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Comments on "Roundtable on the interim findings of the "Study on the need for, added value of, and feasibility of introducing a 'positive list of pets' across the EU"

Background

The DGHT (German Society for Herpetology and Herpetoculture, www.dght.de), founded in 1964 (going back to the year 1918 as its predecessor "Salamander"), is an NGO representing more than 5.000 members from Germany and many other countries. We devote ourselves to three fields of work:

1. Scientific Herpetology (e.g., sponsoring scientific projects all over the world and editing the high-level journal SALAMANDRA); www.salamandra-journal.com/
2. Conservation of reptiles and amphibians (e.g., accredited counselor of CITES, co-author of the German Red List for reptiles and amphibians, determining and promoting the Reptile or Amphibian Species of the Year, mapping projects etc.); https://feldherpetologie.de/
3. Responsible keeping and breeding of reptiles and amphibians (e.g., through issuing guidelines for keeping all kinds of reptiles and amphibians, and training/testifying knowledge to keep these animals well, herpetological husbandry knowledge); www.sachkunde-vda-dght.de/

Comments on "Roundtable on the interim findings of the "Study on the need for, added value of, and feasibility of introducing a 'positive list of pets' across the EU"

Thematic session 1, statement on page 19: Stakeholder views: "NGOs and civil society: Advocate strongly for a positive list grounded in the precautionary principle. Emphasize benefits for animal welfare, biodiversity protection, and consumer confidence. Call for science-based, enforceable, and transparent criteria".

As an NGO representing part of the German civil society concerned for nature, we strongly oppose this statement. After careful consideration, we consider a positive list not an appropriate instrument to tackle animal welfare or species conservation problems, for the following reasons:

- A positive list would exclude most species from being bred in captivity. From a **scientific point of view**, the species left on that list would be the least interesting ones. Our experiences of collaboration between scientists and private breeders have provided substantial knowledge on breeding biology, food intake, biorhythmics and metabolism of reptile and amphibian species. Many phylogenetic studies have been realized based on samples from captive specimens as a source for DNA, some species have even been discovered through private breeders (see cases 1, 2 and 3 below).

- **Animal welfare** is a major concern of all responsible breeders. DGHT has issued husbandry guidelines for many reptile and amphibian species, based on decades of experience of private breeders. They provide optimal conditions for keeping and breeding even little-known species, which is proven by long-term successful reproduction of many species of reptiles and amphibians. As an example, here are breeding statistics for turtles and tortoises of the DGHT turtle group: In the year 2020, 36 breeders in the group bred 65 species of turtles/tortoises and produced 1.699 young.
- Among the factors affecting biodiversity loss, habitat destruction and other domestic factors play an overwhelming role compared to the international (legal) trade for the pet keeping industry. The impact of keeping and breeding wild reptiles and amphibians in captivity on **biodiversity** is minimal. If there is a negative impact on certain species feared, these species can well be protected by putting them on a negative list (e.g, listing on Appendix 3 of CITES). On the contrary, a positive list would make reintroduction of extinct species from captive stocks impossible. DGHT is taking part in the initiative "Citizen Conservation" where private breeders, together with zoos and aquaria, raise stocks of threatened species in captivity, to have enough individuals of these species ready for release into the wild (see cases 4 and 5 below).
- In the absence of scientific reasons in favour of a positive list, the precautionary principle of Article 191 para 2 sentence 2 TFEU is not applicable.

