

SENATE OF THE REPUBLIC

17th PARLIAMENTARY TERM

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No 59

RESOLUTION OF THE 9th STANDING COMMITTEE

(Agriculture and Agri-Food Production)

(Rapporteur: Senator VALENTINI)

approved at the session of 26 March 2014

ON THE

**PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL AMENDING DIRECTIVES 89/608/EEC, 90/425/EEC AND
91/496/EEC AS REGARDS REFERENCES TO ZOOTECHNICAL
LEGISLATION (COM(2014) 4 FINAL)**

AND ON THE

**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
(COM(2014) 5 FINAL)**

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

Sent to the Prime Minister's Office on 28 March 2014

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The Committee,

having examined jointly, pursuant to Article 144(1) and (6) of the Rules of Procedure, the proposal for a Directive of the European Parliament and of the Council amending Directives 89/608/EEC, 90/425/EEC and 91/496/EEC as regards references to zootechnical legislation and the 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;

having regard to the observations of the 14th Standing Committee of the Senate (European Union Policies);

noting that, in the case of the proposal for a Directive – which, pending approval of the Regulation on official controls, is restricted to removing any reference to zootechnics from the three Directives being repealed – the principles of subsidiarity and proportionality are not assessed in the European Commission's explanatory memorandum;

given that, in the case of the proposal for a Regulation, the explanatory memorandum does not contain an assessment of compliance with the principle of subsidiarity, in violation of Article 5 of Protocol 2 to the Treaty on the Functioning of the European Union (TFEU), which states that 'any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality';

noting that the proposal for a Regulation contains many delegations of power to the European Commission and that the resulting acts, not being legislative acts, will not be subject to subsidiarity monitoring by national parliaments;

noting that the correct application of the principles of subsidiarity and proportionality, according to the established principles of EU law, requires that, other things being equal, directives should be preferred to regulations, and that, while respecting EU law, care should be taken to respect well-established national arrangements and the organisation and working of Member States' legal systems;

having assessed the report sent by the Government on 12 March 2014, pursuant to Article 6(4) of Law No 234 of 2012, which contains a highly critical assessment, pointing out that the proposal for a Regulation would have a particularly serious impact on the organisation of Italian zootechnical improvement and undermine its guiding principles and operating methods, and that certain fundamental principles of the legislation in force are violated, particularly the notion of genetic improvement as a 'public investment' in the animal population in the context of national policy on the quality and protection of biodiversity;

noting the highly critical comments of the trade associations;

given that the objectives of differentiated selection of breeding animals and respect for the specific characteristics of each production system can only be pursued if the structural and natural differences between the various European agricultural regions are taken into account;

noting also that the freedom to use animals between Member States and the idea of trans-border breeding books do not take sufficient account of the social and public investment purposes of animal genetic improvement, which is also intended to protect biodiversity and to represent a public investment in the health of the animal population,

expresses, pursuant to Protocol 2 to the Treaty on the Functioning of the European Union, a negative reasoned opinion on the grounds of non-compliance with the principles of subsidiarity and proportionality, as a result of the absence of a detailed assessment of compliance with the principle of subsidiarity, the excessive use of delegations of power, the use of a regulation rather than a directive, and the impact on the guiding principles of Italian zootechnical legislation.

In view of the above, if the abovementioned issues leading to the negative opinion of the European Commission's legislative initiative can be resolved, the Committee would in any case like to make the following further observations:

the concepts of 'breed' and 'cross' need to be defined more precisely, particularly in relation to pigs, as does the idea of purebred line, in order to avoid confusion in the names of breeds;

the objectives of selection need to be clarified, defining the scope of the identification and use of only the best breeding animals and their germinal products in relation to the right of breeders to use all of their breeding animals for reproduction;

partnership between national breeders associations and other breeders associations from foreign countries with their own mutually incompatible selection objectives should be prevented, since that could lead to the fragmentation of animal breeding activities and related genetic improvement strategies, compromising the genetic progress achieved or achievable and the conservation of populations' biodiversity;

furthermore, each Member State should be allowed to fund genetic improvement activities in order to guide the development of their own zootechnics in line with quality policies;

specific provisions need to be introduced on the performance testing and genetic evaluation of horses used for sport; otherwise individual Member States should be allowed to adopt national provisions;

the requirements to be met by breeders should be rationalised, ensuring legal certainty and also reducing bureaucratic burdens and indirect costs;

finally, attention should be drawn to the need to guarantee the welfare of animals in all locations and circumstances.

This document is to be understood as guidance to the Government within the meaning of Article 7 of Law No 234 of 24 December 2012.

OPINION OF THE 14th STANDING COMMITTEE
(EUROPEAN UNION POLICIES)

(Rapporteur: Senator DONNO)

19 March 2014

The Committee, having examined the documents in question,

whereas the legal basis is provided for in Articles 42 and 43(2) of the Treaty on the Functioning of the European Union (TFEU), which provide for the adoption of the 'provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy', and the extent to which the provisions of the chapter of the TFEU regarding rules on competition can be applied;

noting that, in the case of the proposal for a Directive – which, pending approval of the Regulation on official controls, is restricted to removing any reference to zootechnics from the three Directives being repealed – the principles of subsidiarity and proportionality are not assessed in the European Commission's explanatory memorandum;

given that, in the case of the proposal for a Regulation, the explanatory memorandum does not contain an assessment of compliance with the principle of subsidiarity, in violation of Article 5 of Protocol 2 to the TFEU, which states that 'any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality';

noting that the proposal for a Regulation contains many delegations of power to the European Commission and that the resulting acts, not being legislative acts, will not be subject to subsidiarity monitoring by national parliaments;

noting that the correct application of the principles of subsidiarity and proportionality, according to the established principles of EU law, requires that, other things being equal, directives should be preferred to regulations, and that, while respecting EU law, care should be taken to respect well-established national arrangements and the organisation and working of Member States' legal systems;

given that, according to the IPEX website (www.ipex.eu), the two proposals are being examined by the Finnish, Swedish, Spanish and Irish Parliaments, the two Polish Chambers, the Slovak National Council and the German Bundesrat, and none of those chambers has yet expressed reservations or concerns regarding compliance with the principle of subsidiarity;

having assessed the report sent by the Government on 12 March 2014, pursuant to Article 6(4) of Law No 234 of 2012, which contains a highly critical assessment, pointing out that the proposal for a Regulation would have a particularly serious impact on the organisation of Italian zootechnical improvement and undermine its guiding principles and operating methods, and that certain fundamental principles of the legislation in force are violated, particularly the notion of genetic improvement as a 'public investment' in the animal population in the context of national policy on the quality and protection of biodiversity;

and noting the comments of the main trade associations,

hereby, within its remit, comments unfavourably on the proposal for a Directive and on the proposal for a Regulation, and makes the following point:

in relation to the abovementioned proposals, asks the Committee responsible to adopt a negative reasoned opinion, pursuant to Protocol 2 to the Treaty on the Functioning of the European Union on the application of the principles of subsidiarity and proportionality, as a result of the absence of a detailed assessment of compliance with the principle of subsidiarity, the excessive use of delegations of power, the use of a regulation rather than a directive, and the impact on the guiding principles of Italian zootechnical legislation. It also asks that Committee to pass on the strong criticisms of the proposals contained in the Government's report.