

REVIEW

(Open Access)**Legal issues on subsidies of endangered animal breeds in Albania and their need for improvement in light of international and EU legislations**

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Abstract

The Albanian legislation treats partially and as separate matters issues related to subsidies for endangered animal breeds. In order to approximate this legislation with the international and EU member states one, these issues are to be treated and developed as integral part of agriculture and sustainable rural development legislation. This legislation should clarify specifically the concept of animal breed that may be subject to subsidise. A legal framework should be developed in order to create and update the “Red Book” for endangered animal breeds. The legislation should define the criteria and the methodological principles, according to which the subsidy measures for animal breeds at risk are to be assessed. The subsidy should aim to reduce financial losses caused by raising these breeds.

Key words: breed at risk, subsidies, legislation

Introduction

The Global Plan of Action is a key document. It defines four strategic priority areas: (I) Characterization, Inventory and Monitoring of Trends and Associated Risk, (II) Sustainable Use and Development, (III) Conservation, (IV) Policies and Institutions Capacity-Building for FAnGR [1]. It is the guiding document for all FAO member countries that have become part of the Global Strategy for the Management of FAnGR. In order to implement this Plan all member states have specific responsibilities and obligations. In particular, these responsibilities are much more defined for native breeds (indigenous genotype), which are and should be treated as a national asset. Programs development and implementation of the conservation and sustainable use of these breeds is required to be treated as a national priority.

Financial support, through public fund, is one of the main factors to succeed in the conservation of AnGR at risk of extinction. Development of legal and institutional framework, necessary for the financial support implementation, has to be taken into account as a key moment during the elaboration of policies and action plans in order to achieve the objectives related to the strategic priorities of conservation and sustainable use of FAnGR. (*Global Plan of Action for Animal Genetic Resources and the Interlaken Declaration, FAO, 2007*).

Annual farm subsidy for native breeds at risk of extinction is a form of financial support for farm animal genetic fund conservation programs. All EU

member states apply it. The legal base is Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 to support for rural development by the European Agricultural Fund for Rural Development (EAFRD). Its article 27.4 states: *Support may relate to the following commitments:(a) to rear animals of local breeds indigenous to the area and in danger of being lost to farming.*

Annex IV of this Regulation defines animal species that benefit subsidies and the criteria to determine the threshold in order to declare a breed at risk of extinction.

The purpose of this study is to analyze the current Albanian legal framework, on which bases is made possible the use of public funds for subsidizing farms that breed animals at risk of extinction and the formulation of proposals for further development in accordance with the international and EU legislation.

Existing national legal framework for subsidizing animal breeds at risk of extinction

The most important legal act in the Albanian legislation for supporting animal breeds at risk of extinction is Law No 9426 dated 28. 01. 2008 “On Livestock Breeding”. Its article 58 states: “The Republic of Albania holds and provides genetic reserves for specific species, breeds and lines of farm animals in a minimum number of animals, doses of sperm, eggs and embryos. Funds for preserving and

maintaining genetic reserves are provided by the state budget and/or private donors”.

Article 60 states: “Indigenous breeds of farm animals are under a special state protection regime The Council of Ministers defines measures for protecting animal breeds at extinction or at risk of extinction”.

The entry into force of this Law was followed by the abolition of Law No. 7627 date 21. 10. 1992 “On the Livestock Service”. One of the main responsibilities and duties of the livestock service was to “define and apply measures for the conservation and development of the genetic fund of animals, poultry, and zoo cultures” (Art. 1). Art. 3 and 5 stated “The genetic fund is protected by the state” and “In order to conserve, use and improve the genetic fund of breeds the government may establish collections, breed centers and genetic banks”.

Comparing the two laws above shows that, no significant developments have taken place during the period 1992-2008, for issues related to conservation management and sustainable use of AnGR. Only the Council of Ministers Decision No. 219 of 16. 05. 2002 “On protection of the indigenous buffaloes breed from extinction” may be considered as an important accomplishment during this period. This Decision was amended by the Decision No. 299 of 8. 05. 2003 and Decision No. 1634 of 17. 12. 2008. These amendments modified the subsidy amount (reducing it) for the male or female reproducer. Decision No. 219 provided subsidy in the amount of 400 Euro/female and 600 Euro/male. The Decision No. 1634 date 17. 12. 2008 reduced it to 140 Euro/breeding female, 140 Euro/breeding male + 14 Euro/fertilizing copulation and 36 Euro/young stock. The last amendment operated by Decision No. 436 date 28. 4. 2010 “Financial support procedures for genetic reserve conservation of the indigenous buffaloes breed”, placed as the main criterion for obtaining the subsidy, the herd size of buffaloes reared on the farm. According to it, only farms breeding no less than 10 buffaloes (breeding female), can benefit annual subsidy.

