

LEGAL BASES AND FRAMEWORK AT EU AND MEMBER STATES LEVEL: SIMILARITIES AND DIFFERENCES

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OVERVIEW

Introduction

I. History of the principle of Traceability

II. Goals of the principle

III. Overview of different systems in Member States

Results and final conclusions

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INTRODUCTION

- Traceability means **identification and registration** of animals for knowing their origins and their movements.
- First for security of food chain (traceability of farm animals such as porks, cows, sheeps...): “*Traceability means the ability to **trace and follow** a food, feed, food-producing animal or substance intended to be, or expected to be incorporated into a food or feed, **through all stages of production, processing and distribution**”*. Article 3.15 of Regulation 178/2002/CE
- Applied for health reasons since 2000 to horses and since 2004 to three companion animals: dogs, cats and ferrets.



I. HISTORY (1)

The principle of Treacability for food security

- **Begining of 90'**: Swine Fever crisis,
- **1992** : Several failed tests to implement a I&R system (ANIMO, SHIFT). First draft of a EU traceability principle with the first EU texts about food security and import of live animals, e.g. Directive 92/65/EC
- **1998**: BSE crisis
- **Regulations 1760/2000, 178/2002/EC and 852/2004/EC** = general EU principle of traceability of all agricultural products (*« from the fork to the fourch »*)
- **Regulation 2004/282/CE**: Creation of the **TRACES network system** for all imports and exports of live animals in the EU



I. HISTORY (2)

Identification of Equidae

- Directive 90/426/EEC on identification of equidae
- Commission Decision 96/78/EC laying down the criteria for entry and registration of equidae
- Commission Decision 2000/68/EC establishing the identification of equidae for breeding and production
- Commission Regulation (EC) No 504/2008 implementing Council Directives 90/426/EEC and 90/427/EEC as regards methods for the identification of equidae

Result: Since 1st July 2000: compulsory identification for all equidae within the EU in a **Equidae Passport**



I. HISTORY (3)

The principle of Traceability for protecting Wild Animals

THE REGULATION “CITES” 398/97/EC

Protected Wild Animals have to be identified and registered for being imported or exported



I. HISTORY (4)

THE REGULATION 998/2003/EC

- Only for **non commercial movement of less than 5 cats, dogs or ferrets**
- **Mandatory identification of all cats, dogs and ferrets** moving into the European Union in the **EU Pet Passport**
- **No I&R obligation for cats, dogs and ferrets who are not crossing borders**
- **No Registration obligation**



I. HISTORY (5)

NEWEST DEVELOPMENTS FOR IMPLEMENTING I&R OF COMPANION ANIMALS IN THE EU:

- The Conclusions of the Council of November 2011
- The adopted Written Declaration 26
 - > The New EU Animal Health Law
 - > The New Strategy for Animal Welfare



II. GOALS OF TRACEABILITY

Differencies according to species:

- **Farm Animals** : Food safety
- **Wild Animals**: Protection of biodiversity, environment and endangered species
- **Companion Animals**:
 - Ethical Animal Welfare Goals (reunification of dogs and cats with the owner, promotion of responsible Ownership)
 - Human and Animal health goals
 - Internal market

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III. OVERVIEW OF DIFFERENT SYSTEMS OF MEMBER STATES

Regulation 998/2004, only a “*sanitary Regulation*” ?

- According to the EU Commission, **Regulation 998/2004, is only a “*sanitary Regulation*”** (e.g. Answer of Mr Byrne to Written Question E4080/03)
- **BUT Case Law of the Court of Justice of the EU (14/04/2011 “*Vlaamse Dierenartsenvereniging VZW*”): Member States can use Regulation 998/2004 to implement on their territory a better identification and a mandatory Registration of all animals.**

“Regulation No 998/2003 (...) must be interpreted as not precluding legislation, such as that at issue in the main proceedings, under which a pet passport is used not only as a travel document pursuant to European Union legislation but also as proof of identification and registration of dogs at a national level”.



