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Council Directive 93/5/EEC of 25 February 1993 on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food

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COUNCIL DIRECTIVE 93/5/EEC of 25 February 1993 on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the completion and smooth operation of the internal market for foodstuffs make it necessary to examine and evaluate scientific questions relating to food, particularly when these questions concern human health;

Whereas consumers are entitled to a Community food policy which promotes safe food particularly regarding nutritional, microbiological and toxicological issues;

Whereas in order to assist with this task the Commission set up a Scientific Committee for Food by Decision 74/234/EEC (4);

Whereas consultation of this Committee is currently required, in relation to questions of public health, by a number of Directives such as those on dietetic foodstuffs, materials and articles intended to come into contact with foodstuffs, additives, flavourings and extraction solvents;

Whereas the Scientific Committee for Food should be involved much more widely in Community policies that affect food, diet and public health;

Whereas the process of achieving a satisfactory scientific base for matters relating to food safety must, in the interests of consumers and industry be independent, transparent and effective and must reflect the situation existing in all Member States;

Whereas in order to ensure the smooth running of this Committee the Community needs scientific support from the Member States;

Whereas the Community also needs scientific support for other questions of public interest essential to the operation of the internal market, such as the handling of incidents involving food contamination and in general where it is necessary to lay down new rules concerning foodstuffs which may affect human health;

Whereas, in order to ensure that these tasks are carried out, the Commission must have access to the information and assistance available in the Member States, which must facilitate the accomplishment of its tasks;

Whereas in the Member States there are various bodies whose task is to provide their governments with scientific back-up on questions concerning foodstuffs; whereas it is necessary to use these resources effectively to support Community activities through cooperation;

Whereas Member States shall take all the necessary measures including financial measures, within the limits of their resources, to enable their competent authorities and bodies to cooperate with the Commission and lend it the assistance it needs in the scientific examination of questions of public interest relating to food;

Whereas there must therefore be an approximation of the provisions governing these bodies in order that they may cooperate with the Commission with the aim especially of drawing up future rules to ensure the free movement of foodstuffs, on the basis of all the scientific data available;

Whereas it is necessary to enhance and strengthen the powers and expertise of the Scientific Committee for Food, particularly with the aim of increasing the effectiveness of the Community in food issues;

Whereas it is necessary to make provision for third countries to participate in this cooperation;

Whereas the Commission must be responsible for the management of this cooperation and the Member States for their part must assist in this task, in the context of the Standing Committee for Food;

Whereas the completion of the internal market should give rise to increased participation of the Community in meetings and work on foodstuffs of international organizations and also in bilateral relations,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall take the necessary measures to enable their competent authorities and bodies to cooperate with the Commission and lend it the assistance it needs in the scientific examination of questions of public interest relating to food, particularly in the field of public health, through disciplines such as those associated with medicine, nutrition, toxicology, biology, hygiene, food technology, biotechnology, novel foods and processes, risk assessment techniques, physics and chemistry.

2. (a) The cooperation procedure of this Directive shall apply when a Council act requires the opinion of the Scientific Committee for Food.

(b) Where appropriate, the application of the cooperation procedure of this Directive to other questions relating to the protection of the health and safety of persons arising from the consumption of food shall be decided in accordance with the procedure laid down in Article 5.

Article 2

Each Member State shall designate the authority or body which will be responsible for the cooperation with the Commission and for distribution of work to appropriate institutes within Member States as regards the tasks laid down in Article 3 and shall notify the Commission accordingly.

The Commission shall publish in the Official Journal of the European Communities and update the list of designated authorities referred to in the preceding paragraph.

Each designated authority shall send to the Commission a list of the institutes participating in the cooperation procedure in its jurisdiction, and any modifications to that list. The Commission shall circulate this information to the above authorities and other interested parties.

Article 3

1. The principal tasks to be carried out by the institutes participating in the cooperation shall include those listed in the Annex.

2. The following measures shall be adopted in accordance with the procedure laid down in Article 5:

- establishment of rules for the administrative management of the cooperation, including:

- measures to ensure the transparency of recommendations made by the Scientific Committee for Food,
- procedures for the presentation and appraisal of dossiers;
- establishment, and updating at least every six months, of the inventory of tasks and their associated priorities.

3. The tasks to be carried out in accordance with the inventory adopted in accordance with paragraph 2, second indent, shall be distributed in accordance with the procedure laid down in Article 5 on the basis of scientific expertise and within the limits set by the resources available in the Member States.

Article 4

The Commission may, after consultation with the authorities or bodies mentioned in Article 2, invite institutes in third countries to participate, on a voluntary basis, in carrying out the tasks necessary for the achievement of the objectives of this Directive and, in particular, the tasks listed in the inventory mentioned in Article 3 (2) second indent. Where an institute in a third country has agreed to participate in the carrying out of tasks, the Commission shall take that participation into account when allocating tasks under Article 3 (3).

In no event may the participation referred to in the first paragraph involve charges for the Community budget.

Article 5

The Commission shall be assisted by the Standing Committee on Food set up by Decision 69/414/EEC (5), hereafter referred to as the 'Committee'.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission, save where the Council had decided against the said measures by a simple majority.

Article 6

The Commission shall report to the European Parliament and to the Council on the structures, works and efficiency of the Scientific Committee for Food within three years of the implementation of this Directive and every three years thereafter.

Article 7

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 June 1993. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The methods of making such reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the main provisions of domestic law which they adopt in the field governed by this Directive.

Article 8

This Directive is addressed to the Member States.

Done at Brussels, 25 February 1993.

For the Council

The President

J. TROEJBORG

(1) OJ No C 108, 23. 4. 1991, p. 7 and OJ No C 107, 28. 4. 1992, p. 13.

(2) OJ No C 94, 13. 2. 1992, p. 286 and Decision of 20 January 1993 (not yet published in the Official Journal).

(3) OJ No C 14, 20. 1. 1992, p. 6.

(4) OJ No L 136, 20. 5. 1974, p. 1.

(5) OJ No L 291, 19. 11. 1969, p. 9.

ANNEX

The principal tasks to be carried out by the institutes participating in the cooperation shall include:

- drawing up protocols for the assessment of risks relating to food components and elaborating methods of nutritional evaluation;
- assessing the nutritional adequacy of the diet;
- examining test data submitted to the Community rule and the production of a monograph for assessment by the Scientific Committee for Food;
- carrying out food intake surveys, particularly those necessary for the determination or evaluation of the conditions of use of food additives or the laying down of limit values for other substances in food;
- conducting investigations relating to components of diets of the various Member States or of biological or chemical food contaminants;
- helping the Commission honour the Community's international commitments by providing expertise on food safety questions.