

COMMUNICATION
from the European Affairs Committee of the Federal Council
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to the European Parliament and the Council
pursuant to Article 23 f (4) of the Austrian Constitution

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

A proposal of the European Commission for a regulation on animal breeding envisages a number of highly problematic changes to the Union's current zootechnical legislation. The essential points of criticism were summarized in a joint opinion of the Austrian Länder submitted to the Federal Ministry of Agriculture, Forestry, Environment and Water Management and to the Federal Chancellor's Office via the Länder liaison body on 2 June 2014. In the meantime, the Member States have received a questionnaire on the proposed EU regulation drafted by the General Secretariat of the Council, the results of which are to be discussed by the Council Working Group on Animal Husbandry on 6 October 2014 in Brussels.

In Austria, animal breeding legislation is within the sphere of competence of the Länder; in technical terms, Länder legislation is coordinated on the basis of Article 15(a) of the Federal Constitutional Law and reviewed by the Animal Breeding Council set up as a committee of animal breeding experts for this specific purpose by the Federal Ministry of Agriculture, Forestry, Environment and Water Management. Some of the provisions contained in the draft proposal submitted are excessive in scope, as they run counter to the principle of subsidiarity and raise doubts about the future functioning and the implementation of animal breeding legislation. Moreover, the proposal is likely to create additional bureaucratic obstacles, unjustifiable from the viewpoint of animal breeding, instead of reducing the administrative burden for the authorities

and for animal breeders. At the same time, the proposal does not address and/or clarify important issues, although it claims to serve the goal of harmonization and clarification.

In Federal Council's opinion, the very detailed provisions are excessive for the following reasons:

- The internal market and the free circulation of goods, as well as trade with third countries in this field, function satisfactorily under the current regime. Without any doubt, there is a need for regulation regarding cross-border activities of breeder organizations, as there are major differences of opinion between the Member States on the basis of the legislation currently in force.
- The budgetary commitment of the European Union in the field of animal breeding is minimal, with funding for animal breeding, except in the field of research, being practically non-existent.
- Community rules on state aid in their current form set extremely narrow limits for establishments operating in this field.
- The scope and content of the numerous delegated acts provided for in the proposal may entail consequences that can hardly be assessed at this point in time.
- Special provisions for certain animal species are questionable and could be deleted altogether (equidae, hybrid breeding pigs, breeding establishments).
- Adoption of a regulation would almost completely eliminate the freedom of action allowed to the Member States; hence, it may no longer be possible to take sufficient account of specific national/regional features of animal breeding.

Since Austria's accession to the European Union, the work of animal breeding stations and the breeding progress achieved have been essential factors in the country's efforts to address the challenges of the internal market and to foster the further development of its establishments in terms of quality production, increased competitiveness and the preservation of a system of animal breeding adjusted to the needs of farm-based animal husbandry, above all in the cattle, pig, horse, sheep and goat sectors. In the bovine sector, in particular, the typically Austrian breeding structure with its special emphasis on dual-use breeds is to be preserved as a specific feature of autonomous animal breeding in the EU market. Moreover, attention should be paid to

farm animal breeds that are either rare or threatened with extinction. Overall, it would be sufficient to adjust, clarify, harmonize and/or update the existing EU legislation (directives/decisions) wherever necessary, to implement rules regarding cross-border activities of breeder organizations and, ultimately, to move towards deregulation. Such an approach would be best suited to uphold the principle of proportionality.

Some of the most problematic provisions of the proposed regulation are listed below:

- The extremely broad and almost standardized range of possibilities for the Commission to adopt delegated acts, the specific contents of which are difficult or impossible to assess from today's point of view.
- Crucial issues such as breed, gene preservation, genetic defects or genetic peculiarities are addressed insufficiently or not at all.
- Chapters IX and X (Official controls) are excessive and need to be fundamentally revised; it would be sufficient to spell out the basic principles and to allow the Member States some freedom of action, not least in view of specific national legal regimes. Taking the strict requirements of food legislation as a model appears to be materially unjustified.
- Annex I states that breed societies and breeding operations have to be legally and financially independent. According to this provision, breed societies and breeding operations can only be recognized if they are legally and financially independent from the competent authority. In exercising their legal mandate, the Austrian Chambers of Agriculture frequently support breeding organizations through the provision of human and financial resources, while strictly upholding the separation of functions and avoiding conflicts of interest. Under the current regime, sufficient attention is paid to the avoidance of partiality pursuant to the Act on General Administrative Procedures.
- The draft regulation submitted by the Commission would fundamentally upset the current division of tasks and responsibilities and put any form of support into question, even if legislation and enforcement were exclusively within the jurisdiction of the federal government.
- Breeds for the preservation of genetic resources, which are of particular importance in Austria, as well as breeds threatened with extinction would be severely affected. Currently such breeds are included in the activities of major breeding organizations on a good-will basis, as they would otherwise be forever lost.