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Food crisis, fraud in the food chain and the control thereof

European Parliament resolution of 14 January 2014 on the food crisis, fraud in the food chain and the control thereof (2013/2091(INI))

(2016/C 482/04)

The European Parliament,

— having regard to the five-point action plan ([1]) presented by the Commission in March 2013 following the discovery of a vast network of fraudsters passing off horsemeat as beef,

— 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,

— having regard to Regulation (EC) No 178/2002 of the European Parliament and of 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,

— having regard to Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC, and Commission Regulation (EC) No 608/2004,

— having regard to the proposal for a regulation on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material [and] plant protection products (COM(2013)0265),

— having regard to the report of the European Court of Auditors of 11 October 2012 on the management of conflicts of interest in four European Union agencies,

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on the Internal Market and Consumer Protection and the Committee on Agriculture and Rural Development (A7-0434/2013),

A. whereas the general principles of EU food law, in accordance with Regulation (EC) No 178/2002, prohibit the marketing of unsafe food along with fraudulent practices, the adulteration of food, and any other practices which may mislead the consumer;

B. whereas Regulation (EC) No 1924/2006 on nutrition and health claims made on foods and Regulation (EU) No 1169/2011 on the provision of food information to consumers lay down detailed provisions in relation to the ban on misleading advertising and labelling practices;

C. whereas the EU regulatory framework in place for food safety and the food chain has provided a high level of food safety for EU consumers until now; whereas the current legislation is, however, still fragile and not always reliable, and therefore there is a need for improvements on the ground;

([1]) http://ec.europa.eu/food/food/horsemeat/plan_en.htm.

D. whereas, at the same time, recent food fraud cases have damaged consumer trust in the food chain, having a negative impact on the agro-food sector, as these scandals damage the overall image of this key sector of the EU economy; whereas restoring the confidence of consumers of European agri-foods both inside and outside the EU is of paramount importance; whereas it must, however, be stressed that the vast majority of European agri-foods are of excellent quality and therefore deserve international recognition;

E. whereas transparency is a key component of the approach adopted by the Commission and Member States towards food safety controls;

F. whereas the agro-food sector is one of the biggest economic sectors in the EU, providing 48 million jobs and worth EUR 715 billion annually;

G. whereas individual cases of food fraud have a negative impact on the image of the entire agro-food sector;

H. whereas EU food law is very detailed in the area of food safety and includes controls and tests for residues and other contamination of food and feed, but whereas there is no framework in place specifically to target food fraud, other than the general stipulation that consumers may not be misled;

I. whereas problems are also found in the implementation of the current legislation and there is a need to have more effective official controls on food of animal origins at each stage of the food chain;

J. whereas no statistics exist on the incidence of food fraud in the EU, and whereas the Commission has only recently identified food fraud as a new area of action;

K. whereas recent cases of fraud include, for example, the marketing of horsemeat as beef and the marketing of the meat from horses treated with phenylbutazone as edible horse meat, the marketing of ordinary flour as organic flour, of battery cage eggs as organic eggs, of road salt as food salt, the use of methanol-contaminated alcohol in spirits, the use of dioxin-contaminated fats in animal feed production and the mislabelling of fish species and seafood products;

L. whereas food fraud generally occurs where the potential for and the temptation of food fraud are high and the risk of getting caught and sanctions are low;

M. whereas the food supply chain is often long and complex, involving many food-business operators and other parties; whereas consumers are increasingly unaware of how their food is produced and individual food business operators do not always have, and are not required to have, an overview of the entire product chain;

N. whereas the massive-scale fraud of horsemeat meals throughout Europe is the symptom of an uncontrollable globalised supply system, cut-price agri-food productivism and an incomplete labelling system;

O. whereas traders and intermediaries in the food chain are not always registered and certified as food business operators; whereas the Commission and the Member States are often uncertain as to how many non-registered traders are active;

P. whereas following serious incidences of food fraud, convicted fraudulent food business operators are sometimes closed down by national competent authorities; whereas these businesses soon after re-register elsewhere and continue trading as before; whereas information exchange between Member States on convicted fraudulent businesses would improve the monitoring of these businesses in order to prevent them from pursuing new fraudulent activities;

Q. whereas responsibility for implementing and enforcing EU food law lies with the Member States and whereas enforcement and control are thus mostly limited to the national level, as a result of which an EU-wide cross-border overview is limited to non-existent;

