

VYTENIS ANDRIUKAITIS

Member of the European Commission

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Ms Ulrike Scharf
Bavarian State Minister
of the Environment and Consumer
Protection

E- mail: ministerbuero@stmuv.bayern.de

Honourable State Minister Scharf,

Thank you for your letter of 27 November 2014 on genetically modified plants, EU standards for natural mineral water and the Commission's proposals on animal cloning.

Concerning genetically modified plants, I would like to thank Bavaria for the continuous support for the Commission's proposal to set rules that would leave it to Member States to decide whether to allow cultivation of EU authorised genetically modified plants on their territory. I am delighted that these long standing efforts have been crowned by the 3rd December 2014 provisional agreement between the institutions in trialogue. Member States, including Germany, confirmed their support in Council on 10 December 2014 (Coreper) paving the way for the adoption of the new legislation in January 2015.

Concerning natural mineral water, EU legislation¹ sets high quality standards, in particular for “original purity”. Sensitive laboratory techniques can detect small traces of certain contaminants in natural mineral water. As you rightly mention it, different interpretation of test results can lead to inconsistencies in enforcement. Hence my services set up a working group to prepare a technical guidance document for competent authorities and food business operators. The aim of the working group is to identify and list substances (contaminants) relevant for the assessment of the “original purity” of a natural mineral water and to set values or parameters for those substances. These would be based on quality, and not safety.

You stress that you reject cloning for animal welfare and ethical reasons. In your view, the two proposals for Directives on cloning adopted by the last Commission in December 2013 should be broadened in scope to include descendants of animal clones and the ban should be permanent.

I am aware that the proposals followed an impact assessment and are the outcome of careful consideration of its results, the limits of the legal powers conferred to the EU institutions by the Treaties and the principle of proportionality.

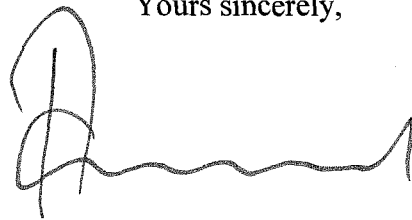
¹ Directive 2009/54/EC on the exploitation and marketing of natural mineral waters

Descendants of clones are conceived with conventional methods. It is the surrogate mothers and the clones themselves that may experience distress in cloning. It would therefore be extremely difficult to justify a ban on the marketing of descendants of clones on the ground of animal welfare concerns. Labelling of food from descendants was considered: it would imply that all breeders, farmers and importers know the ancestry of their animals (including those with no interest in cloning) and labelling requirement would consequently trigger significant administrative work that could ultimately lead to higher food prices. I understand therefore that the College wanted first to explore the practicability of such requirement. A relevant study has therefore been launched.

The legal powers conferred to the EU institutions to regulate purely ethical concerns are limited. As a result, the ban on the marketing of food from clones is based on Article 352 Treaty on the Functioning of the European Union (TFEU) providing a legal basis where specific powers have not been conferred to the EU. In consequence, it requires unanimity in the Council.

In conclusion it is the Commission's view that the Directives as proposed embrace diverse interests while respecting the legal framework within which the EU institutions must operate.

Yours sincerely,

A handwritten signature in dark ink, consisting of a large, stylized initial 'D' followed by a long, wavy horizontal line that ends in a small upward flick.