



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Senato della Repubblica for its Reasoned Opinion 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}, hereinafter “the proposed Zootechnics Directive”, 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}, hereinafter “the proposed Zootechnics Regulation”.

The Commission welcomes detailed observations made by the Senato della Repubblica and in reply to them would like to provide the following comments:

Before the adoption of the above proposals, the Commission adopted the proposal for a Regulation on official controls and other official activities {COM(2013) 265 final}, hereafter “Proposal for Official Controls Regulation”. This Regulation would exclude zootechnical matters from its scope and would repeal the Directives 89/608/EEC, 90/425/EEC and 91/496/EEC. The proposed Zootechnics Directive was adopted by the Commission in order to prepare for the event that the proposed Zootechnics Regulation would enter into force before the Directives 89/608/EEC, 90/425/EEC and 91/496/EEC are repealed.

The proposed Zootechnics Directive would ensure legal clarity and prevent double legislation during the period after the adoption of the Zootechnics Regulation until the adoption of the Official Controls Regulation. The proposed Zootechnics Directive would not conflict with the subsidiarity and proportionality principles because the existence of a harmonised EU legislative framework is necessary to ensure the uniform application of the agri-food chain rules across the EU and the smooth functioning of the internal market.

The proposed Zootechnics Regulation would ensure the smooth functioning of the internal market in breeding animals and defend the right of establishment and provision of services anchored in the Treaty for recognised breed societies. The proposed Regulation provides a consistent approach for Member States and reduces the administrative burden as operators would not need to familiarise themselves with the individual national legislations in different jurisdictions. In addition, the proposal aims at improving the clarity and consistency of the wording in order to minimise risk of different interpretation of the provisions in each individual Member State.

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It should be recalled that in certain cases cross-border activities of approved or recognised breeding organisations and breeders' associations with their headquarters in other Member States were refused with reference to the differences in national transposition of the underlying directives, while effectively breeding organisations established in the refusing Member State were protected from competition. In addition, the Commission has been dealing with numerous problems raised by breeders, breed societies and competent authorities because of different interpretation in Member States of the existing legal provisions.

The Commission is of the opinion that the measures provided for in the proposed Zootechnics Regulation fully respect the principles of subsidiarity and proportionality, because common set of principles and rules for breeding proposed in the regulation would ensure the legal right of entry of breeding animals in the corresponding herd-books established by another breed society in the same or another Member State. The reasons that justified the harmonisation of these rules since the late 1970ies have not changed and those principles and rules are in line with the principles governing the internal market and the free movement of goods laid down in the Treaty on the Functioning of the European Union. In this respect, the proposed Zootechnics Regulation would not exceed what is necessary to establish the enabling environment for the implementation of approved breeding programmes by recognised breed societies and breeding operations under the effective supervision by the competent authorities.

The provisions and technical Annexes in the proposed Zootechnics Regulation would follow almost completely the tried and proven rules currently in force and they would preserve those provisions that had not caused problems over the past decades. At the same time the Commission would like to underline that the proposed Zootechnics Regulation would substantially limit the scope of Union legislation on breeding animals by providing Union rules only for the breeding of livestock species.

According to the proposed Zootechnics Regulation the recognition of breed societies and the approval of their breeding programmes, which are considered to be key elements of the legislation on zootechnics, would remain entirely the responsibility of Member States. For example, breed societies would be obliged to have legal personality according to national legislation and their breeding programmes would need to satisfy the competent authority of the respective Member State that the breeding objectives can be achieved.

The Commission also cannot agree with the observation of the Senato della Repubblica that excessive use was made of delegation of powers. Unlike in the current species-specific directives on zootechnical standards applicable to cattle, pigs, sheep and goats and equidae, all essential elements the Commission has identified, be they of general application or species-specific, are clearly laid down in the proposed Zootechnics Regulation. Where species-specific needs so require or where technical elements would need to be updated swiftly and regularly, the proposal would allow the Commission to amend technical Annexes by delegated acts and to set out harmonised formats of predefined content by implementing acts.

There would be a single strictly limited empowerment for adding well defined non-essential elements relating to zootechnical and genealogical rules governing the breeding of other animals and their imports from third countries. The conditions under which Union rules could be adopted in accordance with that empowerment would correspond to the current Directive 91/174/EEC. This empowerment was requested as a result of the limitation of the general scope of the proposed Zootechnics Regulation to certain livestock species only.

Finally, the Commission would like to point out that the provisions proposed are fully in line with the Common Understanding on delegated acts between the European Parliament, the Council and the Commission according to which “the delegation of powers (...) may be revoked at any time by the European Parliament and by the Council”.

With reference to other observations of Senato della Repubblica, the Commission would like to explain that it used the term “breed” as an undetermined legal concept because of the complexity of factors to be considered when providing a single definition for breeding animals of different species bred for different purposes in different environments. The Commission is of the opinion that the terms “purebred breeding animal” and “hybrid breeding pigs” which are relevant for the free circulation of these animals and their germinal products in the EU are sufficiently defined in line with existing legislation.

As regards the aspects raised by the Senato della Repubblica such as the objectives of selection, the scope of the identification and certain details of a breeding programme, the Commission would like to observe that these would be subject to the approval by the competent authorities in the Member States. The same would apply to performance testing and genetic evaluation of purebred breeding animals of the equine species, for which however a delegation of power would be foreseen should Member States wish to progress in harmonisation.

Finally, the Commission would like to point out that certain aspects raised by the Senato della Repubblica fall outside the scope of this proposed legislation since they are regulated in other legal acts of the EU law. For example public funding of breeding activities is regulated in Commission Regulation (EC) No 1857/2006 which is currently also under review. The protection of the welfare of farmed animals, including breeding animals, is regulated in Council Directive 98/58/EC. Furthermore, the Commission would like to explain that the proposed Zootechnics Regulation does not contain requirements to be met by breeders. Instead, the proposal contains provisions to ensure non-discrimination and dispute settling, and establishes a fair environment for the conduct between breeders and breed societies.

The points made above are based on the initial proposals presented by the Commission which are currently in the legislative process involving both the European Parliament and the Council at which your government is represented.

The Commission hopes that these clarifications address the concerns raised by the Senato della Repubblica and looks forward to continuing the political dialogue in the future.

Yours faithfully,

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Member of the Commission*