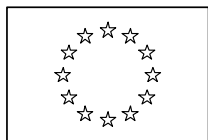


EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.12.2007
COM(2007) 829 final

2007/0294 (CNS)

Proposal for a

COUNCIL DIRECTIVE

on the identification and registration of pigs

(Codified version)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided¹ to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Directive 92/102/EEC of 27 November 1992 on the identification and registration of animals³. The new Directive will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bringing them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

⁴ Annex I, Part A of this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 92/102/EEC and the instruments amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table contained in Annex II to the codified Directive.

Proposal for a

COUNCIL DIRECTIVE

on the identification and registration of ☒ pigs ☒

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament¹,

Whereas:



- (1) Council Directive 92/102/EEC of 27 November 1992 on the identification and registration of animals² has been substantially amended several times³. In the interests of clarity and rationality the said Directive should be codified.

↓ 92/102/EEC Recital 1 (adapted)

- (2) ☒ Pursuant to ☒ Article 3(1)(c) of Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market⁴, animals for intra-Community trade must be identified in accordance with the requirements of Community rules and be registered in such a way that the original or transit holding, centre or organisation can be traced. Before 1 January 1993, those identification and registration systems ☒ had ☒ to be extended to the movements of animals within the territory of each Member State.

¹ ☒ OJ C [...], [...], p. [...]. ☒

² OJ L 355, 5.12.1992, p. 32. Directive as last amended by Regulation (EC) No 21/2004 (OJ L 5, 9.1.2004, p. 8).

³ See Annex I, Part A.

⁴ OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

↓ 92/102/EEC Recital 2

- (3) Article 14 of Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC⁵ states that the identification and registration provided for in Article 3(1)(c) of Directive 90/425/EEC of such animals must, except in the case of animals for slaughter and registered equidae, be carried out after the said checks have been made.

↓ 92/102/EEC Recital 4 (adapted)

- (4) It is necessary to ensure the rapid and efficient exchange of information between Member States for the correct application of this Directive. Community provisions have been laid down by Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters⁶ and by Council Directive 89/608/EEC of 21 November 1989 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of legislation on veterinary and zootechnical matters⁷.

↓ 92/102/EEC Recital 5 (adapted)

- (5) Keepers of animals should maintain up-to-date records of the animals on their holdings. Persons involved in the commerce of animals should keep records of their dealings. The competent authority should have access to these records on request.

↓ 92/102/EEC Recital 6 (adapted)

- (6) In order to permit movements of animals to be traced rapidly and accurately, animals should be able to be identified. A decision should be taken at a later date to determine the nature of the mark and, pending such decision, the national systems of identification should be maintained for movements restricted to the national market.

⁵ OJ L 268, 24.9.1991, p. 56. . Directive as last amended by Directive 2006/104/EC (OJ L 363, 20.12.2006, p. 352).

⁶ OJ L 82, 22.3.1997, p. 1. Regulation as amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

⁷ OJ L 351, 2.12.1989, p. 34.

↓ 92/102/EEC Recital 7 (adapted)

- (7) Provision should be made for the possibility of waiving the requirements for marks in the case of animals moving directly from a farm to a slaughterhouse. However, these animals should in any case be identified so that their farm of origin can be traced.

↓ 92/102/EEC Recital 8

- (8) Provision should be made for the possibility of waiving the obligation to register the keepers of animals kept for personal purposes and, in order to take into account certain particular cases, the procedures for keeping registers.

↓ 92/102/EEC Recital 9 (adapted)

- (9) In the case of animals in which the mark has become illegible or been lost, a new mark enabling a link with the previous mark to be established should be applied.

↓ 92/102/EEC Recital 10
(adapted)

- (10) This Directive should not affect specific requirements set out in Commission Decision 89/153/EEC of 13 February 1989 concerning the correlation of samples taken for residue examination with animals and their farms of origin⁸ or any relevant applicatory rules established in accordance with Directive 91/496/EEC.

↓ 92/102/EEC Recital 11
(adapted)

- (11) Provision should be made for a management committee procedure for the adoption of any necessary implementing rules for this Directive.

↓

- (12) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directive set out in Annex I, Part B,

⁸ OJ L 59, 2.3.1989, p. 33.

↓ 92/102/EEC (adapted)

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive sets out the minimum requirements for the identification and registration of pigs , without prejudice to more detailed Community rules which may be established for disease eradication or control purposes.