Based on Law No. 9426 of 28.01. 2008 “On Livestock Breeding”, the government adopted decision No. 1708 of 29. 12. 2008 “For the implementation of the breeding programs for in-situ conservation of small ruminants”. It anticipates conditions and subsidy amounts for local breeds of small ruminants declared at risk of extinction. The decision provides annual subsidy in the amount of 14. 3 Euro/breeding female and 21.4 Euro/breeding male.

Subsidies last at least 4 years. After this period, it stops only if the breeder/ecotype is no longer in state of extinction. In order to be part of the subsidy scheme for breeds or local ecotypes (goat and sheep), the female reproducer number should be no greater than 900. Because of limited public budget the introduction of the subsidy scheme is to be done in accordance with the risk of extinction level. The Decision defines three levels – critical <300 breeding female, endangered <500 breeding female and vulnerable <900 breeding female. A National Commission and regional ones are established to assess the risk level of indigenous breeds/ecotype of small ruminants.

The National Agency of Payments is the institution in charge of the payments. The payments are given based on the documentation submitted by the Regional Committee.

Both the above Decisions charge the Minister of Agriculture, Food and Consumer Protection to establish the Regulation for the National Commission and the Regional ones, in order to implement these Decisions.

The Regulation approved by the Minister, concerning only small ruminant’s local breeds, intends to solve the main aspects of the subsidy procedures. According to it, the right to obtain subsidies is recognized to farms breeding no less than 20 heads of breeding female of the same local breed. Animals must be matriculated and register in the Farm Register and the Breed Book. The Regulation appoints as head of the National Commission the National Coordinator of AnGR, and at the regional level provides for the establishment of ad-hoc Regional Commissions inside the Regional Directorates for Food and Agriculture. These Commissions are responsible to develop and update, at the regional level, the Breed Book for all breeds/ecotypes part of the subsidies scheme. In order to carry out farm subsidies for subjects that meet the conditions laid down by Decision No. 1708, these Commissions coordinate their work with the National Agency of Payments.

Need for national legislation improvement in the light of the International and EU one

The Albanian legislation treats only partially issues related to subsidies for local breeds/ecotypes, and often without referring to concept and standards that currently apply in countries with developed legislation in this area.

The comparative analysis of this legislation by the International and EU clearly shows the need for intervention. This paper provides some issues that can be the object of discussion and decision by the Albanian lawmakers. Issues that can help to approximate this legislation with the EU one and the International standards.

1. Article 60¹ of Law No. 9426 of 28.01.2008, which also contains important provisions for further development of the legal and regulatory framework related to subsidies for local breeds/ecotypes at risk of extinction, uses the “indigenous breed” concept. According to the definition given in article 3, this concept includes all farm animal breeds, with origin in the territory of the Albanian Republic. Treated in this way, the concept is not clearly and strictly defined. The lawmaker attempted to formulate a general concept, in order to enable its use in all cases, except those where animals clearly belong to imported breeds. Therefore this definition is different and not compatible with the definitions given by the international legislation. When referring to the genetic fund of farm animals the legislation must clearly define concepts such as: “native, indigenous, primary” breed, “local” breed, “autochthonous”, “traditional”, “transboundary” and “exotic” breed. In this case it is recommended to adopt the definitions formulated by FAO [2] or given by the legislation of EU member states [3.4]. A clear definition of this concept is of particular importance, especially when the legislation that will define rules and conditions in order to obtain subsidies for breeds at risk of extinction will be based on it.

2. The existing national legislation does not address issues related to the criteria for the risk level assessment and the conditions set forth for a breed/ecotype in order to be declared at risk of extinction. It does not identify a body or institution

¹Indigenous breeds

1. Indigenous breeds are under a state special protection regime.

2. Indigenous breeds of animals are native cattle farm, Buffalo native, equidae, sheep country and its ecotypes, goat country and its ecotypes, domestic pigs, chickens, ducks, domestic geese, turkeys and domestic bee.

3. Native breeds, as defined in paragraph 2 of this Article, are also those farm animal breeds, which are recognized by the Minister as indigenous breeds, according to a decision issued, at the request of an approved organization or institution.

