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From:	Ms Ilze JUHANSONE, Secretary-General of the European Commission
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 25.8.2020 amending Delegated Regulation (EU) 2019/2035 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs

Delegations will find attached document C(2020) 5730 final.

Encl.: C(2020) 5730 final



Brussels, 25.8.2020
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COMMISSION DELEGATED REGULATION (EU) .../...

of 25.8.2020

amending Delegated Regulation (EU) 2019/2035 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law')¹ lays down rules for the prevention and control of diseases, which are transmissible to animals or humans, including inter alia rules for establishments keeping terrestrial animals and hatcheries, and for the traceability of certain kept terrestrial animals and hatching eggs within the Union. It also empowers the Commission to adopt rules to supplement certain non-essential elements of that Regulation by means of delegated acts.

The Commission laid down such rules in Commission Delegated Regulation (EU) 2019/2035 of 28 June 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs². Part III of Delegated Regulation (EU) 2019/2035 includes rules for the traceability of kept terrestrial animals, and more specifically Title II of Part III lays down rules for the traceability of kept ovine and caprine animals, including the means and methods of identification of those animals, as well as derogations from certain requirements laid down in those provisions.

In particular, Article 45 of Delegated Regulation (EU) 2019/2035 lays down obligations on operators of kept ovine and caprine animals as regards the means and methods of identification of those animals, and their application and use. One of the derogations from Article 45 of that delegated act provided for in Article 46(4) thereof, permits operators keeping ovine and caprine animals less than 12 months old to identify their animals by means of a single electronic ear tag with a visible display of the unique registration number of their establishment of birth and the individual identification code of the animal, where such animals are intended to be transported to a slaughterhouse, after undergoing an assembly operation or a fattening operation in another establishment, in the same Member State.

That derogation was well accepted by the Member States and stakeholders during the development of the delegated act and in the context of the feedback period on the draft delegated act. However, subsequently the Commission received various comments from some stakeholders and Member States regarding that derogation, which was perceived as being too cumbersome for sheep and goat breeders, in particular given the low market price obtained for their animals being sent to slaughter. The use of a conventional ear tag was suggested as a more suitable and cheaper alternative to the electronic one.

In light of those comments, the Commission considered that a conventional ear tag or a conventional pastern band, which is treated as an equivalent option to a conventional ear tag in Article 45(1) of Delegated Regulation (EU) 2019/2035, for animals intended to be moved directly to a slaughterhouse before the age of 12 months, could ensure a sufficient level of traceability when young ovine and caprine animals are moved, after a fattening operation, to a slaughterhouse within the same Member State. Therefore, this delegated act amends the rules laid down in Regulation (EU) 2019/2035 by allowing an additional derogation for the identification of young ovine and caprine animals moved, after undergoing a fattening operation, for slaughter within the same Member State. This additional derogation is aimed at ensuring the smooth functioning of the identification and registration system of these animals

¹ OJ L 84, 31.3.2016, p. 1.

² OJ L 314, 5.12.2019, p. 115.

in the Union, by avoiding imposing disproportionate burdens and costs on operators, but at the same time ensuring the traceability of those animals.

Moreover, the amendments introduced by this delegated act require that the Member States that will make use of certain derogations provided for in Article 46 of Delegated Regulation (EU) 2019/2035, including the additional one inserted by this draft delegated act, establish procedures for their application in their territory. This amendment aims to avoid any risk to animal health, or hampering of the traceability of kept ovine and caprine animals that might arise from the application of those derogations, as well as preventing any potential operational difficulties linked to their management.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission had exchanges with the Expert Group on Animal Health (E00930) by means of a written consultation. The draft Delegated Regulation was also made available to the European Parliament and the Council. No comments were received from the European Parliament and the Council. Meetings were held with a range of stakeholders within the framework of the Animal Health Advisory Committee where the purpose and contents of the draft delegated act were illustrated and discussed.

In addition, stakeholders' comments on the draft Delegated Regulation were collected in the context of the Better Regulation feedback mechanism during the period between 19 May 2020 and 16 June 2020. 3 feedbacks were received in total, including opinions of the following stakeholders: Confédération paysanne (FR), OVINFOS (FR), Fédération nationale des éleveurs de chèvres (FNEC)(FR).

In addition, there were 3 opinions from the public authorities (BG, IE, and NL), submitted to the Commission by e-mail.

The main following requests submitted and points made:

- the caprine sector welcomed the provisions of the this delegasted Regulation which supports the existitng possibilities for derogations in Member States;
- the requests to introduce a provision for Member States to allow for a derogation in the national territories.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This Delegated Regulation is to be adopted within the framework of Regulation (EU) 2016/429 of the European Parliament and of the Council, and in particular pursuant to Article 118(1) and (2) thereof.