Thematic session 2: Legal pet trade – possible mechanisms of impact. It is stated in the assessment, among others, that

- "Harvesting wild species 'for a variety of purposes' is unsustainable". This may be true in the fisheries industry (although it should be in the intertest of fishermen not to overexploit their source of income). Figures of harvested aquarium fish, however, only represent a neglectable number as compared with fish for human food. In reptiles and amphibians, there are no reliable figures about species 'harvested' in large numbers. In the past, crocodiles and some species of snakes used to be threatened by the leather industry, but this has been well regulated by CITES.
- "Habitat disturbance and ecosystem disruption": These two negative effects on the environment are mainly due to human actions like deforestation, digging for oil and metals, constructing (agglomerations). There is no evidence that collecting wild animals for pet keeping has any comparable effect. Consequently, it would be an illusion to believe that positive lists would help saving ecosystems.
- The statement "Illegal wild-caught animals falsely labelled as captive-bred" is, of course, not applicable under the headline 'Legal pet trade'. We strongly oppose illegal trade, but we fear that positive lists would not alter the behaviors of illegal traders. On the contrary, NGOs like ours who unite serious pet keepers with field biologists would lose members. Instead, illegal pet keeping will flourish when positive lists are established (see for example Pfau & Budó, 2019).
- "Genetic and ecological impact of hybridization": It is stated that "captive breeding of wild species, especially across geographic variants or subspecies, can result in genetic homogenization". The opposite is also possible: Variants that are extinct in the wild may be bred in captivity, and when the wild population has shrunk to a low level with low genetic diversity, their gene pool could be improved by adding captive-bred individuals to the wild population (see for example Ziegler et al., 2019).
- Invasive species and ecological disruption: There is no likelihood that positive lists would help diminishing that problem, because a) species which are on the positive lists will be generalists

that are much more likely to become invasive than rare species; b) when positive lists have been installed, pet keepers might fear to be persecuted as criminals and release their pets into the wild.

- "Economic benefits often bypass source communities": There are a couple of examples that communities in tropical countries rely on harvesting fish for aquaria. These communities have good reasons to protect the habitats of the species they rely on for their income. If these economic benefits would no longer persist, people could switch to other, possibly environment-devastating jobs. The SULI (Sustainable Use and Livelihood) group of the IUCN has provided several case studies on reptile species to prove sustainable use of wild populations by local communities (see Marsh et al., 2021).

We basically agree with the following statements of the presentation (pp. 26–27, p. 30):

"Legal pet trade: Caution in interpreting legal trade impacts"

• Some researchers (e.g. Fukushima et al., 2021) warn that trade-related threats may be overstated.

• Impacts can be confounded by other drivers like habitat loss, invasive species, and climate change.

• Conclusions based on limited or biased data risk oversimplifying complex issues.

• Emphasizes the need for context-specific, evidence-based policies that distinguish high-risk from manageable trade."

"Potential conservation role": When well-regulated, the pet trade can:

• Provide economic incentives for sustainable use.

• Support captive breeding programs.

• Raise awareness and fund conservation initiatives.

• Enable controlled harvesting.

"According to some estimates, over 50% of recorded trade in birds, amphibians, and ornamental fish are now from farmed sources (IPBES report, 2022, data not disaggregated, not exclusively for the trade in pets, see IPBES 2024)"

<u>Thematic session 3:</u> Animal welfare, IAS (invasive alien species) and public health

Some gaps in legislation and practice listed in this section are also seen by us. However, already 25 years ago, DGHT started a training and certification program for keepers of reptiles and amphibians, thus "absence of consistent training and awareness among keepers and traders" is being gradually reduced in German herpetoculture. Animal welfare does not represent an aspect to support the introduction of positive lists, as fewer species kept as pets do not mean better animal welfare. Most animal welfare casualties are found with common pet species like cats and dogs (see for example Robinson et al.; 2015, Blahak, 2017; Krautwald-Junghanns, 2017).

The problem with IAS has already been commented above. We argue that in our view, positive lists will not reduce the problem but could lead to more captive animals to be released in the wild. Certain species as the red-eared slider turtle (*Trachemys scripta*) and the American bullfrog (*Lithobates catesbeianus*) are already included in the Union list of invasive alien species (IAS-RL), which means that their keeping is already prohibited based on the relevant EU Regulation (EU) No 1143/2014.

