



EUROPEAN COMMISSION

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Mr Reinhard TODT
President of the Bundesrat
Dr Karl Renner-Ring 3
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Dear President,

The Commission would like to thank the Bundesrat for its Reasoned Opinion on the proposal for a Regulation of the European Parliament and of the Council on Animal Health {COM(2013) 260 final}.

The Commission takes note of the observations made by the Bundesrat regarding the application of the principle of subsidiarity in the proposal. It takes particular note of the Bundesrat's conclusion that the above mentioned proposal is not in compliance with the principle of subsidiarity and would like to provide the following clarifications in this respect:

Compliance with the principle of subsidiarity was carefully assessed in the Impact Assessment accompanying the proposal, which confirms the importance of a significant co-ordinated action at EU level to combat transmissible animal diseases.

In its Reasoned Opinion, the Bundesrat acknowledges the importance of harmonised rules for the smooth functioning of the internal market and the free movement of animals and related products but criticises the undue number of delegated and implementing acts as envisaged by the Commission. According to the Bundesrat, this number must be reduced to an absolute minimum, so as to render the proposal compatible with both the principles of subsidiarity and proportionality.

The proposal sets out the principles of animal health law at EU level, while allowing for the stipulation of more specific provisions at EU level through delegated and implementing acts. This ensures a flexible and proportionate approach taking into account different situations across Member States. It responds inter alia to the need to react to a changing disease incidence over time and allows for swift action in the case of any new and emerging disease.

The Treaty on the Functioning of the European Union¹ (TFEU) does not set a formal limit on the number of delegated or implementing powers which may be conferred on the Commission. Instead, Articles 290 and 291 TFEU set out the conditions under which such powers are granted and used. In particular, regarding delegated acts, the delegation of power can only address non-essential elements of the legislation (i.e. issues of either technical or detailed nature) and is limited by the Union legislator in terms of objective, content and scope.

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:326:FULL:DE:PDF>

Moreover, the TFEU sets rigid control mechanisms for the exercise of the Commission's delegated and implementing empowerments: delegated acts are subject to scrutiny by the Union legislator before they are published, and implementing acts are subject to an opinion of the Member States in the Standing Committee prior to adoption.

In the current EU animal health legislation, empowerments granted by the European Parliament or the Council on technical issues are already current practice. Indeed, this has proven an indispensable element of regulating on non-essential elements of a basic act while respecting the principles of subsidiarity and proportionality.

In developing delegated and implementing acts, the Commission intends to carry over the parts of existing legislation on animal health that function successfully now. In this process, it intends to consult widely in order to ensure that the rules laid down are as appropriate and as flexible as possible, while still allowing for a robust response to economic, social and environmental risks from animal diseases. The Commission's intention is to reduce the related administrative burden as far as possible and to facilitate enforcement for Member States.

The Commission hopes that these clarifications address the issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*