COMMISSION DELEGATED REGULATION (EU) .../...

of 25.8.2020

amending Delegated Regulation (EU) 2019/2035 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law')³, and in particular Article 118(1) and (2) thereof,

Whereas:

- (1) Regulation (EU) 2016/429 lays down rules for the prevention and control of diseases which are transmissible to animals or humans, including *inter alia* rules for establishments keeping terrestrial animals and hatcheries, and for the traceability of certain kept terrestrial animals and hatching eggs within the Union. It also empowers the Commission to adopt rules to supplement certain non-essential elements of that Regulation by means of delegated acts.
- (2) Commission Delegated Regulation (EU) 2019/2035⁴ lays down supplementing rules for registered and approved establishments for kept terrestrial animals and hatching eggs, and for the traceability of certain kept terrestrial animals and hatching eggs. In particular Title II of Part III of that Delegated Regulation lays down rules concerning the traceability of kept ovine and caprine animals, including obligations on operators as regards the means and methods of identification of those animals.
- (3) In addition, Article 46 of Delegated Regulation (EU) 2019/2035 provides for certain derogations from the traceability requirements for kept ovine and caprine animals laid down in Article 45 of that act. This includes the possibility for operators keeping ovine and caprine animals less than 12 months old to identify their animals by means of a single electronic eartag with a visible display of the unique registration number and identification code, where those animals are intended to be transported to a slaughterhouse in the same Member State, after undergoing an assembly operation or a fattening operation. After the adoption of Delegated Regulation (EU) 2019/2035, the Commission received various comments from certain stakeholders and Member States concerning the potential implications of applying that derogation which was considered too cumbersome for sheep and goat breeders, particularly taking into

³ OJ L 84, 31.3.2016, p.1.

⁴ Commission Delegated Regulation (EU) 2019/2035 of 28 June 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs (OJ L 314, 5.12.2019, p.115).

account the low market price obtained by those breeders for animals slaughtered for human consumption. Taking into account the considerations laid down in Article 118(3) of Regulation (EU) 2016/429, a conventional ear tag or a conventional pastern band could be regarded as ensuring a sufficient level of traceability when young kept ovine and caprine animals from different establishments of origin are moved, after a fattening operation, to a slaughterhouse. Also, a sufficient level of traceability can only be ensured if such movements are recorded in a single database, and therefore take place within the same Member State, which is also a requirement for most of the other derogations provided for in Article 46 of Delegated Regulation (EU) 2019/2035.

- (4) Taking into account those considerations, it is appropriate to amend Regulation (EU) 2019/2035 by adding an additional derogation for young kept ovine and caprine animals so that disproportionate burdens and costs are not imposed on operators, while at the same time ensuring the traceability of kept ovine and caprine animals and the smooth functioning of the identification and registration system for those animals.
- (5) Moreover, Article 108 of Regulation (EU) 2016/429 requires Member States to have in place a system for the identification and registration of kept terrestrial animals, including kept ovine and caprine animals. That system should have established procedures for its proper functioning, including for the management of derogations, which are applied in the Member States. In order to avoid any risk to animal health, and to ensure the traceability of kept ovine and caprine animals, when certain derogations provided for in Article 46 of Regulation (EU) 2019/2035 are applied, there should be an obligation on Member States to establish procedures regarding the application of such derogations.
- (6) As Delegated Regulation (EU) 2019/2035 applies from 21 April 2021, this Regulation should also apply from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2019/2035 is amended as follows:

- (1) In Article 45(4), point (a) is replaced by the following:
 - ‘(a) one of the means of identification referred to in paragraph 2 of this Article, in accordance with the derogations provided for in Article 46;’
- (2) In Article 46, the following paragraph 5 is added:
 - ‘5. By way of derogation from Article 45(2), operators keeping ovine and caprine animals intended to be transported to a slaughterhouse after undergoing a fattening operation in another establishment may identify each animal at least by a conventional ear tag or a conventional pastern band as listed in points (a) and (b) of Annex III with a visible, legible and indelible display of either the unique registration number of the establishment of birth of the animal, or the identification code of the animal, provided that those animals:
 - (a) are not intended to be moved to another Member State;
 - and
 - (b) are slaughtered before the age of 12 months.’
- (3) In Article 48(4), the following point (c) is added:

‘(c) operators for the application of the derogations provided for in Article 46(4) and (5).’

Article 2

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

It shall apply from 21 April 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 25.8.2020

For the Commission
The President
Ursula VON DER LEYEN