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

of 6 March 2020

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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[(1)], 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[(2)] 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 This Decision is repealed from 21 April 2021 by Commission Delegated Regulation (EU) 2019/2035[(3)]. Practice has shown that the information provided by Member States is frequently outdated and, in many cases, language constraints prevent authorities and the public in other Member States from accessing its content.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

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2020/388. (See end of Document for details)*

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[(4)] (replaced by Council Directive 2009/157/EC[(5)]), 88/661/EEC[(6)], 89/361/EEC[(7)] and 90/427/EEC[(8)], 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[(9)] 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[(10)] 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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