



# **BTSF seminars and upcoming events on the OCR**

**Rolanas Kliucinskas, DG SANTE/G3**  
**27/11/2019**

# Planning of BTSF seminars

<b>9-10 October 2019:</b>	OCR in general ( <i>Grange</i> )
<b>6-7 November 2019:</b>	OCR and plant health ( <i>Grange</i> )
<b>27-28 November 2019:</b>	OCR and public health ( <i>Grange</i> )
<b>5-6 February 2020:</b>	OCR and animal health and welfare ( <i>Grange</i> )
<b>4-5 March 2020:</b>	First impressions of the OCR in application ( <i>Grange, 2 partic/MS</i> )
<b>1-2 April 2020:</b>	OCR and border controls ( <i>Rotterdam, 2 partic/MS</i> )

## Upcoming OCR events

### Smarter rules for safer food

OCR conference, in Brussels on 13/12/2019  
(Charlemagne Building, GASP Room)

*It is now possible to register to the conference*

[https://ec.europa.eu/info/events/smarter-rules-safer-food-and-plant-health-2019-dec-13\\_en](https://ec.europa.eu/info/events/smarter-rules-safer-food-and-plant-health-2019-dec-13_en)



# **BTSF seminar**

# **Model of certificates**

**Rolanas Kliucinskas, DG SANTE/G3**

**27/11/2019**

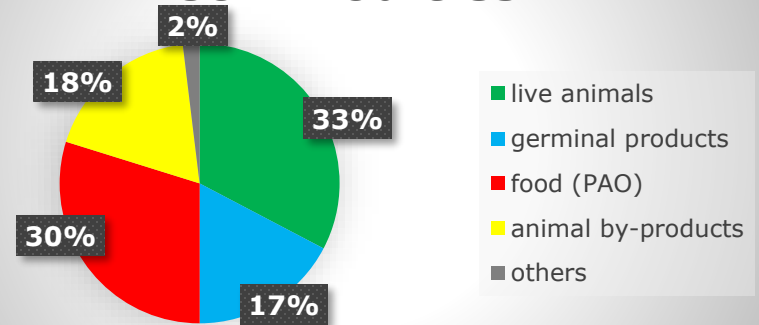


European  
Commission

## CURRENT STATE OF PLAY

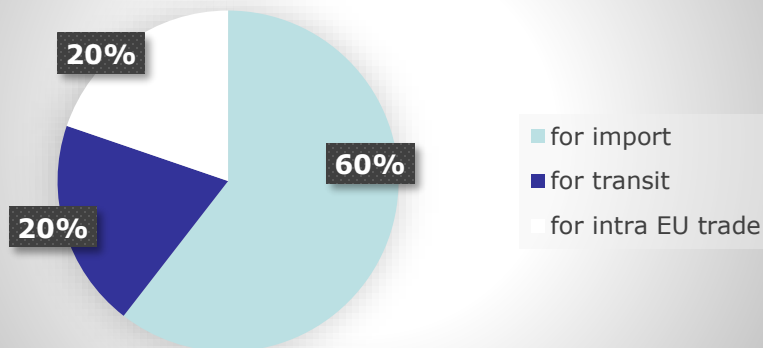
Model official certificates and attestations for import, transit or intra-EU movement of animals, germinal products, products of animal origin and animal by-products

### Commodities

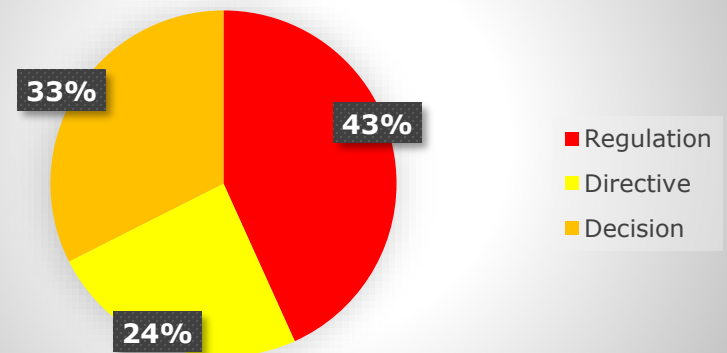


## 208 official certificates or official attestations under 37 legal basis

### Number of certificates



### Certificates' Legal basis



# Model of certificates and attestations

**Discussion on the strategy is finalized within DG SANTE**

## **Objective:**

To simplify legal framework and reduce number of certificates (out of 37 legal acts will remain only 3 implementing acts under the empowerment of the OCR and the AHL)

## **Preferred option on future model certificates/attestations:**

- IA on terrestrial animals and their germinal products;
- IA on aquatic animals;
- IA on products of animal origin repealing R2019/628 of 8 April 2019 (published on 17 May 2019). New elements in Reg. 2019/628 e.g. model of certificates for reptile meat, insects.

Current ABP certificate models will be maintained in the ABP regulation (R2011/142)

To be discussed with MS, Commission Legal Service

## **Target date:**

Publication six months before April 2021 with transitional provisions



# **BTSF seminar**

**Rolanas Kliucinskas, DG SANTE/G3**  
**28/11/2019**

# Obligations for MS to inform the Commission

- According to Article 4(4) of OCR MS shall ensure that EC is informed of the contact details and of any changes regarding:
  - Designated competent authorities,
  - Single authorities designated in accordance with Art.4(2)(b),
  - Organic control authorities,
  - Delegated bodies



# Obligations for MS to inform the Commission

- According to Article 139(1) of OCR MS shall notify rules on penalties to EC by 14/12/2019 and notify without delay on any subsequent amendments affecting them.