Problems with exotic pests, transmitted by pets of wild origin, are rare in comparison with pests transmitted by domestic species or wild animals closely related to them (wild boar and pigs, wild birds and chicken). In reptiles and amphibians, which are our main concern, we do not know of any disease spread by them to humans or to domestic animals. As the RPA study summarized: "CALLISTO project concluded there are not enough risk assessment studies to make sound conclusions on the role of companion animals in the zoonotic diseases identified."

National and international law

The question whether positive lists would be in line with existing European and national legislation was not sufficiently discussed by the RPA assessment.

The comprehensive study of Spranger (2023), a professor at the Faculty of Law and Political Science at Bonn University, supports the view that the introduction of a positive list for pets would violate various requirements of international, European and German constitutional law. In addition to formal requirements not met by a positive list, Spranger states:

- The European Convention for the Protection of Pets contains a commitment to private animal husbandry, breeding and trade, emphasizing the "importance of pets because of their contribution to the quality of life and their consequent value to society". A ban of more than 90% of species from being kept as pets (regardless of their status in nature conservation regulations) would therefore violate the Convention.
- A similar violation would be to the free movement of goods, one of the fundamental freedoms guaranteed by the EU.

All EU member states have signed the Convention on International Trade of Endangered Species of flora and fauna (CITES). CITES relies on negative lists of species which are updated regularly. If EU states would switch from negative lists to positive lists, this would certainly cause considerable confusion. Of course, species listed on Appendix 1 of CITES would not be on any positive list, but species listed on Appendix 2 of CITES may be traded. Would EU not put them on the positive list, this would violate free trade, let alone the many species which are neither listed on Appendix 1 or on Appendix 2. The intention to ban trade of live animals completely (pursued by several NGOs) is in obvious contradiction to CITES. The Belgian positive list has failed because it lacks a scientific basis for the individual species and was already declared not compatible with CITES by the European Court of Justice. The court also stated that "general suspicion" by not proving scientifically why certain trade of certain species must be banned, is no basis for restrictions.

Furthermore, a national positive list in Germany would violate various fundamental rights guaranteed in the Federal Constitution:

- Freedom of occupation.
- Right of personality.
- Guarantee of property.
- Prohibition of discrimination.

Violations of these fundamental rights could only be justified if the new regulation would lead to an effective improvement regarding other constitutional principles, in particular in comparison with the existing laws based on negative lists. But this has not been proven and is highly speculative.

Conclusions

DGHT, as an NGO which combines nature conservation with breeding of wild species in captivity, finds no added value in positive lists. Instead, positive lists in the EU:

- Would end hundreds of breeding projects – each implying the potential to support an endangered species by rewilding.
- Would not improve animal welfare.
- Would lead to more illegally kept animals and pose a risk without any control.
- Would pose problems to scientific research and could lead to more collecting of wild specimens by scientists (e.g. as a source for DNA).
- Would not affect animal imports into non-EU countries.
- Would pose several legal problems such as contradictions to CITES lists, violation of fundamental human rights, and so on.

Instead of a rigid positive list, the EU should consider alternatives and more differentiated solutions:

- A negative list that lists problematic species would be more targeted.
- A qualification requirement in animal husbandry or a keeping licence for certain species could ensure that animals are only kept by qualified persons.
- Keeping guidelines and controls could help to effectively promote animal welfare and species protection without imposing unnecessary bans.

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Appendix

Case studies

Cases 1, 2 and 3: Scientific discovery of species involving pet keepers (all these species are still valid.)

Case 1: The thorny-tailed lizard *Uromastyx maliensis* was described after a single specimen imported from Mali by a German pet keeper (Joger & Lambert, 1996). Subsequently, more specimens were found in imports to the USA and Europe. Those were declared at customs as the widespread species *U. acanthinura*. After discovering that they were in fact lizards of *U.maliensis*, further imports could be banned. However, the existence of more captive specimens allowed us to study color polymorphism, reproduction and diet of the rare species (Joger & Gray, 1997).