R. whereas national authorities tend to focus their controls on food safety and do not prioritise food fraud, often due to a lack of capacity and resources;

S. whereas the competent authorities of some Member States have specialised police units to combat food fraud; whereas controls in some Member States are partly delegated to private control bodies; whereas in other Member States controls are carried out wholly by the competent authorities;

T. whereas the Rapid Alert System for Food and Feed is a useful tool for the rapid exchange of information between Member States and the Commission, for example in the recent horsemeat fraud case;

U. whereas the Commission's Food and Veterinary Office (FVO) is responsible for checking on compliance with EU food safety and quality requirements, and whereas its audits are typically announced in advance and prepared in conjunction with the competent authorities; whereas the number of audits per year is restricted by the FVO's limited capacity; whereas the FVO has indicated that it is not currently equipped or trained to focus on food fraud;

V. whereas the warnings concerning the increase in the number of horses being slaughtered in some Member States have been completely ignored by the competent authorities, in particular the FVO;

W. whereas Europol has observed a rise in the number of food fraud cases and expects this trend to continue, along with the growing involvement of criminal organisations in food fraud;

X. whereas Europol's information system can be used by Member States to share information about cross-border investigations; whereas Europol can only assist Member States with its expertise, analytical tools and databases at their request; whereas in the horsemeat fraud case, Member States were initially reluctant to work with Europol;

Y. whereas since 2011, Europol has successfully conducted several OPSON operations on counterfeit and substandard food products; whereas in carrying out these operations, Europol cooperates with Interpol, Member State authorities, non-EU countries and private partners;

Z. whereas labelling the country or place of origin of meat and meat products in itself does not prevent fraud; whereas the origin of a food product partly determines the price of the food product in some cases;

AA. whereas the conclusion of the free trade agreements currently envisaged by the EU could serve to weaken European food safety legislation;

AB. whereas a fresh effort must be made to understand fraud in an economic context characterised by the global financial crisis and by social dumping both inside and outside the EU;

AC. whereas trading practices serve to foster a race to the bottom as regards quality, safety and transparency, and have an impact on the profit margins of the whole sector;

AD. whereas distribution practices and the use of distribution intermediaries are destabilising production markets by cutting producers' margins;

Food fraud: scope and definition

1. Deplores the fact that combating food fraud is a relatively new issue on the European agenda, and that in the past it has never been a key priority for legislation and enforcement at EU and national level;

2. Expresses its concern about the potential impact of food fraud on consumer confidence, food safety, the functioning of the food chain and the stability of agricultural prices, and emphasises the importance of quickly restoring European consumers' confidence;

3. Calls, therefore, on the Commission to give food fraud the full attention it warrants and to take all necessary steps to make the prevention and combating of food fraud an integral part of EU policy;

4. Underlines the need to gain further insight into the scale, incidence and elements of cases of food fraud in the EU; calls on the Commission and the Member States to collect data systematically on fraud cases and to exchange best practices for identifying and combating food fraud;

5. Notes that EU law does not currently provide a definition of food fraud and that Member States adopt different methodologies in the definition thereof; considers a uniform definition to be essential for the development of a European approach to combating food fraud; stresses the need to adopt swiftly a harmonised definition at EU level, based on discussions with Member States, relevant stakeholders and experts, including elements such as non-compliance with food law and/or misleading the consumer (including the omission of product information), intent and potential financial gain and/or competitive advantage;

6. Emphasises the fact that, given the nature of the EU single market, food fraud extends in many cases beyond the borders of Member States and becomes a threat to the health of all European citizens;

7. Notes that recent food fraud cases have exposed different types of food fraud, such as the replacement of key ingredients with cheaper or lower quality alternatives, the incorrect labelling of the animal species used in meat or seafood products, the incorrect labelling of weight, the sale of ordinary foods as organic, the unfair use of quality logos designating origin or animal welfare, the labelling of aquaculture fish as fish caught in the wild or the marketing of an inferior variety of fish under the name of a superior category or a more expensive species, and the counterfeiting and marketing of food past its 'use-by' date;

8. Points out that foods which are often subject to fraudulent activities include olive oil, fish, organic products, grains, honey, coffee, tea, spices, wine, certain fruit juices, milk and meat;

