

COMMUNICATION of 8 October 2014 from the EU Affairs Committee of the Austrian Bundesrat to the European Parliament and the Council pursuant to Article 23f(4) of the Federal Constitution Act (B-VG)

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Proposal for a Regulation of the European Parliament and of the Council on the zootechnical and genealogical conditions for trade in and imports into the Union of breeding animals and their germinal products

The proposal for a Commission Regulation on zootechnical law contains a number of very problematic amendment proposals. A joint paper dated 2 June 2014 which the *Bundesländer* sent to the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management (BMLFUW) and the Federal Criminal Office (BKA) via their liaison point takes specific positions on the main criticisms. The Member States have since received an updated questionnaire on the draft Regulation from the General Secretariat of the European Council. The results of the questionnaire should be a topic of discussion at the meeting of the Council Working Party on Zootechnical Law which will be held in Brussels on 6 October 2014.

In Austria, zootechnical law is a matter for the *Bundesländer*, and coordination between the *Bundesländer* takes place in accordance with an agreement between them pursuant to Article 15a of the Federal Constitution Act (B-VG), with support from the BMLFUW's Zootechnical Council, which is a committee of experts specially created for the purpose. A number of the provisions contained in the draft Regulation are excessive, and seriously impact on, and place a question mark over, the principle of subsidiarity and the future functioning and organisation of the enforcement of zootechnical law. Moreover, far from reducing the authorities' and businesses' administrative costs, the draft Regulation would impose additional, senseless bureaucratic and technical hurdles. On the other hand, some essential aspects do not appear to have been touched on or clarified, despite the draft Regulation's stated purpose of harmonisation and clarification.

The far-reaching and detailed rules are also excessive, because:

- the operation of the single market, the free movement of goods and trade with non-member countries in this area is broadly satisfactory under the current regulatory arrangements. There is certainly a need for regulation of cross-border activity by breeding organisations, as the current

legal basis has produced some serious differences in interpretation among the Member States;

- the European Union's expenditure on animal breeding is minimal. Apart from research, the EU makes no significant payments to the breeding sector;
- the Community framework for State aid already places very narrow restrictions on businesses;
- the scope and content of the numerous delegated legal acts which are planned will have many unforeseeable consequences;
- certain special arrangements for some species of animal are questionable and could be dispensed with altogether (horses, hybrid pigs, breeding establishments);
- the legal form of a Regulation, which almost entirely robs the Member States of the necessary room for manoeuvre which they have enjoyed hitherto and which means that it may no longer be possible to take specific national/regional characteristics of the sector sufficiently into account.

Since Austria became a Member State, the work of the animal breeding organisations and progress in the field of animal breeding have been crucial elements in meeting the challenges of the single market and sectoral development in terms of quality production, increased competitiveness, and the need to maintain animal breeding which is structured in a way which meets the needs of Austria's animal breeders, especially in the cattle, pig, horse, sheep and goat sectors. In the cattle sector, particular importance attaches to regional pedigree structures, especially dual-purpose breeds, which in future are expected to play a major role in a self-determining breeding industry in the EU market. Moreover, attention should be given to preserving rare breeds of utility animals or breeds which are threatened with extinction. Overall, it would be sufficient to adapt the existing EU legal instruments (Directives/Decisions), where appropriate, make them more precise, harmonise them, bring them into line with the state-of-the-art in the breeding sector (particularly by passing the missing regulations on the cross-border activities of breeding organisations), and take a step in the direction of deregulation. This would also be the best way of complying with the principle of proportionality. Below we set out a number of important parameters whose treatment in the draft Regulation is problematic:

- the vast and almost standardised range of options for delegated legal acts, whose specific form and content is largely unforeseeable.
- key issues such as breeds, genetic conservation, genetic defects and genetic peculiarities have been dealt with inadequately, if at all.
- Chapters IX and X (Official controls) are completely exaggerated. Austria wishes them to be thoroughly reworked. An indication of outlines would suffice: the Member States' room for manoeuvre must be maintained, partly so as to take account of differences in their respective national legal orders. There would not appear to be any objective justification for taking the strict regulations which apply in the food sector as an example to be followed.

- Annex I requires breed societies and breeding operations to be legally and financially independent of the authorities tasked with recognition. Breed societies and breeding operations could only be recognised if they were legally and financially independent from the competent authority. Currently, in line with their statutory remit, the Chambers of Agriculture frequently support breeding organisations (for example, by providing staff and material support) while observing the principles of the separation of functions and the avoidance of conflicts of interest, and perform many of the tasks of the competent authorities. Sufficient attention is already devoted to avoiding conflicts of interest as required under the AVG.
- The draft EU Regulation would place a major question mark over continuation of the existing distribution of tasks and official competences at both regional and Federal levels and all forms of support. This would be true even if the Federal Government had sole responsibility for legislation and implementation.
- Species which are kept for the purpose of maintaining their specific genetic material, to which Austria attaches very considerable importance, and species threatened with extinction, would also be severely impacted. The large breeding organisations help to preserve these species, often at their own expense, as they would otherwise be lost forever.