References:

Joger, U. & Lambert, M.R.K. (1996): Analysis of the herpetofauna of the Republic of Mali. 1. Annotated inventory, with description of a new *Uromastyx* (Sauria: Agamidae). J. Afr. Zool. 110: 21-51.

Joger, U. & Gray, R. (1997): Sexualdimorphismus und Fortpflanzungsbiologie von *Uromastyx maliensis* Joger & Lambert, 1996. Elaphe 5(2): 13-19.

Case 2: Another German herpetoculturist was fond of **Moroccan dwarf geckos (genus *Saurodactylus*)** which he kept in his terraria. He went to Morocco to observe dwarf geckos on the place. On this trip, he discovered individuals with a spectacular black coloration with white spots. Scientists got alarmed, and after a molecular genetic analysis, the species *Saurodactylus brosseti* was split into five different species (Javanmardi et al., 2019).

Reference:

Javanmardi, S., Vogler, S., Joger, U. (2019): Phylogenetic differentiation and taxonomic consequences in the *Saurodactylus brosseti* species complex (Squamata: Sphaerodactylidae), with description of four new species. Zootaxa 4674(4)1. doi: 10.11646/zootaxa.4674.4.1. PMID: 31715991.

Case 3: At turtle breeder meetings there was often a vivid discussion on the **„northern form of *Kinosternon chimalhuaca*“** or the **„dwarf *Kinosternon integrum*“** which had come to Europe in the 1970s or 1980s. Experienced breeders noted that this was a separate species and formed unmixed breeding groups with those turtles. The species status of these small mud turtles was discussed with taxonomists, and when, finally, the new species *Kinosternon cora* was described in 2020, the breeders could already contribute reproduction data (see Pfau et al. 2025).

References:

Loc-Barragan, J.A., J. Reyes-Velasco, G.A. Woolrich-Pina, C.I. Grünwald, M.V. de Anaya, J.A. Rangel-Mendoza & M.A. Lopez-Luna (2020): A new species of mud turtle of genus *Kinosternon* (Testudines: Kinosternidae) from the Pacific Coastal Plain of northwestern Mexico. Zootaxa 4885(4): 509–529.

Pfau, B., P. Bachhausen, R. Bakowskie, T. Eisenberg, S. Ettmar, A.S. Hennig, R. Hentschel, F. Hulbert, O. Klawonn, C. Langner, S. Nickl, M. Schilde, X. Wapelhorst, M. van Schingen-Khan, L.R. Gewiss, U. Schepp & A. Kwet (2025): Evaluation of the Captive Breeding Potential of Reptile and Amphibian Taxa Included in Appendices I and II at CITES CoP19. Bonn, Bundesamt für Naturschutz**:** 669 pp (in press).

Cases 4 and 5: Ex-situ breeding programs for conservation

Case 4: Building up an ex-situ population of the endangered Quince Monitor, *Varanus melinus*

Centrally coordinated and regulated cooperation with private keepers, as already successfully practiced in Europe by "Citizen Conservation" for amphibians (https://citizen-conservation.org/en/), could be an additional promising approach to maximize available space and combine forces. *Varanus melinus* is bred quite regularly in private hands in Europe.

References:

Koch, A., T. Ziegler, W. Böhme, E. Arida & M. Auliya (2013): Pressing problems: Distribution, threats, and conservation status of the monitor lizards (Varanidae: Varanus ssp.) of Southeast Asia and the Indo-Australian Archipelago. Herpetological Conservation and Biology 8: 1–62.

Rauhaus, A. & T. Ziegler (2020): A Note on Longevity in the Quince Monitor in a European Zoo and Potential Needs for Maintaining a Sustainable Population Under Human Care. Biawak 14(1&2), pp. 32–34.

