

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performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (repealed)

[^{XI}TITLE IV

ADMINISTRATIVE ASSISTANCE AND COOPERATION IN THE AREAS OF FEED AND FOOD

Article 34

General principles

- 1 Where the outcome of official controls on feed and food requires action in more than one Member State, competent authorities in the Member States concerned shall provide each other with administrative assistance.
- 2 Competent authorities shall provide administrative assistance upon request, or spontaneously when the course of investigations so requires. Administrative assistance may include, where appropriate, participation in on-the-spot controls that the competent authority of another Member State carries out.
- 3 Articles 35 to 40 shall not prejudice national rules applicable to the release of documents that are the object of, or are related to, court proceedings, or rules aimed at the protection of natural or legal persons' commercial interests.

Article 35

Liaison bodies

- 1 Each Member State shall designate one or more liaison bodies to liaise as appropriate with other Member States' liaison bodies. The role of liaison bodies shall be to assist and coordinate communication between competent authorities and, in particular, the transmission and reception of requests for assistance.
- 2 Member States shall inform the Commission and other Member States of all the relevant details of their designated liaison bodies, and of any modification of these details.
- 3 Without prejudice to paragraph 1, the designation of liaison bodies shall not preclude direct contacts, exchange of information or cooperation between the staff of competent authorities in different Member States.
- 4 The competent authorities to which Council Directive 89/608/EEC of 21 November 1989 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure correct application of the legislation on veterinary and zootechnical matters⁽¹⁾ applies, shall liaise as appropriate with the authorities operating under this title.

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Article 36

Assistance on request

1 Upon receiving a reasoned request, the requested competent authority shall ensure that the requesting competent authority is provided with all necessary information and documents enabling the latter to verify compliance with feed and food law within its jurisdiction. For that purpose, the requested competent authority shall arrange for the conduct of any administrative enquiries necessary to obtain such information and documents.

2 Information and documents provided pursuant to paragraph 1 shall be forwarded without undue delay. Documents may be transmitted in their original form or copies may be provided.

3 By agreement between the requesting authority and the requested authority, staff designated by the requesting authority may be present during administrative enquiries.

Such enquiries shall always be carried out by staff of the requested authority.

The requesting authority's staff may not, on their own initiative, exercise the powers of enquiry conferred on officials of the requested authority. They shall, however, have access to the same premises and documents as the latter, through their intermediary, and for the sole purpose of the administrative enquiry being carried out.

4 Staff of the requesting authority present in another Member State in accordance with paragraph 3 shall at all times be able to produce written authority stating their identity and their official capacity.

Article 37

Assistance without request

1 When a competent authority becomes aware of non-compliance, and if such non-compliance may have implications for another Member State or States, it shall pass such information to the other Member State(s) without prior request and without delay.

2 Member States receiving such information shall investigate the matter and inform the Member State that provided the information of the results of this investigation and, where appropriate, of any measures taken.

Article 38

Assistance in the event of non-compliance

1 If, during an official control carried out at the place of destination of the goods, or during their transport, the competent authority of the Member State of destination establishes that the goods do not comply with feed or food law in such a way as to create a risk to human or animal health or to constitute a serious infringement of feed or food law, it shall contact the competent authority of the Member State of dispatch without delay.

2 The competent authority of the Member State of dispatch shall investigate the matter, take all necessary measures and notify the competent authority of the Member State of

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destination of the nature of the investigations and official controls carried out, the decisions taken and the reasons for such decisions.

3 If the competent authority of the Member State of destination has reason to believe that such measures are inadequate, the two Member States' competent authorities shall together seek ways and means of remedying the situation including, if appropriate, a joint on-the-spot inspection carried out in accordance with Article 36(3) and (4). They shall inform the Commission if they are not able to agree on appropriate measures.

Article 39

Relations with third countries

1 When a competent authority receives information from a third country indicating non-compliance and/or a risk to human or animal health, that authority shall pass that information on to competent authorities in other Member States if it considers that they might be interested in it or if they request it. It shall also communicate such information to the Commission whenever it is of relevance at Community level.

2 If the third country has given a legal undertaking to provide the assistance required to gather evidence of the irregular nature of transactions that are or appear to be contrary to the relevant feed and food law, information obtained under this Regulation may be communicated to that third country, with the consent of the competent authorities that supplied the information, in accordance with laws applying to the communication of personal data to third countries.

Article 40

Coordinated assistance and follow-up by the Commission

1 The Commission shall coordinate without delay the action undertaken by Member States when it, further to information received from Member States or from other sources, becomes aware of activities that are, or appear to be, contrary to feed or food law and are of particular interest at Community level, and in particular when:

- a such activities have, or might have, ramifications in several Member States;
 - b it appears that similar activities have been carried out in several Member States;
- or
- c Member States are unable to agree on appropriate action to address non-compliance.

2 When official controls at destination show repeated non-compliance or other risks to humans, plants or animals from feed or food, either directly or through the environment, the competent authority of the Member State of destination shall inform the Commission and the competent authorities of the other Member States without delay.

3 The Commission may:

- a in collaboration with the Member State concerned, send an inspection team to carry out an official control on the spot;
- b request that the competent authority of the Member State of dispatch intensify relevant official controls and report on the action and measures taken.

4 Where the measures provided for in paragraphs 2 and 3 are taken to deal with repeated non-compliance by a feed or food business, the competent authority shall charge any expenses arising from such measures to the business in question.]

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Editorial Information

- X1** Substituted by [Corrigendum 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 \(Official Journal of the European Union L 165 of 30 April 2004\)](#).

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(1) [^{XI}OJ L 351, 2.12.1989, p. 34.]

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