9. Is concerned about signals indicating that the number of cases is rising and that food fraud is a growing trend reflecting a structural weakness within the food chain;

Contributing factors

10. Notes that food fraud generally occurs where the potential financial gain is high, and the risk of getting caught low; considers it untenable that committing food fraud in the EU is lucrative and that the chances of getting caught are relatively low;

11. Points to the complexity and cross-border character of the food chain, in combination with the predominantly national character of controls, sanctions and enforcement, a situation which is believed to increase the risk of food fraud; believes that better traceability of ingredients and products within the whole food chain would help to combat fraud;

12. Underlines the need to pay great attention to controls on imported goods from third countries and their compliance with EU standards on food and feed safety;

13. Also draws attention to other factors often cited as contributing to food fraud, such as the current economic crisis, the austerity measures affecting control agencies and pressure from the retail sector and others to produce food ever more cheaply;

Lessons learned and recommendations

Institutional framework

14. Welcomes the Commission's decision to set up a food fraud team and acknowledges the efforts made by Europol in the fight against food fraud; encourages the Commission to consider the development of an EU Reference Laboratory (EURL) for food authenticity;

15. Welcomes the Commission's plan to organise a conference on food fraud in 2014 in order to raise awareness among relevant actors;

16. Is convinced that unannounced independent inspections are essential to ensure effective implementation of food safety and labelling standards; believes, therefore, that unannounced inspections should be the norm;

17. Calls on the Commission to enlarge the focus of FVO audits to include food fraud; considers that the FVO and Member States should make use of regular, independent and mandatory unannounced inspections in identifying intentional violations to ensure adherence to the highest standards of food safety; believes that it is important to have a transparent approach to the way in which official controls and inspections are carried out and to make public the reports and outcomes of controls and inspections regarding food operators in order to restore and maintain consumer confidence;

18. Regrets the limited visibility and uptake of FVO reports and audits by the Commission and Member States; calls on the Commission to follow up FVO reports and recommendations more vigorously;

19. Calls on the budgetary authority to increase the capacity and resources of the FVO and of the Commission's food fraud team;

20. Expresses concern at the reduction in funding in the EU for the bodies which carry out these key monitoring tasks;

21. Calls on the Member States and European regions to provide control bodies with sufficient personnel, financial and technical resources;

22. Underlines the fact that efficient controls and inspections should be carried out in such a way that does not create unnecessary administrative burdens for SMEs;

23. Suggests holding an annual hearing of the FVO in its ENVI Committee to discuss completed and future audits before the FVO adopts its work programme for the following year;

24. Calls on the Member States to ensure that the issues raised by the FVO are properly acted on and addressed;

25. Notes that any changes to the process for review and prioritisation of the work programme of the FVO should not change the legal process for the adoption of FVO work programmes;

26. More specifically, urges the Commission and Member States to act on the findings of FVO audits with regard to fraudulent medical treatment records of animals destined for slaughter for export to the EU, and to exclude meat and other animal products from third countries, which cannot be guaranteed to be compliant with EU food safety requirements, from being placed on the EU market;

27. Notes that Member States often struggle to successfully prosecute fraudulent food business operators operating across EU borders, owing to jurisdiction issues; regrets the fact that Member States do not systematically cooperate with Europol in cross-border cases of food fraud, but work bilaterally;

28. Recognises the importance of whistle-blowers in uncovering fraudulent practices in the food sector; calls on the Member States to create the right conditions to enable whistle-blowers to denounce malicious practices safely and anonymously;

29. Believes that national competent authorities should inform the public, to the extent possible and appropriate, of product recalls and other measures taken by competent authorities in incidences of food fraud;

Legislative framework

30. Considers that official controls should focus not only on food safety issues, but also on preventing fraud and the risk of consumers being misled; welcomes the fact that the Commission's proposal for a review of official controls incorporates extra controls in respect of food fraud where competent authorities have reason to suspect fraudulent behaviour by an operator;

31. Observes that some Member States partly delegate controls to private control bodies; stresses that Member State competent authorities should always supervise control systems and verify, certify and scrutinise all private control systems to ensure that they comply with national and international standards in order to make their findings accessible to public agencies;

32. Rejects any plans to delegate inspection tasks from public authorities to economic operators;

33. Believes that the role of traders and the legislative framework applicable to business-to-business sales should be clarified;