Case 5: Captive Breeding Programs for Amphibians

Cited from Chapter 6 in Browne et al. (2024): „A highly respected private keeper in Germany, Karl-Heinz Jungfer, shows the ability of individuals alone to contribute. Karl-Heinz found the critically endangered San Martin Fringe-Limbed Treefrog, *Ecnomiohyla valancifer* at a fair, a species previously known only from a handful of museum specimens, and his captive breeding program has bred many specimens and is likely a last hope for this species. Karl-Heinz also champions a captive breeding program for the critically endangered demonic poison frog, *Minyobates steyermarki*."

Reference:

Browne, R.K., Q. Luo, P. Wang, N. Mansour, S. Kaurova, E.N. Gakhova, N. Shishova, V.K. Uteshev, L.I. Kramarova, G. Venu, S. Vaissi, Z. Taheri-Khas, P. Heshmatzad, M.F. Bagaturov, P. Janzen, R.E. Naranjo, A. Swegen, J. Strand, D. McGinnity & I. Dunce (2024): Ecological Civilisation and Amphibian Sustainability through Reproduction Biotechnologies, Biobanking, and Conservation Breeding Programs (RBCs). Animals 14(10): 1455.

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Fukushima, C.S., P. Tricorache, A. Toomes, O.C. Stringham, E. Rivera-Téllez, W.J. Ripple, G. Peters, R.I. Orenstein, T.Q. Morcatty, S.J. Longhorn, C. Lee, S. Kumschick, M.A. de Freitas, R.V. Duffy, A. Davies, H. Cheung, S.M. Cheyne, J. Bouhuys, J.P. Barreiros, K. Amponsah-Mensah & Cardoso, P. (2021): Challenges and perspectives on tackling illegal or unsustainable wildlife trade. Biological Conservation 263: 109342.

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Krautwald-Junghanns, M.-E. (2017): Haltung exotischer Tiere und Wildtiere in Privathand: Situationsanalyse, Bewertung und Handlungsbedarf insbesondere unter Tierschutzaspekten. Teil 3: Ergebnisse der Situationsanalyse Haltungsbedingungen/Tierschutzprobleme übergeordnete Diskussion und Zusammenfassung Gegenüberstellung der geplanten zu den erreichten Zielen. Literaturverzeichnis, Universität Leipzig. Veterinärmedizinische Fakultät Klinik für Vögel und Reptilien. 2. Zwischenbericht: 378 pp.

Marsh, S.M.E., Hoffmann., M, Burgess, N.D., Brooks, T.M., Challender, D.W.S., Cremona, P.J., Hilton-Taylor, C., de Micheaux, F.L., Lichtenstein, G., Roe, D. & Böhm, M. (2022): Prevalence of sustainable and unsustainable use of wild species inferred from the IUCN Red List of Threatened Species. Conserv. Biol. 2022, 36 (2)

Pfau, B. & J. Budó (2019): Autochthonous and allochthonous Tortoises in Catalonia. Radiata English Edition 28(3): 18–34.

Robinson, J.E., St. John, F.A.V., Griffiths, R.A. & Roberts, D.L. (2015): Captive Reptile Mortality Rates in the Home and Implications for the Wildlife Trade. PLoS ONE 10(11): 1-14.

Spranger, T.M. (2023): Gutachterliche Stellungnahme zur rechtlichen Zulässigkeit der Einführung einer nationalen Positivliste für Heimtiere unter besonderer Würdigung verfassungsrechtlicher und europarechtlicher Aspekte. Report to ZZF, Wiesbaden, 168 pp. (bilingual German and English)

Ziegler, T., van Schingen, M., Rauhaus, A., Dang, P.H., Pham, D.T.K., Pham, C.T. & T.Q. Nguyen (2019): New insights into the habitat use and husbandry of crocodile lizards (Reptilia: Shinisauridae) including the conception of new facilities for Vietnamese crocodile lizards *Shinisaurus crocodilurus vietnamensis* in Vietnam and Germany. International Zoo Yearbook 53(1): 250-269.