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The need for improved enforcement of Council Regulation (EC) No 1/2005 on the protection of animals during transport

Enforcement problems

Reports by the Commission's Food and Veterinary Office (FVO) and Animals' Angels show that compliance with, and enforcement of, Council Regulation 1/2005 is poor in many Member States.

Animals' Angels (AA), Compassion in World Farming and Eurogroup for Animals urge the Commission and the Member States to launch an enforcement initiative designed to lead to improved and more uniform enforcement of the Regulation across the EU.

The FVO reports and our own experience suggest that a common problem is lack of clarity by the officials responsible for controls and enforcement as to the steps that need to be taken to achieve proper compliance with the Regulation. This paper seeks to identify the principal risk factors for poor enforcement and to indicate the actions needed to achieve a proper level of enforcement.

Journey logs: need to check that they are properly drawn up

Officials in Member States of departure often do not properly check journey logs. Article 14(1)(a)(ii) of Regulation 1/2005 requires the competent authority to carry out appropriate checks to verify that the journey log "is realistic and indicates compliance with this Regulation". Article 14(1)(b) stipulates that when the outcome of these checks "is not satisfactory" the competent authority shall "require the organiser to change the arrangements for the intended long journey so that it complies with this Regulation".

Reports by the FVO and AA show that important parts of the journey log are often left blank and that, despite this, officials stamp the journey log as being satisfactory. For example, the 2009 FVO report on Bulgaria states that important details were missing in the journey logs that they

examined and that there were several inconsistencies in the journey logs.¹ Similarly, the 2009 FVO report on France states that eight journey logs for pigs checked in one district did not indicate in section 1 the number of animals, the estimated total weight of the consignment and the total space provided.²

Suggested action

Central Competent Authorities (CCA) should:

- give clear information to officials who are responsible for checking journey logs as to what they must check in the logs, and
- make it clear to officials that they should require organisers and/or transporters to change journey logs that give incomplete information.

Journey logs: need to check that they provide realistic estimated journey times and programme 24 hour rest stops when required by the Regulation

Paragraphs 1.4 & 1.5 of Chapter V of Annex I to Regulation 1/2005 provide that after 24 hours of travel in the case of pigs and horses, after 29 hours of travel in the case of sheep and cattle and after 19 hours of travel in the case of unweaned animals “animals must be unloaded, fed and watered and be rested for at least 24 hours”. Council Regulation (EC) No 1255/97 (as amended by Regulation 1/2005) requires this rest period to take place at an approved control post.

An essential aspect of the system established by the legislation is that the journey log must provide a realistic estimate of the journey time so that the competent authority is able to assess whether the animals must be unloaded at a control post for a 24 hour rest period. Section 1 of the model Journey Log set out in Annex II to Regulation 1/2005 requires the organiser of the journey to state the total expected duration of the journey and the scheduled resting places. As indicated earlier, Article 14(1)(a)(ii) of Regulation 1/2005 requires the competent authority to carry out appropriate checks to verify that the journey log “is realistic and indicates compliance with this Regulation”.

It is clear that officials who check journey logs must satisfy themselves that (i) the estimated journey time is realistic and (ii) that a 24 hour rest stop at an approved control post is planned in cases where the journey will exceed 24 hours in the case of pigs and horses, 29 hours in the case of sheep and cattle and 19 hours in the case of unweaned animals.

Recently TRACES has been helpful in this respect as it substitutes its own estimated journey time for that on the journey log if the latter is unrealistically short. However, competent authorities (CA) should not place all their reliance on TRACES; they must apply their own judgment to the matter. TRACES is a valuable tool but it is not infallible. It assumes an average speed of 70 km/hour. In contrast to this, the FVO reports work on the basis of a lower average speed of 65 km/hour. Indeed, some Member States believe a lower average speed than that used by TRACES is more realistic.

¹ DG(SANCO) 2009-8263 - MR FINAL. Final report of a mission carried out in Bulgaria from 16 June to 24 June 2009 in order to evaluate the implementation of rules on the welfare of laying hens and the protection of animals during transport

² DG(SANCO) 2009-8245 - MR FINAL. Final report of a mission carried out in France from 20 April to 24 April 2009 in order to evaluate the implementation of rules on the protection of animals during transport.

The FVO has also made it clear that the initial loading, unloading at intermediate stops and at the final destination, any stops (for example, the mandatory break of at least one hour to give animals water and feed after a certain point and meal and toilet stops for the drivers) and any roll-on roll-off ferry transfer must be included when calculating journey times and thus the point at which animals must be given a 24 hour rest stop at a control post.³ An allowance should be made for delays due to heavy traffic.