34. Believes that all commercial operators which process, trade or store raw materials, food ingredients or food products in the human food chain, including traders and owners of cold stores, should be registered as food business operators and be subject to controls;

35. Believes that food business operators should be able to tell where the food or ingredients used are sourced from, meaning that each food business operator within the production chain bears their share of the responsibility for the end product;

36. Acknowledges the importance of clear and transparent business-to-business and business-to-consumer labelling and calls on the Commission to review EU food law in this area, to reduce the risk of food fraud;

37. Calls for greater awareness and improved monitoring of business-to-business and business-to-consumer labelling of frozen foods; calls on the Commission to present a proposal on the obligatory labelling of meat and fish which indicates whether the products have been frozen, how many times they have been frozen and for how long;

38. Believes that, even though it is not per se a tool for combating food fraud, labelling the country of origin can help to ensure better traceability along the food supply chain, more stable relationships between meat suppliers and processors, increased diligence when food business operators choose their suppliers and products, and more reliable information for consumers, thus restoring consumer confidence;

39. Recalls that Regulation (EU) No 1169/2011 stipulates that the Commission will adopt, by December 2013, implementing acts regarding the mandatory labelling of the country of origin, the labelling of meat from swine, sheep, goats and poultry, and the voluntary labelling of food following an impact assessment;

40. Calls on the Commission to come forward swiftly with these implementing acts on the labelling of fresh meat from swine, sheep, goats and poultry, drawing inspiration from the rules already applicable to non-processed beef and veal, ensuring that consumers are informed about animals' places of birth, rearing and slaughter, while taking into account existing national and regional systems for indicating the origin of meat;

41. Recalls, furthermore, that Parliament has previously called for origin labelling for meat in processed foods, and that the Commission is working on a report on mandatory origin labelling for meat used as an ingredient; urges the Commission to present swiftly its report and follow up with legislative proposals making the indication of the origin of meat in processed foods mandatory, while taking into account its impact assessments and avoiding excessive costs and administrative burdens;

42. Calls for the better labelling of processed products which contain fish, in particular as regards the origin of the fish and the fishing techniques used;

43. Calls on the Commission to accelerate its efforts, together with stakeholders and the Member States, to explore the scope and need for the introduction of electronic certification systems in the food chain, which could reduce the likelihood of fraud based on paper certificates;

44. Requests that the Commission establish a centralised European register for horse passports in order to prevent the fraudulent issuing of duplicate passports;

45. Expresses concern at the lack of a European legislative framework governing meat from cloned animals;

46. Calls on the Commission to develop a method of tracing and identifying meat from cloned animals, for example by setting up an international database containing genetic information about cloned animals;

Corporate responsibility

47. Considers it valuable that, in addition to and not replacing the system of official controls for the food sector, the sector itself proactively develops and uses private-sector anti-fraud initiatives such as product integrity checks, self-monitoring, analysis, product-tracing plans, audits and certification, and welcomes current initiatives such as the Global Food Safety Initiative and the Food Fraud Initiative at Michigan State University;

48. Calls on the Commission and the Member States to consider imposing a legal obligation on food business operators to report to competent authorities about the incidence of food fraud cases;

49. Believes that the retail sector has a special responsibility to guarantee the integrity of food products and to demand from its suppliers a safe and secure supply chain; believes that it is the responsibility of retailers to check at least the formal compliance with labelling rules; deplores the pressure on primary producers from retail and other food business operators to produce ever more cheaply, often at the expense of the quality of the foodstuffs or ingredients;

50. Notes that food business operators currently do not always know the source of the ingredients they use; notes, in this connection, that short supply chains (local and regional) can guarantee greater transparency and can replace the long and complicated supply chains which played a major role in the food fraud crisis;

51. Calls on the Commission to put forward legislative proposals, pursuant to Regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, for a 'local marketing and direct sales' label to help promote the markets concerned and help farmers in adding value to their produce;

Enforcement and controls

52. Calls on the Commission, pursuant to Articles 7 and 17 of Regulation (EU) No 1169/2011 on the provision of food information to consumers, to pursue and prevent the marketing of products which remain on the market under a deliberately inaccurate or misleading name, since this is also to be considered a type of food fraud;

