Council Regulation (EU) 2018/1277 of 18 September 2018 on fixing the export refunds on poultrymeat

COUNCIL REGULATION (EU) 2018/1277

of 18 September 2018

on fixing the export refunds on poultrymeat

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Under Council Regulation (EC) No 1234/2007[(1)], which was repealed by Regulation (EU) No 1308/2013 of the European Parliament and of the Council[(2)], the Commission was empowered to fix refunds when considered necessary in accordance with the criteria and requirements established in Regulation (EC) No 1234/2007. Against this background, Commission Implementing Regulation (EU) No 689/2013[(3)] was adopted.

(2) By its judgment of 20 September 2017[(4)], the Court of Justice annulled Implementing Regulation (EU) No 689/2013. The Court of Justice held that the failure to comply with the procedural rules relating to the adoption of an act adversely affecting a person constitutes an infringement of an essential procedural requirement and that, therefore, the act vitiated by such a defect must be annulled.

(3) The Court of Justice also ruled that notwithstanding the breach of essential procedural requirements, no error had been disclosed affecting the conformity of the act, which contained the measures necessary for the implementation of Regulation (EC) No 1234/2007. Thus, for the sake of legal certainty and to avoid adversely affecting the implementation of Regulation (EC) No 1234/2007, it held that the effects of the contested Regulation be maintained until the entry into force of a new act intended to replace it.

(4) Regulation (EU) No 1308/2013 repealed the procedural provisions of Regulation (EC) No 1234/2007 concerning the adoption of acts fixing refunds. Regulation (EU) No 1308/2013 applies since 1 January 2014.

(5) It is therefore necessary to fix the export refunds on poultrymeat at the same level as they were fixed by Implementing Regulation (EU) No 689/2013, in order to comply with the judgment of the Court of Justice. This Regulation should thus apply retroactively for the period between 19 July 2013 and 31 December 2013.

(6) Refunds should be granted only on products which are authorised to move freely in the Union and bear the identification mark provided for in point (b) of Article 5(1) of Regulation (EC) No 853/2004 of the European Parliament and of the Council[(5)]. Those

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) 2018/1277. (See end of Document for details)*

products should also comply with the requirements of Regulation (EC) No 852/2004 of the European Parliament and of the Council[6].

(7) The refunds applicable until the adoption of Implementing Regulation (EU) No 689/2013 were fixed by Commission Implementing Regulation (EU) No 360/2013[7]. The expiration of the effects of Implementing Regulation (EU) No 689/2013 would therefore imply, inter alia, that Regulation (EU) No 360/2013 be applicable. For the sake of legal certainty, Regulation (EU) No 360/2013 should therefore be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

1 Export refunds shall be granted on the products, for the amounts and for the period set out in the Annex to this Regulation and subject to the conditions provided for in paragraph 2 of this Article.

2 The products eligible for an export refund under this Article shall meet the relevant requirements of Regulations (EC) No 852/2004 and (EC) No 853/2004 and, in particular, shall be prepared in an approved establishment and comply with the identification marking conditions laid down in Section I of Annex II to Regulation (EC) No 853/2004.

Article 2

Implementing Regulation (EU) No 360/2013 is hereby repealed.

Article 3

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 19 July 2013 until 31 December 2013.

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

Done at Brussels, 18 September 2018.

For the Council

The President

G. BLÜMEL