



EUROPEAN COMMISSION
HEALTH & CONSUMERS DIRECTORATE-GENERAL
Directorate A - General Affairs
A2 - Legal affairs

SANCO

08. 05. 2009

Brussels,
SANCO/A2/BMA/ps D(2009)120324

Ms Cristina Angela Gulisano
Head of Division
Ministry of Justice, Denmark
Civil and Police Department
Slotsholmsgade, 10
1216 Copenhagen
DENMARK
cag@jm.dk

Subject: Your letter of 14 January 2009 on application of Regulation (EC) N° 1/2005 on the protection of animals during transport

Dear Ms Gulisano,

I refer to your letter of 14 January 2009 concerning the application of Council Regulation (EC) No 1/2005¹ of 22 December 2004 on the protection of animals during transport and related operations to the transport of animals having their destination in a third-country and to your note of 14 October 2008.

You ask whether Regulation (EC) N° 1/2005 could be interpreted to cover not only the transport of animals within the Community, but also the third-country leg of a transport starting or ending in the Community. If this is not the case, you would like to know whether Denmark could apply her own national rules to the transport on the third-country leg of the journey.

Article 1(1) of Regulation (EC) N° 1/2005 determines its scope of application and clearly states that "*[t]his Regulation shall apply to the transport of live vertebrate animals carried out within the Community*". It shall further apply to checks to be carried out at the entry or leave of animal transports.

As pointed out in your letter of 14 January 2009, there are several provisions in Regulation (EC) N° 1/2005 which lay down rules which, in accordance with their wording, would apply to "*long journeys between Member States and with third countries*", such as Article 5(4) and Annex II (journey logs); Article 8(2) (checking of animals arriving at a place of transit or destination by keepers); Article 14 (verification by the authorities of the place of departure of whether the planning of the journey, including

¹ Council Regulation (EC) No 1/2005¹ of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97. OJ N° L 3, 5.1.2005, p. 1.

journey time, loading density or resting laid down in Annex I is realistic and indicates compliance with this Regulation); Article 15(2) (checks by the competent authorities of the place of departure for the fitness of the animals) or Article 21 (checks to be applied at exit points and border inspection posts).

While it could be argued that the definitions of Regulation (EC) N° 1/2005, as applying to the entire journey, would support the interpretation that its provisions would apply not only to the Community part of the journey, but also to the third-country leg of a transport starting or departing from the Community, we consider that the definitions and all provisions of the Regulation have to be interpreted against the very explicit limitation of the scope of that Regulation to the transport taking place within the Community. The explicit wording of Article 1(1) would prevent the application of Regulation (EC) N° 1/2005 on the third-country leg of a transport starting or departing from the Community. On this basis, the Regulation only applies to the part of an international transport (in the sense of a transport over the border with a third country) which takes place on the territory of a Member State.

Pursuant to Articles 5(4), 14(1)(a)(ii) and 21(1)(e) as well as Annex II of Regulation 1/2005, in case of export of animals, the journey log could be approved if the journey set out there is in compliance with the Regulation as far as the exit point and, where applicable, with the provisions of the *European Convention for the Protection of Animals during International Transport* (the "Convention") on the third country leg of the transport.

As regards the specific examples mentioned in your letter of 14 January 2009, we consider that the Danish Food and Veterinary Administration cannot reject a journey log on the basis of the Regulation because the part of the journey outside the Community does not comply with Community rules. The Danish authorities would only be entitled to check and approve the journey taking place within the Community, as far as the exit point.

Concerning your example of transport of pigs from a third country and where these animals have been transported for considerable hours before entering the Community, we consider that the Regulation would start to apply once the transport enters the Community. What is relevant is the actual fitness of the animals in question at the moment they are presented at the Border Inspection Post (BIP). Therefore, whether the animals can continue their journey and how long inside the Community depends on the specific conditions which have to be evaluated by the responsible veterinarian at the BIP. Similarly, at the exit point, the responsible veterinarian could evaluate whether the animals are fit to continue the transport.

As regard the application of national rules to the third-country leg of a transport, any national rules on the transport outside the Community that you may consider to take would have to comply with international law.

Yours faithfully,



Demetris Vryonides
Head of Unit