# Obligations for MS to inform the Commission

- DG SANTE have established platform on CIRCA database to facilitate such notifications
- Letter will be issued in coming days to the MS with detailed instructions where and how to upload all this information
- MS will be responsible for updating information on notifications



European  
Commission

# Questions from Member States



## Does Article 35(3) of the OCR, as regards additional analyses at the operator's own expense, mean that a third sample must be taken by the competent authorities?

- Competent authority must ensure the operators the right to a second expert opinion.
- If a dispute occur between the competent authorities and the operators based on the second expert opinion (35(1)documentary review), the operators may request, at their own expense, the documentary review of the initial analysis, test or diagnosis and, where appropriate, **another analysis, test or diagnosis** by another official laboratory.
- This is based on the second sample referred to in Article 35(2)a of the OCR ➡ **no need for a third sample.**

**In relation to “mystery shopping”, as Article 36 of the OCR only refers to Article 35(1) of the OCR, is the right to a second opinion limited to a documentary review?**

**Yes**

- The operator from whom samples have been ordered in accordance with Article 36(1) of the OCR is only entitled to documentary review of the sampling, analysis, test or diagnosis by another recognised and appropriately qualified expert.



European  
Commission

**Is it an obligation for competent authorities to take private quality assurance schemes into account when planning and targeting the official controls (Article 9.1d, “where appropriate...”)?**

**Yes**

- Article 9(1)(d) of the OCR clearly **obliges the competent authorities to take into account own controls** performed by the operator or by a third party at the operator’s request.
- The reference to “where appropriate” is merely a means of exemplifying what the latter could be (e.g. quality assurance schemes).

## The re-designation of BCPs for plant health (Articles 59, 60 and 61).

- Member States **may re-designate existing entities as Border Control Points (BCPs) or as Control Points (CPs)**, provided that those entities comply with the minimum requirements referred to in Article 64 of the OCR and with those laid down in Commission Implementing Regulation (EU) 2019/1014.
- It follows from Article 61(2) of the OCR that Article 59(2) and (3) of the OCR do not apply in case of re-designation (notify EC, submit necessary info to verify, within 3 months EC inform MS regarding designation).
- *However, **Member States should communicate to the Commission their list of re-designated BCPs and CPs** (to [sante-traces@ec.europa.eu](mailto:sante-traces@ec.europa.eu)), accompanied with the necessary information for listing and a statement that they are compliant with the minimum requirements of the OCR on 14 December 2019.*

## Is it possible to fish inspectors to perform official controls at fish auctions?

- Official controls should be performed by the competent authorities, who must have, or have access to, sufficiently qualified and experienced staff (Article 5(1)(e) of the OCR). **Fish inspectors could be members of that staff.**
- It is also possible for the competent authorities to **delegate certain control tasks**, in accordance with Article 28, to natural persons under the conditions laid down in Article 30 of the OCR.



## Should both point VII and point VIII of Chapter I in Annex IV to the OCR apply in the case of plants in transit?

- General fees for consignments of animals and goods entering the Union for the purpose of being placed on the market are established in Chapter I of Annex IV of the OCR.
- For plants, plant products and other products, objects and materials capable of harbouring or spreading pest of plants, those fees are listed in **point VIII** (e.g. 7 euro per consignment for documentary checks).
- For the specific case of consignments, including plants, which are only transiting through the Union or being transhipped, the fees established in **point VII** will apply instead, i.e. EUR 30 for consignment increased by EUR 20 per quarter of an hour for every member of staff involved in the controls.

## Which are the differences between Article 79(2)(c) of the OCR and Article 28 of Regulation 882/2004 (expenses arising from additional official controls)?

**Article 79(2)** of the OCR obliges MS to collect a fee or charge to recover the costs incurred in relation to official controls which were not originally planned (follow-up from detected non-compliance).

**Article 28** of Regulation 882/2004 obliges MS to charge the operator responsible for the non-compliance to cover the costs for expenses arising from additional official controls, as exemplified in that article.

- The difference is the further clarity on the cost elements, upon which the calculation must be built. These are now clearly spelled out in the Regulation (Article 81), while until now this has been a matter clarified by jurisprudence.

## How are the rules in Directive 96/68, mentioned in Annex VIII of Regulation 882/2004, to be maintained?

- Directive 98/68 **has not be repealed**. It is still in force, even if it is based on another Directive repealed (Directive 95/53).
- **New set of model official certificates and official attestations** under the empowerments of the OCR and the Animal Health Law, **is in preparation**.
- In this context, it could be considered whether Directive 98/68 should be repealed and a model of official document with the same scope as the one in Directive 98/68 be established.



European  
Commission

## How is Article 87 of the OCR to be understood in relation to Directive 96/93/EC and the third country requirements for certificates (as the Directive will be repealed by the OCR)?

- Articles 88, 89 and 90 of the OCR shall apply:
  - a) to official certificates issued in accordance with EU agri-food chain legislation, and
  - b) to export certificates.
- The word “and” between paragraph a) and b) of Article 87 **does not mean that both conditions must be met.** Hence, instead of Directive 96/93/EC, the rules in Articles 88-90 of the OCR will apply also to export certificates.



European  
Commission

## Who should perform border controls on food contact material and food additives (as Article 49(2) of the OCR also refers to “other objects”)?

- Article 49(2) of the OCR specifies how physical checks shall be performed where those checks concern plants, plant products and **other objects** = by an official plant health officer.
- “Other objects” is defined as “any material or object, other than plants or plant products, capable of harbouring or spreading pests, including soil or growing medium” (definition Art.3(22) of OCR).
- OCR does not specify which category of staff of the competent authorities which should perform border controls on food contact material and food additives, leaving that up to Member States to decide.

- *Please note that the above is only intended to assist you. A final authoritative interpretation of Union law can only be given by the Court of Justice of the European Union.*