5. Safeguards for indigenous breeds in extinction or at risk of extinction are defined by the Council of Ministers. Law 9426, date 28.01.2008 “Livestock Breeding”

which by law must define the criteria, and the same for the one in charged for the evaluation of the situation and the trend risk of extinction. The international legislation (FAO) and the EU state members’ give different solution for the extinction risk assessment. For example, FAO recommends to include in the Inventory Endangered Breeds Book (Red Book) all breeds that have 100-1000 breeding females and 5-20 male reproducers.... [5]. Czech Republic refers to the effective population number (Ne), in case $Ne < 1000$ it is stated “under monitoring”, and in case $Ne < 400$ the population is subject to a conservation program which includes subsidies [6].

Notwithstanding, all different criteria used for risk evaluation by different countries, in all cases the decision to subsidize a given breed is taken referring to the information given by the Red Book. Consequently, in order to approximate the Albanian legislation to the international one, it is necessary to build a legal framework that will define: (i) conditions set forth for a breed/ecotype in order to be registered in the Red Book; (ii) methods and instruments used for the assessment of the risk extinction and its trend; (iii) body or institution in charge to maintain and update the Red Book; (iv) financial sources.

In addition, it is important to define the risk assessment criteria. Some of these criteria are identified in: (i) population size, (ii) geographic distribution, (iii) number and size of farms breeding the same breed/ecotype. Among them, the population size is considered the most important. In order to draw up these criteria, two options are possible: (i) based on the effective population number (Ne) or (ii) based on the breeding females number. In the current situation, where is difficult to conduct a census process on regular bases and where there is a shortage of information about the effective number of male and female, it is recommended to give to the Institution or body that will be in charge of the Red Book the right to choose between these two options.

3. The amount of the subsidy, the annual payment for breeding animals, so far is defined by the Council of Ministers Decision. As in other countries' practices this value varies depending on the species. No defined methodology is used in order to calculate the subsidy amount. Consequently, the solution implemented was not long-termed. Such situation is typical in the case of buffaloes breed. For a period of eight years the subsidy annual amount has been changed three times, being reduced to about 65-75%,

while the risk of extinction has not gained any essential difference. In order to define the subsidy amount for small ruminants were taken into account values applied in other countries of the region.

The financial support for breeds at risk of extinction aims to protect them from competition with genetically modified breeds. This is because, in general, the driving factor of the extinction risk is the low level of breeding capacity of indigenous, native and traditional breeds. The subsidy should be treated as an opportunity to compensate the farm financial loss caused by raising them instead of improved breeds. Based on this principle, it is necessary to elaborate a methodology for the subsidy amount calculation referring to the cost of production of the livestock product unit and its price on the market. The subsidy amount should be at levels that enable maximum mitigation of the negative economic effects derived from raising unimproved breeds.

The assessment of the subsidy level using a methodology builds over the above given principle must be sanctioned by law. The same as in other countries of the region [5, 6]. Such legal solution will better approximate national legislation in EU member states².

4. The current Albanian legislation treats the subsidy for farms raising breeds at risk of extinction as a separate matter. It is not part of documents and legal acts related to rural development, agriculture development and livestock production policies. In this way the need for further development of this legislation is overlooked. Such treatment increases the opportunity for non long-term solutions. Other countries' practices show, in general, that the legislative issue related to the financial support for breeds at risk of extinction is treated as an integrative part of the rural and agriculture development legislation. So, in Slovenia these issues are treated in accordance with Commission Regulation (EC) No 1860/2004 (EC Treaty to de-minimize aid in the agriculture and fisheries sector). Payments are made in accordance and in compliance with the Environmental Program.

In the EU countries subsidies for breeds at risk of extinction are carried out in the framework of the

European Agricultural Fund for Rural Development (EAFRD)³.

In Serbia the subsidy issue is part of the Livestock Production Law, Agriculture and Rural Development Law and the Environmental Protection Act.

The approximation of the national legislation with the international and the EU one requires, for issues related to the financial support of breeds stated at risk of extinction, to be treated as part of the policies, strategies and action plans for agriculture and rural development and the relative legislation.

Conclusions

The Albanian legislation treats partially issues related to subsidies for breeds at risk of extinction.

In order to approximate the Albanian legislation with the international and UE one it is necessary to clearly define the indigenous breed concept.

The elaboration of the legal framework for the implementation and the update of the Red Book for breeds at risk of extinction and the definition of the criteria and the methodological principles, according to which the subsidy value is to be assessed, are the guiding lines for the legislation development.

The subsidy must aim to minimize the financial loss caused by raising genetically unimproved indigenous breeds.

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² In Greece - The level of support to farmers and breed associations after application according to the Council Regulation (EC) No 1968/2005 and Commission Regulation (EC) No 1974/2006 on the basis of the loss of income due to the raising of less productive breeds

³(EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

4. Support may relate to the following commitments:

(a) to rear farm animals of local breeds indigenous to the area and in danger of being lost to farming;

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