Resolution on the imbalances in the food supply chain

2011/2904(RSP) - 19/01/2012 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on the imbalances in the food supply chain, in response to the Commission communication on a better functioning of the food supply chain.

The resolution was tabled by the EPP, ALDE, Greens/EFA, S&D, and GUE/NGL groups.

It points out that the food supply chain, agriculture, the agri-food industry and food distribution account for 7% of total employment in the EU and are worth EUR 1400 billion per year - a figure greater than that for any other manufacturing sector in the EU - and that the share of agricultural value added from the food supply chain dropped from 31% in 1995 to 24% in 2005 in the EU-25.

Parliament emphasises that the problem of imbalances in the food distribution chain has a clear European dimension, which calls for a specific European solution. Whilst tackling the imbalances in the food distribution chain includes self-regulation, it also **requires regulation and adjustments to competition law**. The resolution calls on the Commission to **propose robust EU legislation** - where necessary and without distorting the proper functioning of the markets - to guarantee fair and transparent relationships between producers, suppliers and distributors of food products, and to implement properly the rules already in force. Members note in this regard the latest agricultural income figures from Eurostat show that, since 2009, there has been an 11.6% drop in farm incomes at EU level, whilst total input costs for EU farmers increased on average by almost 40% between 2000 and 2010. Parliament urges the Commission and Member States to continue to address the problem of **unfair distribution of profits within the food chain,** especially with regard to adequate incomes for farmers, stressing that power struggles must give way to cooperative relationships.

Unfair practices: Parliament calls on national and European competition authorities and other regulatory authorities to take action against abusive buyer practices on the part of **dominant wholesalers and retailers that systematically put farmers in an extremely unequal bargaining position.** It calls for a clear, rigorous and **objective definition of abusive and unfair practices**, so that such practices are subject to specific regulation, supervision and objective sanctions. Members highlight a **non-exhaustive list of practices** about which producers have raised concerns in relation to the functioning of the food supply chain. These include the following:

- on access to retailers: (i) advance payment for accessing negotiation; (ii) listing fees; (iii) entry fees; (iv) pricing; (v) payment delays; (v) most favoured client clause;

- on unfair contractual conditions or unilateral changes to contract terms: (i) unilateral and retrospective changes to contractual conditions; (ii) unilateral breach of contract; (iii) exclusivity clauses/fees; (iv) imposition of a ‘forced’ contribution for private brands; (v) retaliatory practices; (vi) margin recovery; (vii) overriding discounts; (viii) imposition of payment for waste processing; (ix) inverted auctions; (x) unrealistic delivery terms; (xi) payment to cover (non-previously agreed) promotions; (xii) imposing unconditional return of (unsold) merchandise; (xiii) imposition on suppliers of costs related to product shrinkage or theft.

Parliament calls for the **establishment of a framework to effectively control these practices,** by launching a **full-sector inquiry**, through administrative or judicial means, and then by introducing a

system of evaluation and monitoring operated by Member States and coordinated by the Commission, with dissuasive sanctions applied effectively and in good time.

On payment, Members ask for the introduction of **better means to ensure that payment deadlines** are complied with, taking into account the provisions of the Late Payments Directive, and for new instruments to be put in place to minimise the length of time between delivery and the moment at which payment is actually received by suppliers. Solutions are urgently required to deal with the specific problems encountered by producers of perishable goods with short shelf-lives, who face major cash flow difficulties.

Parliament also asks the Commission to:

- **improve the European Price Monitoring Tool** and develop a user-friendly, transparent and multilingual interface which allows consumers and stakeholders to compare prices of basic foodstuffs within a certain Member State and between different Member States at each stage in the food supply chain and which also takes into account differences in costs of living in the Member States;

- **clarify the application of competition rules in agriculture**, with the aim of providing farmers and their inter-branch organisations with tools that will make it possible to improve their negotiating position;

- **make an assessment of and changes to existing EU competition law**, with a view to ensuring that greater account is taken of the harmful effects of vertical concentration on the entire food supply chain, instead of there being a narrow focus on the relative positions of various companies on the market and distortions of competition being viewed solely on the basis of their detrimental effect to consumers;

- **better coordinate the work of its various services**, so as to be able to play a more effective role in price monitoring throughout the food chain and in monitoring retail dynamics and relative market shares throughout the EU. Members calls for the **creation of an independent Food Trading Ombudsman** to liaise with the relevant trade and competition authorities and with national food trading Ombudsmen in each Member State, in order to share information. The European Ombudsman and the various national Ombudsmen should be responsible for ensuring compliance with the relevant legislation and recommending timely and appropriate sanctions;

- **conduct an in-depth study** into the differences in approach between the 27 national competition authorities and policies and to encourage solutions which involve all partners in the food production chain and prevent abuses of dominant positions in one or a restricted number of parts of the input or output chain, which often occur at the expense of the agricultural producer.

Lastly, Parliament insists that the Member States should play an active role in supporting existing and in establishing new consultation forums, with proper representation of the actors along the food chain, so as to promote dialogue and establish guidelines to bring about fairer, more balanced relationships.