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RESOLUTION OF STANDING COMMITTEE 12 (Hygiene and Health)

(Rapporteurs: BIANCONI and CHIAROMONTE)

adopted at the sitting of 18 April 2012

CONCERNING THE

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL ON THE NON-COMMERCIAL MOVEMENT OF PET
ANIMALS
(COM(2012) 89 final)**

AND THE

**PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL AMENDING COUNCIL DIRECTIVE 92/65/EEC AS REGARDS
THE ANIMAL HEALTH REQUIREMENTS GOVERNING INTRA-UNION
TRADE IN AND IMPORTS INTO THE UNION OF DOGS, CATS AND
FERRETS**

pursuant to Article 144(1) and (6) of the Rules of Procedure

Communicated to the Office of the Prime Minister on 20 April 2012

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The Committee:

– (a) having examined document COM(2012) 89 final, comprising the proposal for a regulation of the European Parliament and of the Council on the non-commercial movement of pet animals,

– (b) having examined document COM(2012) 90 final, comprising the proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/65/EEC as regards the animal health requirements governing intra-Union trade in and imports into the Union of dogs, cats and ferrets,

– whereas proposal COM(2012) 89 final regulates the non-commercial movement of pet animals (such as dogs, cats and ferrets, but also ornamental aquatic animals reared in non-commercial aquaria, reptiles, rodents and domestic rabbits) which are brought into a Member State from another Member State or from a third country;

– whereas:

(a) the articles in Chapter II of proposal COM(2012) 89 final lay down the conditions that pet animals (depending on their species) must comply with for the purpose of non-commercial movement between Member States; Chapter III, on the other hand, lays down the conditions applicable to movement to a Member State from a third country or territory; in both cases those conditions include the requirement for an anti-rabies vaccination and compliance with preventive health measures for other diseases or infections;

(b) to ascertain compliance with the aforementioned conditions, Articles 35 and 36 assign the Member States the task of carrying out targeted or random documentary and identity checks, and where necessary physical checks, on pet animals being moved for non-commercial purposes;

(c) Article 37 regulates the actions to be taken in the case of non-compliance with the checks provided for in Articles 35 and 36; in particular, this provision gives the competent authority, after consultation with the official veterinarian, discretion to choose between several options, ranging from returning the pet animal to its country or territory of dispatch, through isolating it, to putting it down where the other two actions are not possible for practical reasons;

– whereas the possibility of putting the animal down in the case of non-compliance with the checks carried out by national authorities is already provided for in point (c) of the third paragraph of Article 14 of Regulation (EC) No 998/2003 of the European Parliament and of the Council (which this proposal for a regulation is intended to repeal), which expressly defines that action, however, as a 'last resort'; the interest in minimising the use of such extreme measures makes it all the more desirable to restore the wording used in the current European rules;

– whereas the current national rules applicable to pet animals are considerably stricter with regard to the possibility of putting them down: pursuant to Article 2(2) of Law No 281 of 14 August 1991, stray dogs which are found, captured or else taken in by

pounds or rescue centres may not be put down; paragraph 6 stipulates that dogs taken in by pounds or rescue centres may be put down, solely by euthanasia carried out by veterinarians, only if they are seriously or incurably sick or have been proved to be dangerous. Article 2(9) lays down a similar rule for stray cats, which may be put down only if they are seriously or incurably sick;

– whereas:

(a) Articles 20 and 24 of proposal COM(2012) 89 final lay down the procedures for issuing the identity document which must accompany an animal being moved for non-commercial purposes; the document must be issued by an official veterinarian in the country of dispatch and must certify compliance with the requirements laid down for the movement. Pursuant to Article 21(1)(f) and Article 25(1)(f), the identification document must provide any other relevant information regarding the description and the health status of the animal;

(b) in addition to the identity document within the meaning of Article 1 of proposal COM(2012) 90 final, which amends Article 10 of Directive 92/65/EEC, animals (in this case dogs, cats and ferrets) must be accompanied during transport to the place of destination by a health certificate corresponding to the specimen in Annex E to the Directive which is signed by an official veterinarian, records the clinical examination of the animals within the 48 hours preceding their dispatch and certifies that, at the time of the clinical examination, they were in good health and fit to be transported;

– whereas:

