative at the meeting gave a comprehensive overview of their organisation to tackle food crime. See presentation

6.2. NL – delayed until next meeting.

7. Update on other issues.

7.1. OPSON III results and future plans.

A representative from Europol gave a brief presentation of OPSON. This is a joint operation between Europol and Interpol. It started outside the EU policy cycle to combat organised crime groups, but has now been included into the operational actions there. The target is counterfeit and substandard foodstuffs. The operations do not harmonise the targets of the controls, only the timing of the actions.

There has been a steady increase in the number of participating countries and the number of seizures. In OPSON III there were 33 participating countries, 19 of these from the EU and they seized more than 1200 tonnes of food and nearly 430 000 litre drinks.

OPSON IV has its kick-off meeting in Madrid 3-4 June 2014. All MS are welcome to join.

7.2. BTSF, programmes in 2014 and programmes planned ahead.

A very short summary was given at the end of the meeting. The Commission promised more detailed information in the minutes than there was time for at the meeting.

Within the Better Training for Safer Food (BTSF) framework, a training programme on "new investigation techniques for official controls along the food chain" will be delivered in 2014 and 2015. There will be two different courses in this framework:

- investigation techniques to detect food fraud
- e-commerce of food, i.e. sales of food and food related products over the internet

The aim of both courses is to improve the effectiveness of official controls in areas where traditional investigation or control techniques may not always be sufficient to tackle non-compliances.

The training on investigation techniques for food fraud, based on the concept that fraud detection requires a multi-disciplinary and coordinated approach, has the objectives to strengthen the cooperation and improve the information flow among the national authorities involved in investigating food related crime; namely, food enforcement officers, police, customs and judicial authorities.

Dates for the courses in 2014 are as follows:

- Investigation techniques – 19-22 May and 15-28 September, to be held in Rome
- E-commerce of food – 9-12 June, to be held in Madrid; 6-9 October, to be held in Prague and 10-13 November, to be held in Madrid

- Further training sessions will be delivered in 2015, comprising 3 three-day training sessions dedicated to investigation techniques and 2 three-day sessions dedicated to e-commerce of food.

An estimated total number of 305 participants will be trained from EU Member States, Candidate Countries and EFTA countries. Each session would have approximately 30-32 participants.

To ensure a multidisciplinary approach BTSF national contact points have been asked to select a participant from the food inspection service and a participant from one of the other services. SANCO has recently asked FFCPs to liaise with the BTSF national contact points in order to select suitable candidates for the course. If you have not seen the invitation please inform us in the SANCO food fraud team via the functional mailbox.

7.3. Food Fraud Conference 2014.

DG SANCO in collaboration with the Italian Ministry of Health, and within the framework of the Italian Presidency of the EU, is in the process of organising a conference on food fraud, which will be held in Rome on 23-24 October 2014.

The key aims of the conference are to raise the profile of economically motivated violations of food law, to promote the necessary interdisciplinary collaboration and strengthen the coordination of actions of all parties involved in the fight against food fraud, by bringing together leading food fraud investigators, judicial bodies, industry and researchers from around the world and to support the identification of new strategies for combating fraudulent practices along the food-chain.

The conference will first analyse some recent case studies before going on to examine ways to improve the multidisciplinary approach and the methodologies for the detection of illegal practices.

The target audience is the Member States, associated countries, candidate countries, industry stakeholders, EU institutions and Commission services.

Bearing in mind the objective of promoting the interdisciplinary collaboration in the fight against food fraud, the Commission is hoping to support (travel and accommodation) for four participants from each Member State, candidate countries and EFTA countries. In order to achieve the objective of the interdisciplinary approach, we hope that Member States appoint relevant participants from a broad spectrum of law enforcement authorities, including police and customs and if possible also from the judicial services.

A letter of invitation will be sent from the Commission to the Member States via the permanent representations.

Italy commented that they are grateful that the Commission has supported the Presidency idea to hold this conference and they hope to both engage law enforcement and judiciary in the conference.

7.4. Commission response to the De Lange report on Fraud in the Food Chain.

The Commission gave a brief overview of the report which was adopted by Parliament in January 2014 by 659 votes in favour, 24 votes against and 8 abstentions.

It is supportive to the Commission approach against food fraud as developed in the five-point action plan that was sent to the EU ministers and to the chairs of the Environment and Agriculture committees of the Parliament on 20 March 2013.

It recommends several additional actions in order to tackle more globally the issue of food fraud, in particular:

- introducing a definition of food fraud in the EU legislation so as to allow a uniform approach to combating food fraud;
- encouraging the food industry and food operators to set up anti-fraud arrangements and checks;
- improving the coordination between national competent authorities by building an EU network of food fraud experts and providing an electronic system for communication;
- increasing vigilance on the market, carrying out risk based controls on the basis of vulnerability assessments and increasing penalties for fraudsters;
- introducing DNA testing as a standard procedure in spot checks of meat and fish and establishing a DNA database for relevant species;
- ensuring that the Commission audits performed by the FVO are adjusted to the need to detect and counter food fraud.

The official Commission response is still in the pipeline, but in general the recommendations that are relevant for the Commission are in line with many of the actions ongoing in DG SANCO.

7.5. The ongoing horse meat coordinated control plan.

The Commission Recommendation and Financial Decision were published on the 29th of March. The plan is now active, in the sense that the period for the sampling and analysis is between 21 April and 16 June, but since MS may choose when to run the 4 week plan within this window, it may not have started in all MS.

Most MS have designated confirmatory laboratories. There are a few that still have not done this. These MS have been informed. Remember, that the analysis in the confirmatory round must be done after calibration to the EURL-AP reference material at 1% horse meat in beef.

The EURL-AP has published on their website a recommended protocol and an extra guideline on use of the EURL-AP reference material that has been sent to the designated confirmatory laboratories. They have also published the list of participating laboratories for the confirmatory round.

Please remember that the final date to send in your report on the results is 22 July 2014 COB! The schedule to publicise the results is very tight, so MS are kindly invited to respect this deadline.

Finally, also a little reminder that the financial report is due on 31 August 2014.

8. AOB

a. *Update on status of new OCR*

The Commission gave a short update on the status of the new official controls proposal in Council and Parliament.

The key issues relevant for the food fraud network are the new provision in art. 8 on specific controls on intentional violations, the articles on administrative assistance and co-operation, the economic penalties given to fraudsters and the text related to the integrated data system IMSOC.

The EP has finalised the first reading, the Council position is not yet finalised.

b. *OLAF customs campaign REPLICA*

A representative from OALF gave a presentation on their current customs operation, REPLICA. The goal is to detect and prevent imports of counterfeit goods affecting environment and health at the external borders through cooperation between OLAF and national customs authorities.

c. *Next meeting*

The Commission informed that the next meeting will be arranged mid-September.

SANCO food fraud functional mailbox: sanco-882-food-fraud@ec.europa.eu