

Commission Implementing Decision (EU) 2020/388 of 6 March 2020 laying down rules for the application of Council Directive 90/428/EEC as regards the derogations from the rules of equestrian competitions and amending Commission Decision 2009/712/EC as regards references to zootechnical legislation (notified under document C(2020) 1269) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2020/388

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*(notified under document C(2020) 1269)*

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 90/428/EEC of 26 June 1990 on trade in equidae intended for competitions and laying down the conditions for participation therein<sup>(1)</sup>, and in particular Article 4(3) thereof,

Whereas:

- (1) Article 3 of Directive 90/428/EEC provides that the rules of competition may not discriminate equidae registered or originating in the Member State in which the competition is being held and equidae registered or originating in another Member State.
- (2) Article 4(2) of Directive 90/428/EEC provides for two derogations from the obligations of non-discrimination set out in Article 3 of that Directive. The first exempts certain types of competitions and events, the second allows Member States to reserve a certain percentage of the prize money and profits accruing from the competition for the safeguard, development and improvement of breeding. Where a Member State intends to use the first derogation, it must inform beforehand the Member States and the public of its intention and of the justification for using that derogation. Where a Member State intends to use the second derogation, it must make the criteria for the distribution of those funds available to the other Member States and the public.
- (3) Commission Decision 2009/712/EC<sup>(2)</sup> contains model forms for providing the information required to use the derogations provided for in Article 4(2) of Directive 90/428/EEC. This Decision is repealed from 21 April 2021 by Commission Delegated Regulation (EU) 2019/2035<sup>(3)</sup>. Practice has shown that the information provided by Member States is frequently outdated and, in many cases, language constraints prevent authorities and the public in other Member States from accessing its content. The lack of

transparency in applying the derogations has caused complaints of affected individuals and entire segments of the equestrian community. In order to ensure that Member States and the public are informed correctly and timely of the use of the derogations provided for in Article 4(2) of Directive 90/428/EEC, it is necessary to provide for revised models of the internet-based information pages and to require that Member States update the information provided pursuant to Article 4(2) of Directive 90/428/EEC at minimum intervals.

- (4) For the sake of clarity, legal certainty and simplification, it is necessary to delete the models of the internet-based information pages set out in Sections II and III of Chapter 2 of Annex II to Decision 2009/712/EC.
- (5) Chapter 2 of Annex I to Decision 2009/712/EC lists Council Directives 77/504/EEC<sup>(4)</sup> (replaced by Council Directive 2009/157/EC<sup>(5)</sup>), 88/661/EEC<sup>(6)</sup>, 89/361/EEC<sup>(7)</sup> and 90/427/EEC<sup>(8)</sup>, as well as Directive 90/428/EEC. Directives 2009/157/EC, 88/661/EEC, 89/361/EEC and 90/427/EEC have been repealed by Regulation (EU) 2016/1012 of the European Parliament and of the Council<sup>(9)</sup> on 1 November 2018. For the sake of clarity, legal certainty and simplification, references to those Directives should be deleted. Since this Decision establishes new models for the internet-based information pages concerning the use of the derogations provided for in Article 4(2) of Decision 2009/712/EC, the reference to Directive 90/428/EEC should also be deleted. Chapter 2 of Annex I should therefore be deleted.
- (6) Regulation (EU) 2016/1012 provides that Member States are to draw up and keep up-to-date a list of breed societies and breeding operations that their competent authorities have recognised in accordance with Article 4(3) of that Regulation and which implement at least one breeding programme approved in accordance with Article 8(3) of that Regulation. Moreover, Regulation (EU) 2016/1012 provides that Member States are to make that list available to the public.
- (7) Commission Implementing Regulation (EU) 2017/716<sup>(10)</sup> lays down the model forms for the presentation of the information to be included in the lists of recognised breed societies and breeding operations provided for in Article 7 of Regulation (EU) 2016/1012. Since Implementing Regulation (EU) 2017/716 applies from 1 November 2018, the model forms set out in that Regulation are to be used instead of those set out in Section I of Chapter 2 of Annex II to Decision 2009/712/EC.
- (8) Chapter 2 of Annex II to Decision 2009/712/EC should be deleted as the models set out in Sections I, II and III thereof are replaced by the model forms set out in Implementing Regulation (EU) 2017/716 and in this Decision respectively.
- (9) Decision 2009/712/EC refers to zootechnical legislation in its title and to establishments in the zootechnical field in Article 1(1)(b). Since such references are obsolete following the entry into force of Regulations (EU) 2016/1012 and (EU) No 2017/716, the words 'and zootechnical' in the title of Decision 2009/712/EC and point (b) of Article 1(1) of that Decision should be deleted.
- (10) Decision 2009/712/EC should therefore be amended accordingly.

