

EUROPEAN LEGAL FRAMEWORK IN MANUFACTURING AND PROCESSING OF MILK. THE MILK PACKAGE. ELIMINATION OF MILK QUOTA. CASE STUDY: GERMANY

Ion Tudor COMAN, Livia VIDU, Constantin TRĂISTARU, Gheorghe Emil MĂRGINEAN

University of Agronomic Sciences and Veterinary Medicine of Bucharest,
59 Marasti Blvd, District 1, Bucharest, Romania

Corresponding author email: liviavidu@gmail.com

Abstract

The paper aims to present the effects of the abolition of the milk quota system who was in force for more than 30 years, to analyse the new milk packake introduced by the European Union (since October 3, 2012, it is in full force). This package was prepared in 2015 with a view to the long term future of the dairy sector after the quota system expired. Also, we have analyzed and produced a study case for Germany, in respect of the two systems who were in force in EU, taking in consideration the role, position and place of the German milk market at European level.

Key words: dairy cows, evolution, milk production, Romania.

INTRODUCTION

The abolition of the milk quota system in 2015, agreed in the 2008 Health Check of the common agricultural policy (CAP) reform, created a new context for economic operators who have faced the milk quota system since its introduction in 1984.

In order to prepare the sector for this new operating environment, the European Commission has developed a number of new instruments in the context of the 'milk package' of 2012 as regards cooperation between farmers in the dairy sector.

The so-called "milk package" was published in May 2012, came into full force on 3 October 2012 and applies until 30 June 2020. The implementing regulations were published in June and September 2012.

The milk package aims to strengthen the position of dairy farmers in the dairy supply chain and to prepare the sector for a more sustainable and market-oriented future, in particular by drawing lessons as a result of the dairy market crisis in 2009.

Member States have now the option of making binding the conclusion of written contracts between milk producers and processors (Saraz et al., 2008).

Farmers have the possibility to negotiate, through producer organizations, the contractual

clauses, including the price of raw milk. Specific rules at EU level for inter-branch organizations allow actors in the dairy supply chain to engage in dialogue and conduct a range of activities.

At the same time, they allow Member States to apply, under certain conditions, rules governing the supply of PDO / PGI cheeses.

RESULTS AND DISCUSSIONS

The milk sector has been intensively discussed during the negotiations on the CAP reform and the final agreement offers better market orientation along with a safety net for farmers in the context of external uncertainties, primarily through direct payments, but and with options for risk management under rural development programs, as well as with a new and flexible market crunch reserve in case of market difficulties.

Study case – Germany (biggest milk producer in European Union)

Milk production is the most important branch of German agriculture and the German dairy industry is the largest sector within the German food industry.

More than one fifth (21.0%) of the total cow's milk collected by dairy factories in the EU-28 in 2015 was collected in Germany, making it the biggest producer in EU.

About a quarter of agricultural holdings in Germany is producing milk.

Dairy farming in many regions is not only of great importance for the rural economic and labour market. It also makes an important contribution to preservation and care of grown cultural landscapes.

The use of grassland at many locations makes the landscape open and attractive for the living and recreation area and tourism.

By the year 2015, milk production in Germany, according to the Federal Ministry for Agriculture and Nutrition (BLE) has been steadily reaching its previous high of 32.69 million tonnes

In 2015, milk production was 14.1% higher than production in 2008 (28.66 million tonnes), or 4.3% over 2013 (31.34 million tonnes).

This growth trend continued at the beginning of 2016. So the quantities produced from January to May 2016 were higher with between 1.8 and 8.1% than in the previous year. Since June 2016, however, there has been a trend reversal here.

For example, in June 2016, milk production was at -1.8% for the first time below the previous year. This development continued and even intensified. In November the milk production was 5.7% below the previous year's level, or 3% below the production volume of the year 2014.

So, in 2016, Germany provided again almost 21% of the milk produced in EU (20.9), representing one fifth of the total, as we can see in the figure below, provided by Eurostat.