It shall apply without prejudice to Decision 89/153/EEC and to implementing rules laid down in accordance with Directive 91/496/EEC.

↓ 92/102/EEC

Article 2

For the purposes of this Directive, the following definitions shall apply:

↓ 21/2004 Art. 15(1) (adapted)

(a) 'animal' means any animal of the *Suidae* family, excluding feral pigs .

↓ 92/102/EEC (adapted)

- (b) 'holding' means any establishment, construction or, in the case of an open-air farm, any place in which animals are held, kept or handled;
- (c) 'keeper' means any natural or legal person responsible, even on a temporary basis, for animals;
- (d) 'competent authority' means the central authority of a Member State competent to carry out veterinary checks or any authority to which it has delegated that competence for the purposes of implementing this Directive;
- (e) 'trade' means trade as defined in point (3) of Article 2 of Directive 90/425/EEC.

↓ 92/102/EEC

Article 3

1. Member States shall ensure that:

↓ 92/102/EEC (adapted)

- (a) the competent authority has an up-to-date list of all the holdings which keep animals covered by this Directive and are situated on its territory, specifying the ☒ keepers of the animals ☒; such holdings must remain on that list until three consecutive years have elapsed with no animals on the holding. That list must also include the mark or marks which permit the identification of the holding in accordance with the first subparagraph of Article 5(2) and Article 8;
- (b) the Commission ☒ and ☒ the competent authority can have access to all information obtained under this Directive.

↓ 21/2004 Art. 15(2) (adapted)

2. Member States may be authorised ☒ in accordance with ☒ the procedure laid down in Article 18 of Directive 90/425/EEC to exclude from the list in paragraph 1(a) ☒ of this Article ☒ natural persons who keep one single ☒ animal ☒ which is intended for their own use or consumption, or to take account of particular circumstances, provided that this animal is subjected to the controls laid down in this Directive before any movement.

↓ 92/102/EEC (adapted)
→₁ 21/2004 Art. 15(3)(a)

Article 4

1. Member States shall ensure that any keeper contained in the list provided for in Article 3(1)(a) keeps a register stating the number of animals present on the holding.

That register shall include an up-to-date record →₁ of movements ← (numbers of animals concerned by each entering and leaving operation) at least on the basis of aggregate movements, stating as appropriate their origin or destination, and the date of such movements.

The identification mark applied in conformity with Articles 5 and 8 shall be stated in all cases.

In the case of pure-bred and hybrid pigs, which are entered in a herd-book in accordance with Council Directive 88/661/EEC⁹, an alternative registration system based on individual identification allowing the animals to be identified may be recognised in accordance with the procedure laid down in Article 18 of Directive 90/425/EEC if it offers guarantees equivalent to a register.

↓ 92/102/EEC

2. Member States shall also ensure that:

- (a) any keeper supplies the competent authority, upon request, with all information concerning the origin, identification and, where appropriate, the destination of animals which he has owned, kept, transported, marketed or slaughtered;

↓ 21/2004 Art. 15(3)(c)

- (b) any keeper of animals to be moved to or from a market or collection centre provides a document, containing details of the animals in question, to the operator, on the market or in the collection centre, who is a keeper of the animals, on a temporary basis.

↓ 92/102/EEC

That operator may use the documents obtained in accordance with the first subparagraph to carry out the obligations laid down in paragraph 1;

- (c) the registers and information are available on the holding and to the competent authority, upon request, for a minimum period to be determined by the competent authority but which may not be less than three years.

⁹ OJ L 382, 31.12.1988, p. 36.

Article 5

1. Member States shall ensure that the following general principles are respected:

- (a) identification marks must be applied before animals leave the holding of birth;
- (b) no mark may be removed or replaced without the permission of the competent authority.

Where a mark has become illegible or has been lost, a new mark shall be applied in accordance with this Article;

- (c) the keeper shall record any new mark in the register referred to in Article 4 in order to establish a link with the previous mark applied to the animal.

↓ 92/102/EEC (adapted)

2. Animals must be marked as soon as possible, and in any case before they leave the holding, with an eartag or tattoo making it possible to determine the holding from which they came and enabling reference to be made to any accompanying document which must mention such eartag or tattoo and to the list referred to in Article 3(1)(a).

