COMMISSION DECISION

of 8 March 2010

concerning the draft Decree from Greece on the display of information of all manner of dairy products indicating the country of origin of the raw material (milk) used for the manufacture and sale of such products to the final consumer, and the obligations of retail sellers on how to display dairy products at points of sales within their stores

(notified under document C(2010) 1195)

(Only the Greek text is authentic)

(Text with EEA relevance)

(2010/147/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs [1], and in particular Article 19 thereof,

Whereas:

(1) In accordance with the procedure provided for in the second paragraph of Article 19 of Directive 2000/13/EC, the Greek authorities notified the Commission on 1 June 2009 of the draft Decree on the display of information of all manner of dairy products indicating the country of origin of the raw material (milk) used for the manufacture and sale of such products to the final consumer, and the obligations of retail sellers on how to display dairy products at points of sales within their stores.

(2) According to Article 1(1) of the notified Decree, this applies to milk, chocolate milk, yoghurt, all kinds of milk-based desserts, crèmes, rice pudding and cream to be sold to the final consumer in sealed packages.

(3) Article 1(2) of the notified draft requires that where the abovementioned products are made in Greece, the sealed packaging of those products must also have information indicating the origin of the raw materials (milk) from which those products are made. Such information shall consist in a minimum content described in letters (a) and (b) of Article 1(2) of the draft Decree.

(4) Article 1(3) of the notified draft provides that, where the abovementioned products come from European Union countries other than Greece or are imported from non-EU countries, their sealed packaging must include information which indicates at the very least the specific country of production of those products or a label 'Made in EU'.

(5) Article 1(6) of the notified draft lays down rules concerning the manner in which those indications have to be presented: they must be displayed on at least one side of the packaging, and in particular on the side considered to be the front, below the trade name of the product in clearly legible, indelible letters, and must be in Greek.

(6) Directive 2000/13/EC harmonises the rules governing the labelling of foodstuffs by making provision for, on the one hand, harmonisation of certain national provisions and, secondly, arrangements for non-harmonised national provisions. The scope of harmonisation is defined in Article 3(1) of that Directive, which lists all the particulars that are compulsory on the labelling of foodstuffs in accordance with Articles 4 to 17 and subject to the exceptions contained therein. Furthermore, Article 4(2) of Directive 2000/13/EC provides that other particulars in addition to those listed in Article 3(1) of that Directive may be required, in the case of specified foodstuffs, by Union provisions or, in their absence, by national provisions.

(7) Article 18(2) of Directive 2000/13/EC allows the adoption of non-harmonised national provisions if they are justified on one of the grounds listed therein, including, inter alia, the prevention of fraud and the protection of public health, and provided they are not of such a nature as to impede application of the definitions and rules laid down by Directive 2000/13/EC. Therefore, where draft national labelling provisions have been proposed in a Member State, it is necessary to examine their compatibility with the abovementioned requirements and the provisions of the Treaty.

[1] OJ L 109, 6.5.2000, p. 29.

(8) The Greek authorities maintain that the notified measure is necessary to protect consumers and provide them with complete information so that they are aware of the country of origin of the raw material contained in the products in question. They also state that the draft Decree is necessary to safeguard the interests of Greek dairy farmers.

(9) In accordance with Article 3(1)(8) of Directive 2000/13/EC the indication of the place of origin or provenance is mandatory where failure to give such a particular might mislead the consumer to a material degree as to the true origin or provenance of the foodstuff. This provision puts in place an appropriate mechanism to counter the risk of consumers being misled in cases where some elements could imply that a given food comes from an origin or provenance different from the true one. In the case of the dairy products listed in Article 1(1) of the notified Decree, the Greek authorities did not provide any justification allowing to conclude that the introduction, as a general rule, of an obligation to indicate the country of origin of the raw material (milk) or the specific country of production or a label 'Made in EU' is necessary to attain one of the objectives listed in Article 18(2) of Directive 2000/13/EC.

(10) In light of these observations, the Commission has delivered a negative opinion pursuant to the third paragraph of Article 19 of Directive 2000/13/EC.

(11) The Greek authorities should accordingly be requested not to adopt the corresponding provisions of the draft Decree in question.

(12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Greece shall not adopt Article 1(2), (3) and (6) of the draft Decree on the display of information of all manner of dairy products indicating the country of origin of the raw material (milk) used for the manufacture and sale of such products to the final consumer, and the obligations of retail sellers on how to display dairy products at points of sales within their stores.

Article 2

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 8 March 2010.

For the Commission
John DALLI
Member of the Commission