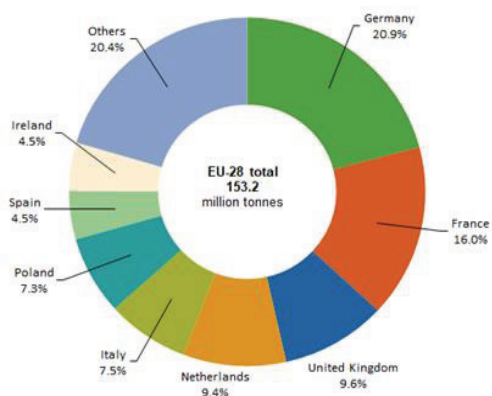


Figure 1 Milk production in EU (2016) – source Eurostat

In 2017 milk delivery again dropped slightly German. The decline amounted to 0.1 million

tonnes, which is a daily decrease of 0.1%. This was the growing trend after the record 2015 interrupted for two consecutive years.

According to our analysis, with the data provided by Eurostat, starting with the reference year 2010, it is observed that the milk production in the country chosen as a case study (Germany) increased after the adoption of the milk package, with the exception of 2017 (data for 2018 not yet available in Eurostat format), when it recorded a slight decrease, as can be seen from the table below.

Table 1. Evolution of Milk Production (t/year)

Year	Production (1000 t)
2010	29.075
2011	29.764
2012	29.703
2013	30.301
2014	31.375
2015	31.879
2016	31.972
2017	31.937

The milk market remained volatile in 2018 as well. These is essentially due to a higher milk yield while global demand continued to grow more slowly than at the beginning of the year. The expansive tendencies in the milk supply in Germany and the EU is likely to continue.

Outside the EU, milk volumes are expected to continue rising, especially in North America. Oceania does not seem likely to increase if adverse weather conditions persist.

The milk market starts firmer in the year 2019 than in the previous year.

The moderate development of milk yield, which is below the previous year's level in Germany and the EU as a whole, contributes to this. Due to the feed situation, lower milk deliveries are expected in the first half of 2019 than in the previous year.

The drought also had a dampening effect on the milk due to the poorer feed qualities with higher crude fiber content.

As a result, milk volumes in Germany are unlikely to continue to grow in the 2019 or, depending on the weather and price trends, even decline.

Agricultural policy and legal framework

System change: dairy farming without quota

The liberalization of the EU dairy market has taken place in small steps over the years and

served the purpose of preparing for the abolition of the milk quota on 01.04.2015. The abolition of the milk quota had become necessary because of the increasing integration of the EU dairy market into the world milk market through the reduction of foreign trade regimes, in particular the export refunds, which meant that the milk quota alone was not an effective measure to

Price support

The possibilities of "decoupling" the single market price level from the world market price level were no longer present.

This meant that milk producers were largely exposed to the world market in recent years, despite the existing quota system.

At the same time, they had to bear the financial burdens associated with the quota regime (especially the purchase and lease of milk quotas). The Milk Package 2012 was integrated into the CMO in 2014. It goes to the recommendations of a High Level Expert Group on Milk set up after the milk crisis of 2008/2009.

The aim of the regulations is to strengthen the position of producers within the supply chain. The following areas are affected by the regulations:

- recognition of producer organizations, their associations and industry associations;
- Member States have the option to legislate on raw milk supply contracts;
- a special antitrust exemption for recognized producer organizations and their associations, and contracts for the supply of raw milk to the affiliated farmers, to processors or collectors;
- Option for the Member States, a specific volume regulation for geo-protected cheese to adopt and renewal of a monthly reporting requirement for Member States and first purchasers of raw milk in relation to raw milk deliveries.

These rules have been included in the CMO, including special antitrust exceptions. The milk package was approved for a limited time until 30.06.2020.

The Commission has to report on the implementation and the effectiveness of the package. The last Report was presented on 24.11.2016.