53. Is convinced that a change of attitude is needed within the competent authorities, moving from an administrative and veterinary approach towards a policing approach, based on the experience of the Danish Food Administration's 'flying squad' and of the Arma dei Carabinieri and the Guardia di Finanza in Italy; stresses that such an approach is dependent on designated courts being staffed by judges with expertise in food law;

54. Stresses that the carrying-out of controls should be risk-based and include the development of risk profiles and vulnerability assessments for each supply chain and food product, drawing on ongoing academic studies which combine knowledge in the areas of food authenticity and criminology, such as the research being carried out by VU University Amsterdam and the University of Wageningen;

55. Calls on the Commission and Member States to further stimulate European and national research and development programmes to develop and implement technologies and methods used to detect food fraud, such as sensor technology, data analysis and the fingerprinting of products, and to facilitate the commercial availability of tests in the short term; acknowledges the existing European research projects on food integrity and authenticity, such as TRACE and AuthenticFood;

56. Recommends that the FVO and national authorities include in their audits so-called mass balance checks on input, output and waste flows;

57. Urges for the improvement of coordination and communication between the national authorities responsible for investigating food fraud, thereby helping Member States to step up their efforts to combat this problem; calls, therefore, on the Commission, as a matter of urgency, to put in place an electronic system, based on the existing Rapid Alert System for Food and Feed (RASFF) as the Commission has suggested, to enable the rapid exchange of information between Member States and the Commission in cases of food fraud; calls for the publication of annual reports outlining cases of food fraud that have been uncovered, by analogy with the RASFF reports;

58. Calls for the establishment of an anti-food fraud network as a means of improving coordination among the competent European bodies (Europol, Eurojust, FVO), thus preventing and detecting food fraud more effectively;

59. Suggests introducing DNA testing as a standard procedure in spot checks for determining species, especially regarding meat and fish products, and to establish a centralised DNA database to this end;

60. Calls on the Commission to address loopholes in existing food safety and traceability rules related to imports of food from third parties, which bear a higher risk of food fraud;

61. Insists that the free trade agreements negotiated by the EU must not give rise to changes in European food safety and food security legislation or any scaling down of efforts to enforce that legislation;

62. Believes that the outcomes of controls should be made public in a way that is easily accessible to and understandable for consumers, for example in the form of a rating scheme; is convinced that this would help consumers in making decisions and also provide incentives for food business operators to perform well;

Sanctions

63. Welcomes the Commission proposal to strengthen penalties in order at least to offset the estimated economic advantage sought through the violation, but considers that this is not dissuasive enough; believes that the Member States should set penalties for food fraud which are at least double the estimated amount of the economic advance sought through the fraudulent activity; deems it necessary, as an extra deterrent, that Member States set even higher penalties, including criminal law penalties, for fraudulent cases in which public health is deliberately endangered, or in cases of fraud involving products aimed at vulnerable consumers; proposes, furthermore, that in the event of repeated offences the food business operator's registration be withdrawn;

64. Regrets that the Commission does not have an overview of the different national systems of sanctions for food fraud offences and of the functioning of these sanction regimes based on EU legislation; calls on the Commission to obtain such an overview as soon as possible;

65. Calls for greater account to be taken of animal welfare and for more stringent penalties to be applied if the relevant rules are breached;

66. Calls on the Commission to collect data from the Member States and to report on the different regimes in the Member States as regards the type and level of sanctions for food fraud offences and the functioning of the sanction regimes;

67. Invites the Commission and Member States also to consider other methods which aim to prevent and discourage food fraud, such as naming and shaming through a European register of convicted fraudulent food business operators;

68. Calls for the extension of current traceability regimes and for the systematic implementation of the 'step-free' traceability provided for in basic Regulation (EC) No 178/2002 covering food and feed, food-producing animals, and all other substances destined for this purpose or which can be expected to be used in the production of food or feed; calls for the entire food chain in Europe, including all stages of production, processing and sales and distribution to be transparent and fully open to scrutiny by inspectors in order to ensure that fraudulent food products can be quickly identified;

69. Recommends the introduction of an obligation for all research laboratories and their staff to notify the competent supervisory authorities of the results of all food and feed tests which suggest that fraud may have occurred or are relevant to combating fraud;

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70. Instructs its President to forward this resolution to the Council and the Commission.