III. OVERVIEW OF DIFFERENT SYSTEMS OF MEMBER STATES (II)

- According to Regulation 998/2004 Member States are **free concerning the way to implement the mandatory identification (on their territory)** of cats, dogs and ferrets crossing internal EU borders.
- **Only obligation** for Member States: **use the pattern of EU Pet Passport for writing the number of chip**

RESULT: Several incompatible identification systems between the 27 Member States and sometimes several incompatible identification systems inside a single Member State such as it is in Spain, Italy



III. OVERVIEW OF DIFFERENT SYSTEMS OF MEMBER STATES (3)

Number of databases:

- Member States who have only 1 or 2 databases:
France, UK, Belgium, Luxembourg, Germany, Austria, Hungary, Lithuania, Estonia, Latvia, Cyprus...
- Member States who have more than 2 databases:
Ireland, Netherlands, Denmark, Poland...
Spain: More than 15 databases



III. OVERVIEW OF DIFFERENT SYSTEMS OF MEMBER STATES (4)

Different I&R system in Member States:

- Centralized or decentralized databases (interferences with political structures)
- Mandatory legal obligation or voluntary I&R
- No common approach of identification (national code)
- Differences concerning the responsible for registering the data and concerning the quality of data registered
- No EU common database (but network)



IV. HOW TO IMPLEMENT A MANDATORY I&R FOR ALL COMPANION ANIMALS AT THE EU LEVEL?

A. FIND A LEGAL BASIS

- **For Farm Animals**: Freedom of movement of goods (Art 114TFEU) / Human health (Art 169TFEU) / Consumer Protection (Art 153TFEU)
- **For Wild Animals**: Environment (Art 192TFEU)
- **For Companion Animals** ?
 - **For commercial movement**: Freedom of movement of goods (Art 114TFEU) / Human health (Art 169TFEU) / Consumer Protection (Art 153TFEU) + General Principle of Animal Welfare implemented by new Art 13.
 - **For non commercial movement**: Art 13 TFEU responsible ownership,



IV. HOW TO IMPLEMENT A MANDATORY I&R OF ALL COMPANION ANIMALS AT THE EU LEVEL? (II)

B. RESPECT DATA PROTECTION (I)

(Directive 95/46/EC and Regulation 45/2001/EC)

- Personal Data = any information relating to an identified or identifiable natural person
- Personal data may be processed **only if the data subject has unambiguously given his consent** except processing is necessary for compliance with a legal obligation.



IV. HOW TO IMPLEMENT A MANDATORY I&R OF ALL COMPANION ANIMALS AT THE EU LEVEL? (III)

B. RESPECT DATA PROTECTION

(Directive 95/46/EC and Regulation 45/2001/EC)

- Personal data must be processed **fairly** and **lawfully**, collected for **specified, explicit and legitimate purposes**, **adequate, relevant and not excessive**, **accurate** and **kept up to date**.
- The data subject **must be informed of data collected relating to himself** and should have the right to **correct these data** if they are inexact.

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AN EXAMPLE OF PRIVATE I&R NETWORK: EUROPETNET



- **Main Goal:** to complete the EU lack of common I&R database while creating, developing and organizing a **PAN-European communications system between databases**
- **Almost 20 Countries covered**
- 48,114,844 IDs recorded in Europetnet today

Issues to be optimised

- Double IDs and dead animals are not deleted
- No access to all data bases

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RESULTS AND FINAL CONCLUSION

- Good results were obtained for farm animals with the TRACES system, and recently with equidae
- TRACES experience could be used for companion animals
- For health reasons, a public and common database system based on managing compatible technical standard and data is needed
- On the operational level a body or institution should manage the different systems either private or public, regional or federal etc. including the most important criteria to create compatibility

to reach this tool for responsible ownership also for companion animals in Europe we need last but not least the political will to reduce the number of companion animals

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THANK YOU FOR YOUR ATTENTION

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