In this last Report, the Commission notes that the use of the instruments anchored in the milk package are increasing.

Already 13 Member States use the possibility of mandatory contracts. Producer organizations were established and recognized in 11 Member States.

At the end of 2015, the number of producer organizations was up to 260, of which about 92% were recognized in Germany, France and Italy. The Commission proposes, in its above mentioned report, the creation of producer organizations, who will continue to strengthen associations and industry associations.

In Germany, there was no deficit in bundling, even before the Milk Package came into force for the raw milk supply in producer organizations. So, the effects of the milk package were therefore limited in Germany, at least until now.

The amount of cow's milk production minus the quantities for the milk fed, for direct marketing and for natural withdrawals shall indicate the delivery volume of raw milk to dairy companies. The conventional Cow's milk produced and delivered to German dairy companies shows a significant increase in volume:

- in 1995, the delivery volume amounted to 26.9 million tonnes;
- in 2009, a quantity of 28.2 million tonnes was delivered;
- by 2016, the volume of milk delivered increased to 31.3 million tonnes.

In EU Terms, the amount of milk delivered throughout the EU has also increased in recent years:

- in 2009 were 134.2 million tonnes of milk delivered;
- in 2016, the quantity delivered is 153.2 million tonnes.

At European level, it is noted that the European milk package strengthens the position of milk producers within the supply chain

According to the latest European Commission report on the functioning of the so-called "milk package", European farmers are increasingly using the tools offered by the milk package, such as collective bargaining of contractual clauses through producer organizations or the use of written contracts.

The measure allowing collective bargaining is designed to strengthen the bargaining power of milk producers, while written contracts offer farmers greater transparency and better traceability.

The European Commission report shows that there are measures that can be taken at EU level to ensure a better position for dairy farmers in the supply chain.

The report also examines the additional possibilities for dairy farmers. For example, it highlights the potential of two key instruments of the Milk Package - Producer Organizations (OPs) and collective bargaining - which are not yet fully exploited by Member States, producer organizations and farmers, and outlines the different ways to increase their effectiveness, both at EU level and at Member State level.

In particular, Member States are encouraged by the milk package to take the necessary steps to stimulate the setting up of producer organizations to undertake collective actions that go beyond collective bargaining, thereby increasing the share of producers in the milk supply chain.

In addition to these recommendations, consideration should be given to extending the role of Inter-branch Organizations (OIPs).

For the full potential of the milk package to materialize, the report concludes that an extension of its application beyond 2020 should be considered.

The most important provisions of the milk package, the real key points are mandatory contracts and producer organizations.

Mandatory contracts (art. 148)

The Contracts establish the responsibilities of operators in the dairy chain, increase awareness of market signals, improve price transmission, adjust supply on demand and avoid unfair commercial practices. Following the abolition of the milk quota regime, they are a useful tool for producers and processors to plan their production volumes.

Under Article 148, Member States have the possibility to impose written contracts between farmers and processors and to force milk purchasers to offer farmers a minimum contract duration. These contracts should be drawn up prior to delivery and should contain specific elements such as price, volume, duration, payment details, collection and applicable rules in case of force majeure.

All these elements should be freely negotiated between the parties and farmers should have the right to refuse a minimum duration bid

within a contract. Deliveries by a farmer who is a member of his cooperative are exempt from the obligation to draw up such contracts if the statutes or rules applicable within that cooperative provide for provisions having similar effects to the provisions described in the contract.

Seven Member States have stipulated that the contract proposed by the buyer to the farmer should have a minimum duration of 6 months, while Spain has opted for 1 year contracts and France for 5 years. Inspired by the Milk Package provisions in the United Kingdom, manufacturers and processors agreed on a voluntary code of conduct that provides for contracts to be drawn up under conditions similar to those specified in the Milk Package and covering 85% of raw milk production.

