

Free Farrowing Workshop Vienna

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Animal Welfare & veterinary law

Farrowing crates – Legal aspects in Austria:

Regulations on farrowing crates in the light of the *Animal Welfare Act* (AWA, 2005)

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Animal welfare legislation: Development & overview

- ▶ legislative competence in animal welfare issues rested with states until 2004: 9 animal welfare acts + 40 statutes
- ▶ since 1.1.2005: Federal Animal Welfare Act (AWA) → general framework
- ▶ minimum standards for husbandry & handling of species primarily used for farming purposes: 1st statute on animal husbandry (Minister of Health and Minister of Agriculture):
- ▶ relevant EU-Directives:
 - Council Directive 98/58/EC on the protection of animals kept for farming purposes
 - Council Directive 2008/120/EC laying down minimum standards for the protection of pigs

Austria

Animal welfare regulations on farrowing crates: Domestic law: Status quo

- ▶ § 5 AWA: *Prohibition of cruelty to animals*
 - § 5/1: it is generally “prohibited to inflict unjustified pain, suffering or harm on an animal [...]”
 - § 5/2/10: it is especially regarded as animal cruelty to expose an animal harmful conditions, e.g. a constraint of movement, if these conditions cause pain or suffering
- ▶ § 16 AWA: *Freedom of movement*

“An animal’s freedom of movement must not be constrained in a way which inflicts pain, suffering or harm [...] on the animal.”

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Animal welfare regulations on farrowing crates: Domestic law: Status quo

- ▶ § 13/2f. AWA: *Principles of animal husbandry*
 - *space, freedom of movement, condition of the ground, [...] in consideration of the species, age and degree of domestication of the animals have to correspond to the animals' physiological and ethological needs*
 - *somatic functions and behaviour of the animals must not be disturbed and the animals' ability to adapt must not be overstrained*
- ▶ § 24/1 AWA: statutory regulations have to consider
 - general provisions of AWA
 - scientific knowledge
 - economic effects

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Animal welfare regulations on farrowing crates: Domestic law: Status quo

- ▶ 1st statute on animal husbandry
Annex 5: minimum requirements for pig husbandry:

crating allowed *after service* and in the context of farrowing (section 3.3.):

gilts and sows may be separated from other pigs and housed in farrowing crates
 - one week before the expected time of farrowing
 - during farrowing and
 - during suckling period (until weaning)

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Animal welfare regulations on farrowing crates: Recent development

- ▶ *inconsistency AWA – crating provisions*
- ▶ *official review by the Austrian Ombudsman Board (AOB, "Volksanwaltschaft") – expert opinions*
- ▶ *according to AOB crating regulations on statute level do not comply with AWA framework*
- ▶ *legislative recommendation (Art. 148c B-VG) of AOB (9/2010)*
- ▶ *amendment draft submitted by Minister of Health (2/2011) – consensus between Minister of Health and Minister of Agriculture necessary (§ 24/1 AWA)*
- ▶ *if no consensus can be reached: review by Austrian Constitutional Court possible (Art. 139 B-VG)*

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Animal welfare regulations on farrowing crates: European Community: Status quo

- ▶ Art. 13 TFEU (OJ C 83/47, 30.3.2010)
In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.
- ▶ Compliance with *crating provisions of Council Directive 2008/120/EC?*

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Questions to discuss ...

- ▶ How can compliance AWA – statute regulations be achieved?
- ▶ How should interests be balanced
 - among pigs (gilts/sows – piglets)
 - among animal welfare and human interests
- ▶ How is it possible to attain best welfare effects on both sows and piglets?
- ▶ What can we learn from foreign models?
- ▶ How should transition process be implemented / monitored?
- ▶ Possible effects on EU-policy and legislation?

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