(a) the question of the documents accompanying animals being moved both within Italy and potentially abroad is regulated by the consolidated text proposed in Chamber document No 1172 and accompanying documents, concerning new rules on pet animals, the prevention of stray animals and the protection of public safety, which are currently being debated in Standing Committee XII (Social Affairs) of the Chamber of Deputies;

(b) in particular, Article 4(4) of the aforesaid consolidated text provides that the public veterinary service or the self-employed veterinarian who inserts the microchip shall issue a document, certifying inclusion in the register of dogs or cats, which shall accompany the animal throughout any changes of ownership and shall be known as the pet animal's identity card;

– whereas, with regard to Protocol No 2 on the application of the principles of subsidiarity and proportionality annexed to the Treaty on the Functioning of the European Union, the Commission considers that the proposal complies with the principle of subsidiarity both in terms of the need for action by the Union institutions and with regard to the value added by the Union, and whereas, with regard to the principle of proportionality, the measures are consistent with the objectives that they seek to achieve;

– issues a favourable opinion, with the following comments:

(a) in Article 37 of proposal COM(2012) 89 final, in that part which regulates the actions that the competent authority may take, after consultation with the official

veterinarian, in cases where an animal does not comply with the checks referred to in Articles 35 and 36, it should be made clear that the scenario referred to in paragraph 1(c), envisaging that the animal be put down, should be understood as a 'last resort', thus restoring the wording used in the current rules (point (c) of the third paragraph of Article 14 of Regulation (EC) No 998/2003); more generally, when proposal COM(2012) 89 final is implemented, the scenarios in which an animal may be put down should be clearly spelled out, not least in order to harmonise these provisions with the rules laid down in the current national legislation concerning pet animals, which as a general rule provides for animals to be put down only in cases of serious or incurable sickness;

(b) when the Community acts under consideration are adopted and implemented, particular attention should be paid to the possible overlap between them and the general national rules on pet animals and those regulating stray animals, which are currently the subject of proposed changes undergoing consideration by the Chamber of Deputies; in particular, the opportunity should be taken for an organic overhaul of the rules in this field which, by creating an overlap between European (primary) and national (sub-primary) sources, frequently find it difficult to achieve complete rationalisation.

OPINION OF STANDING COMMITTEE 14
(EUROPEAN UNION POLICIES)

(Rapporteur: ADERENTI)

Rome, 18 April 2012

The Committee:

- having examined documents COM(2012) 89 final and COM(2012) 90 final,
- whereas it wholeheartedly agrees with the need to regulate the non-commercial, cross-border movement of pet animals, in order to prevent the spread of any cases of rabies or other transmissible diseases;
- noting the need to align Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 with Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU) concerning the possibility for the Commission to adopt delegated and implementing acts;
- pointing out the substantial use of delegated powers which characterises document COM(2012) 89 final, in particular, and the indeterminate period of the delegation expressed in the powers conferred on the Commission (Article 41(2) of COM(2012) 89), notwithstanding the wording of Article 290 of the TFEU;
- issues a favourable opinion, within its remit, with the following comments:
 - the legal basis chosen is identified correctly as Article 43(2) of the TFEU ('The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article 40(1) and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy'). The reference, in respect of COM(2012) 89 alone, to Article 168(4) of the TFEU, pursuant to which the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, contribute to the achievement of the objective of ensuring a high level of human health protection, in part through 'measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health', is likewise correct;
 - the proposals appear to comply with the principle of subsidiarity, since the power to amend and update European Union rules can reside only with the Union institutions themselves;

- with regard to the principle of proportionality, the proposal appears to be consistent with the objectives that it seeks to achieve;
- with particular reference, finally, to the delegated powers conferred on the Commission pursuant to Article 40(1) of COM(2012) 89, and in the light of the fact that Article 290 of the TFEU explicitly excludes the possibility of 'essential elements' of a legislative act being the subject of delegated powers;
- commends the exclusion of Annex I (Species of pet animals) from the texts that may be modified by means of a delegated act 'in order to take into account technical progress, scientific developments and the protection of public health or the health of pet animals'. The identification of species actually constitutes the objective scope of the proposal for a regulation and, as such, an 'essential element' under Article 290 of the TFEU;
- for the same reasons, the inclusion of Annex II, listing the Member States to which the rules in the proposal are intended to apply, among those parts which may be modified by means of a delegated act is perplexing, because that Annex appears to constitute an 'essential element' since it defines the territorial scope of the rules.