↓ 21/2004 Art. 15(4)(b) (adapted)

Member States may by derogation from the second subparagraph of Article 3(1)(c) of Directive 90/425/EEC, apply their national systems for all movements of animals in their territories. Such systems must enable the holding from which they came and the holding on which they were born to be identified. Member States shall notify the Commission of the systems which they intend to introduce for this purpose. In accordance with the procedure laid down in Article 18 of Directive 90/425/EEC, a Member State may be asked to make amendments to its system where it does not fulfil that requirement.

↓ 92/102/EEC

Animals bearing a temporary mark identifying a consignment must be accompanied throughout their movement by a document which enables the origin, ownership, place of departure and destination to be determined.

Article 6

1. Where the competent authority of the Member State of destination decides not to keep the identification mark allocated to the animal in the holding of origin all charges incurred as a result of replacing the mark shall be borne by that authority. Where the mark has been so replaced, a link shall be established between the identification allocated by the competent authority of the Member State of dispatch and the new identification allocated by the

competent authority of the Member State of destination; that link shall be recorded in the register provided for in Article 4.

The option in the first subparagraph may not be invoked in the case of animals intended for slaughter which are imported under Article 8 without bearing a new mark in accordance with Article 5.

2. Where the animals have been traded, the competent authority of the Member State of destination may, for the purposes of Article 5 of Directive 90/425/EEC, have recourse to Article 4 of Directive 89/608/EEC in order to obtain the information relating to the animals, their herd of origin and any movement to which they have been subject.

Article 7

Member States shall ensure that any information relating to movements of animals not accompanied by a certificate or a document required by veterinary or zootechnical legislation remains available to the competent authority, upon request, for a minimum period to be set by the latter.

↓ 92/102/EEC (adapted)

Article 8

Any animal imported from a third country which has passed the checks laid down by Directive 91/496/EEC and which remains within Community territory shall, within thirty days of undergoing ☒ those ☒ checks, and, in any event, before their movement, be identified by a mark complying with Article 5 ☒ of this Directive ☒ unless the holding of destination is a slaughterhouse situated on the territory of the competent authority responsible for veterinary checks and the animal is actually slaughtered within that 30-day period.

↓ 92/102/EEC

A link shall be established between the identification established by the third country and the identification allocated to it by the Member State of destination. That link shall be recorded in the register provided for in Article 4.

Article 9

Member States shall adopt necessary administrative and/or penal measures to punish any infringement of Community veterinary legislation, where it is established that the marking or identification or the keeping of registers provided for in Article 4 has not been carried out in conformity with the requirements of this Directive.

Article 10

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.



Article 11

Directive 92/102/EEC, as amended by the acts listed in Annex I, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directive set out in Annex I, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex II.

Article 12

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

↓ 92/102/EEC

Article 13

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

ANNEX I

Part A

Repealed Directive with list of its successive amendments
(referred to in Article 11)

Council Directive 92/102/EEC
(OJ L 355, 5.12.1992, p. 32)

Point V.E.I.4.6. of Annex I to the 1994 Act of
Accession
(OJ C 241, 29.8.1994, p. 21)

Council Regulation (EC) No 21/2004
(OJ L 5, 9.1.2004, p. 8)

only Article 15

Part B

List of time-limits for transposition into national law
(referred to in Article 11)

Directive	Time-limit for transposition ¹
92/102/EEC	31.12.1993 ²
	31.12.1995 ³

¹ The setting of the deadline for transposition into national law at 1 January 1994 shall be without prejudice to the abolition of veterinary checks at frontiers provided for in Directive 90/425/EEC. (See Article 11(3) of Directive 92/102/EEC.)

² For the requirements regarding porcine animals. (See the first indent of Article 11(1) of Directive 92/102/EEC).

³ For Finland, as concerns the requirements for bovine animals, swine, sheep and goats. (See the second indent of Article 11(1) of Directive 92/102/EEC).

ANNEX II

CORRELATION TABLE

Directive 92/102/EEC	This Directive
Articles 1, 2 and 3	Articles 1, 2 and 3
Article 4(1)(a)	Article 4(1)
Article 4(2)	–
Article 4(3)	Article 4(2)
Article 5(1), points (a), (b) and (c)	Article 5(1), points (a), (b) and (c)
Article 5(1)(d)	–
Article 5(3)	Article 5(2)
Articles 6 to 9	Articles 6 to 9
Article 10	–
Article 11(1)	–
Article 11(2)	Article 10
Article 11(3)	–
–	Article 11
–	Article 12
Article 12	Article 13
–	Annex I
–	Annex II