Also in Belgium a code of good practice was signed by 98% of the processors and the three most important farmers' organizations. This includes in particular quality agreements, arrangements for the notification period for farmers and purchasers, sustainability agreements and provisions on the role of producer organizations.

In Germany, for contracts negotiated through producer organizations, model contracts are used frequently, which in the future, in addition to quality, price and duration parameters will also include additional details on milk volumes. Contracts have become particularly binding in Member States where the cooperative structure of contractual relations between producers and processors in the dairy sector has been less pronounced.

Almost 64% of all deliveries of cow's milk from the Community are carried out by farmers to processing cooperatives or to the processing cooperatives whose members are. In the case of France, no distinction could be made between deliveries to processing and collection cooperatives. As regards Germany, deliveries to private processors are mainly carried out through producer organizations or their associations.

Generally, the proportion of those types of contractual provisions is reported to be fairly stable in recent years. However, several Member States (EE, IT, LV, AT, SK) reported an increase in deliveries to private collectors,

although their share in absolute terms is rather limited.

Producer organizations (Article 152 (3))

Member States are required to formally recognize producer organizations (POs) set up by producers in the milk sector at the initiative of producers and pursuing a specific purpose which may include:

1. ensuring planning and adaptation of production on demand, particularly in terms of quality and quantity;

2. the concentration of supply and the placing on the market of the products obtained by their members;

3. optimizing production costs and stabilizing producer prices. Member States may set a minimum number of members and / or a minimum volume of marketed production that producer organizations must meet in order to be recognized.

All recognized producer organizations focus on the production of cow's milk, with the exception of one in Spain focusing on the production of sheep's milk.

A considerable number of producer organizations out of a total of 228 in the EU dairy sector, particularly in Germany and Italy, existed before the entry into force of the Milk Package.

However, the number is rising.

An association of producer organizations was recognized in Germany, resulting in a total of two. In several Member States, national recognition legislation has only recently entered into force.

The rather large variation in minimum requirements indicates the difficulty of striking a balance between the ambitious target for large producer organizations which has the potential to increase the bargaining power of producers and encouraging the establishment of POs by setting realistic thresholds.

However, it should be noted that, in the second stage, several producer organizations can reunite in an association of producer organizations which have the same possibilities of collective bargaining as a producer organization, but at a larger scale.

The possibility of extending certain rules applicable to recognized producer organizations and their associations (as well as

to interbranch organizations) to non-member entities and to compulsory contributions by entities not qualifying under the reformed CAP is also currently applicable to sector organizations milk and is expected to stimulate the creation of representative organizations.

As regards the incentives offered for adherence to producer organizations, the reformed rural development policy offers in particular the following possibilities:

- in the 2014-2020 period, support for the creation of producer groups was extended to producer organizations;
- the new cooperation measures (which are potentially open to producer groups, cooperatives and interprofessional organizations) provide opportunities to support, for example, the development of new products and practices, short supply chains and local markets, as well as cooperation with small operators in organizing common working processes and sharing facilities. Combined with support under the investment measure, collective investment can benefit from higher aid rates (a possible increase of 20 percentage points);
- farmers groups can also benefit from a range of rural development measures such as investment support, participation in quality systems and information / promotion activities, agricultural, environmental and climate measures, etc.

The package also sets specific EU-wide rules for inter-branch organizations, allowing actors in the dairy supply chain to engage in dialogue and conduct certain activities, and Member States may, under certain conditions, apply rules regulating cheese offerings.

The package also involves a number of measures to increase market transparency. The measures foreseen in the milk package will be in place by mid-2020.

The Commission was mandated to report in 2014 and 2018 on the market situation and the implementation of the measures. These reports (to the European Parliament and the Council) should in particular assess the effects on milk producers and milk production in less-favored regions and include any incentives to encourage farmers to enter into joint production agreements.

CONCLUSIONS

Brexit, Common Agricultural Policy after 2020
Brexit consequences are not yet clear.

The last year of this decade begins with political uncertainties that could affect the milk market in the remainder of the year.

