

**COMMISSION REGULATION (EC) No 494/98**

of 27 February 1998

**laying down detailed rules for the implementation of Council Regulation (EC) No 820/97 as regards the application of minimum administrative sanctions in the framework of the system for the identification and registration of bovine animals**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 820/97 of 21 April 1997 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products<sup>(1)</sup>, and in particular Article 10(e) thereof,

Whereas according to Article 21 of Regulation (EC) No 820/97 any sanctions imposed by the Member States should be proportionate to the gravity of the breach; whereas the sanctions may involve, where justified, a restriction on movement of animals to or from the holding of the keeper concerned;

Whereas the sanctions provided for by this Regulation should be applied where non-compliance with the conditions for the identification and registration of bovine animals leads to a presumption in particular of infringements of Community veterinary legislation which may endanger human and animal health; whereas sanctions are also necessary to ensure the proper financing and operation of this system;

Whereas having regard to the second paragraph of Article 21 of Regulation (EC) No 820/97, this Regulation should lay down minimum administrative sanctions, leaving open the possibility for the Member States to establish other national administrative or criminal penalties, taking into account the seriousness of infringements;

Whereas it is necessary to lay down sanctions regarding certain situations where the provisions of Regulation (EC) No 820/97 are not complied with; whereas such situations include non-compliance with all or some of the requirements regarding identification and registration, payment of charges and notification; whereas if on a certain holding the number of animals for which the identification and registration requirements provided for by Regulation (EC) No 820/97 are not fully complied with is in excess of 20 %, the measures should affect all the animals present on the holding;

Whereas if it is not possible to prove the identification of an animal within two working days, it should be destroyed without delay under the supervision of the

veterinary authorities and without compensation from the competent authority;

Whereas in view of the timetable for the application of Regulation (EC) No 820/97, this Regulation should enter into force as a matter of urgency;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee for the European Agricultural Guidance and Guarantee Fund,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. If one or more animals on a holding comply with none of the provisions laid down in Article 3 of Regulation (EC) No 820/97, a restriction shall be imposed on movement of all animals to and from that holding.
2. If the keeper of an animal cannot prove its identification within two working days, it shall be destroyed without delay under the supervision of the veterinary authorities, and without compensation from the competent authority.

*Article 2*

1. In the case of animals for which the identification and registration requirements laid down by Article 3 of Regulation (EC) No 820/97 are not fully complied with, until those requirements are fully complied with, a restriction shall be immediately imposed on the movement of those animals only.
2. If, on one holding, the number of animals for which the identification and registration requirements laid down by Article 3 of Regulation (EC) No 820/97 are not fully complied with is in excess of 20 %, a restriction shall be immediately imposed on the movement of all the animals present on the holding.

However, in respect of holdings of not more than 10 animals, this measure shall apply only if more than two animals are not fully identified in accordance with the provisions of Regulation (EC) No 820/97.

<sup>(1)</sup> OJ L 117, 7. 5. 1997, p. 1.

*Article 3*

If a keeper does not pay the charge referred to in Article 9 of Regulation (EC) No 820/97, Member States may withhold or refuse the issue of passports to that keeper. In cases of persistent failure by a keeper to pay that charge, Member States may also restrict the movement of animals to and from the holding of that keeper in accordance with Article 21 of that Regulation.

*Article 4*

1. If a keeper fails to report to the competent authority movement to and from his holding in accordance with Article 7(1), second indent, of Regulation (EC) No 820/

97, the competent authority shall restrict the movement of animals to and from that holding.

2. If a keeper fails to report to the competent authority the birth or death of an animal in accordance with Article 7(1), second indent, of Regulation (EC) No 820/97, the competent authority shall restrict the movement of animals to and from that holding.

*Article 5*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 March 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 February 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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