- (11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Zootechnics,

HAS ADOPTED THIS DECISION:

*Article 1*

1 By 1 April 2020 at the latest, Member States shall establish internet-based information pages in order to make electronically available to the other Member States and to the public:

- a their intention to avail themselves of the derogation provided for in the first indent of Article 4(2) of Directive 90/428/EEC, and the justification thereof;
- b the criteria for the distribution of the funds referred to in the second indent of Article 4(2) of Directive 90/428/EEC.

2 The internet-based information pages referred to in paragraph 1 shall be drawn up in conformity with the models set out in Annexes I and II respectively and with the instructions set out in Annex III.

3 Member States shall communicate the internet address of their internet-based information pages to the Commission.

4 Member States shall ensure that the information referred to in points (a) and (b) of paragraph 1 is updated:

- a at least annually, before 31 December, for the equestrian competitions and events falling under the derogation provided for in the first indent of Article 4(2) of Directive 90/428/EEC to be organised in the following year;
- b whenever the criteria for the distribution of the funds referred to in the second indent of Article 4(2) of Directive 90/428/EEC are changed.

*Article 2*

With effect from 1 April 2020, Decision 2009/712/EC is amended as follows:

- (1) in the title of that act, the words ‘and zootechnical’ are deleted;
- (2) in Article 1(1), point (b) is deleted;
- (3) in Annex I, Chapter 2 is deleted;
- (4) in Annex II, Chapter 2 is deleted.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 6 March 2020.

*For the Commission*

Stella KYRIAKIDES

*Member of the Commission*

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**Status:** *This is the original version (as it was originally adopted).*

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ANNEX I

Equestrian competitions and events falling under the derogation from the principle of non-discrimination laid down in Article 3 of Directive 90/428/EEC

<b>Member State/Official language</b>	<i>(Insert name of Member State)</i>	<b>Year/Official language</b>	<i>(insert yyyy when equestrian competition/event will take place)</i>
<b>Equestrian competition or event/Official language</b>		<b>Number of competitions/events falling under the derogation according to first indent of Article 4(2) of Directive 90/428/EEC/Official language</b>	<b>Justification/ Official language</b>

ANNEX II

Criteria for the distribution of funds for the safeguard, development and improvement of breeding

<b>Member State/Official language</b>	<i>(Insert name of Member State)</i>	<b>Version/ Official language</b>	<i>(insert dd.mm.yyyy)</i>
<b>Type of equestrian competition or event/ Official language</b>		<b>Criteria laid down for the distribution of funds for the safeguard, development and improvement of breeding (second indent of Article 4(2) of Directive 90/428/EEC)/Official language</b>	

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*Status: This is the original version (as it was originally adopted).*

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### ANNEX III

1. The heading of each internet-based information page shall indicate the name of the Member State and either the year concerned for the equestrian events listed in Annex I or the version concerned with the following format dd.mm.yyyy for the list of criteria set out in Annex II.
2. The heading of each internet-based information page shall be given in the English language and in the official language(s) of the Member State.
3. The information shall be provided as far as possible in a logical order.

- (1) [OJ L 224, 18.8.1990, p. 60.](#)
- (2) Commission Decision 2009/712/EC of 18 September 2009 implementing Council Directive 2008/73/EC as regards internet-based information pages containing lists of establishments and laboratories approved by Member States in accordance with Community veterinary and zootechnical legislation ([OJ L 247, 19.9.2009, p. 13](#)).
- (3) 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](#)).
- (4) Council Directive 77/504/EEC of 25 July 1977 on pure-bred breeding animals of the bovine species ([OJ L 206, 12.8.1977, p. 8](#)).
- (5) Council Directive 2009/157/EC of 30 November 2009 on pure-bred breeding animals of the bovine species ([OJ L 323, 10.12.2009, p. 1](#)).
- (6) Council Directive 88/661/EEC of 19 December 1988 on the zootechnical standards applicable to breeding animals of the porcine species ([OJ L 382, 31.12.1988, p. 36](#)).
- (7) Council Directive 89/361/EEC of 30 May 1989 concerning pure-bred breeding sheep and goats ([OJ L 153, 6.6.1989, p. 30](#)).
- (8) Council Directive 90/427/EEC of 26 June 1990 on the zootechnical and genealogical conditions governing intra-Community trade in equidae ([OJ L 224, 18.8.1990, p. 55](#)).
- (9) Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) No 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding ('Animal Breeding Regulation') ([OJ L 171, 29.6.2016, p. 66](#)).
- (10) Commission Implementing Regulation (EU) 2017/716 of 10 April 2017 laying down rules for the application of Regulation (EU) 2016/1012 of the European Parliament and of the Council with regard to the model forms to be used for the information to be included in the lists of recognised breed societies and breeding operations ([OJ L 109, 26.4.2017, p. 1](#)).