Uncertainty is currently mainly caused by Brexit. The vigorously growing production volumes in New Zealand and the USA also pose problems for European exports.

But even 2018 was a year of ups and downs: milk producer prices rose again in the course of the year. For a long time, milk supply has also increased. Only the drought in the summer caused less milk.

At the beginning of 2019, deliveries were around 3.3 percent down on the previous year.

Overall, however, a new record delivery of an estimated 32.4 million tonnes is expected for the past year 2018. EU milk deliveries are roughly at the high level of the previous year and show a similar course to that in Germany, but not so strongly.

The effects of the upcoming Brexit are clear. It is still unclear what market participants will expect from March 2019 onwards.

The signs point to a hard Brexit (present time, April 2019), which would lead to tariffs on the various dairy products and costly and complex customs clearances, is likely to have a negative impact on the cheese market in the EU, in particular, as the United Kingdom is a large net importer of cheese.

In the particular case of Germany, this country's dairy industry is not a friend of Brexit. To evaluate correctly the impact of Brexit on Germany we should look first at the economic informations.

In 2018 the trade volume between the United Kingdom (UK) and Germany amounted to 119 billion euros. Approx. 750,000 German jobs depend on the trade with UK.

Until present time, German companies have established investments worth over 140 billion euros. In UK are located approx. 2,500 branches of German companies that employ more than 400,000 people.

Viceversa, UK companies have 1,500 branches in Germany with around 270,000 people.

The United Kingdom is an important trading partner for dairy products. A "hard Brexit"

would have unforeseen consequences for the milk market. Many countries are expected to be affected, Germany, Ireland and others in particular.

The administrative part of the process is not only threatened by high tariffs on third countries, but also accompanied by the need for customs controls with a high expenditure of time at the border.

To this end, the two ex-partners EU and UK would initially treat each other as third countries in the exchange of goods and services and also introduce veterinary controls again.

The milk markets have just stabilized after the turn of the year, while threatened by a "hard Brexit" and the resulting trade distortions would have negative consequences for the European dairy industry.

The use of Brexit's diminishing EU funds is giving rise to agricultural policy even more in competition with the other EU policies.

Also, competition for the funding of the two pillars within the CAP will worsen.

When designing post-2020 CAP measures, the challenges faced by livestock farms will need to be given special consideration.

Business and politics must master these challenges together. Coping the recent milk crisis was a strenuous effort - including public budgets and the need for a critical situation analysis and structural changes is substantiated. There is an urgent need to make difficult provision for the future.

For the first time, the Milk Package 2012 has created the opportunity to recognize dairy industry associations. These are agricultural organizations in which, in addition to the producer, at least one further level of the value added chain must be represented (processing and / or trade).

Background of this new regulation was the realization that the dairy industry for a well-defined catalog of topics should be able to arrive at joint solutions across stages without conflicting with antitrust law. This should help the industry to meet the targeted market direction.

ACKNOWLEDGEMENTS

This research work was carried out with the data and information's available from Food and

Agriculture Organization of the United Nations, Eurostat, European Commission, and other open sources.

REFERENCES

Saraz, I., Groza, I., Cenariu, M., Ciupe, S., Pop, R. (2018). Study regarding seasonal incidence of fluoroquinolons in cow raw milk and their relationship with somatic cells count. *Revista Romana de Medicina Veterinara*, 28(1), 37-40.

<http://www.fao.org>
<http://ec.europa.eu/eurostat>
https://www.bmel.de/SharedDocs/Downloads/Broschueren/Milchbericht2017.pdf?__blob=publicationFile
http://europa.eu/rapid/press-release_IP-14-674_ro.html
https://ec.europa.eu/agriculture/milk/milk-package_ro
https://literatur.thuenen.de/digbib_extern/bitv/dn047019.pdf
<https://www.destatis.de/EN/Homepage.html>
https://ec.europa.eu/agriculture/events/dairy-conference-2013_en