Suggested action

- Officials who are responsible for checking journey logs must satisfy themselves that the estimated journey time is realistic and that a 24 hour rest stop is planned at an approved control post after 24 hours of travel in the case of pigs and horses, after 29 hours of travel in the case of sheep and cattle and after 19 hours of travel in the case of un-weaned animals.

Return of journey logs

Point 8 of Annex II to Regulation 1/2005 requires transporters to return the completed journey log to the CA of the place of departure within one month of the completion of the journey. It is clear from FVO reports that transporters often fail to return the completed journey log and that CAs often do not press them for its return.

Suggested action

- CAs should insist on the return of completed journey logs. They should check that the journey has been carried out in compliance with the Regulation and in accordance with the journey log as initially submitted and that any departure from the journey log was justified. CAs should use drivers' records (tachographs) and satellite navigation systems to check the returned journey logs.
- If the journey log is repeatedly not returned to the CA of the place of departure or if the journey log repeatedly shows irregularities, the CA should use its powers under Article 26(4) of Regulation 1/2005 to require the transporter to establish systems to prevent recurrence of the problem or, in serious cases, to suspend the transporter's authorisation.

Need to ensure that animals are given a 24 hour rest stop

Even when a 24 hour rest stop is planned in the journey log, it is important that officials check that animals are in fact unloaded for at least 24 hours at a control post after the travelling times specified in the Regulation. The requirement to give animals a 24 hour rest stop is frequently ignored. In some cases transporters do not stop at all for the 24 hour rest period. In other cases they do stop but for significantly less than the legally required 24 hours. For example, the 2009 FVO report on France stated that the animals were rested for less than 24 hours in the case of 44 of the 55 consignments that stopped at a particular control post in the first eight months of 2008.

Under Article 5(h) of Council Regulation 1255/97 the owner or person running a control post must, within one working day after departure of a consignment, notify the CA of the date and time of completion of unloading and commencement of reloading of each consignment.

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Suggested action

- Officials should check on a random or targeted basis whether animals are being unloaded for a full 24 hours at an approved control post. The CA of a Member State of departure should ask the CA of the Member State where the 24 hour rest was due to take place to verify from the information submitted under Article 5(h) of Council Regulation 1255/97 whether a particular consignment was indeed given a 24 hour rest period.
- CAs (at the place of departure when checking returned journey logs, at the destination and at the control post) should use drivers' records (tachographs) and satellite navigation systems to check whether the 24 hour rest was carried out.

Exceeding the permitted loading density

Chapter VII of Annex I to Regulation 1/2005 lays down minimum space allowances. It is clear from reports by the FVO and AA that the permitted loading density is often exceeded. For example, the FVO General Report on the transport of equidae for slaughter stresses that lack of compliance with space allowances is a particular concern as these requirements have been applicable within the EU since 1996.⁴

Suggested action

- CCAs should give clear guidance to local officials as to how to check if the permitted stocking density has been exceeded. They should point out that the area available on the vehicle is stated on its certificate of approval but must also advise officials how to calculate that space in cases where the certificate of approval does not accompany the vehicle.
- CCAs should also give clear guidance to local officials on how to deal with provisions in Chapter VII that permit the specified space allowances to be varied in certain circumstances. The provisions permitting certain variations are expressed in broad terms and local officials would benefit from receiving clear guidance from the CCA.
- The guidance should stress that the Regulation makes it clear that the space allowances set out in Chapter VII are **minimum** requirements⁵ and that the length of the transport and the temperature may require increasing the space. The guidance should also make it clear that there must be sufficient space for the animals to reach the watering devices and to be inspected.

Insufficient headroom

Paragraph 1.2 of Chapter II of Annex 1 to Regulation 1/2005 provides that "Sufficient space shall be provided inside the animals' compartment and at each of its levels to ensure that there is adequate ventilation above the animals when they are in a naturally standing position, without on any account hindering their natural movement".

⁴ DG (SANCO)/2008- 7982– GR. General report of a series of missions carried out in 2007 to evaluate controls of animal welfare during transport of equidae destined for slaughter.

⁵ See paragraph 2.1 of Chapter III of Annex I to Regulation 1/2005 and the first line of Chapter VII.

The provision of insufficient headroom is a common problem.

Suggested action

The CCA should give clear instructions as to what constitutes sufficient headroom. Their advice should be based on a letter dated 9 September 2009 from the European Commission to AA. The letter stated that the relevant parts of the report of the Scientific Committee on Animal Health and Animal Welfare (SCAHAW) on the welfare of animals during transport (adopted on 11.03.2002) can be taken as guidance for interpreting paragraph 1.2 of Chapter II.

This report gives precise figures for headroom in the case of sheep, pigs and cattle. It states that the space above the highest point of sheep and pigs should be 15 cm for vehicles with a good forced ventilation system and at least 30 cm for vehicles without forced ventilation. It states that for sheep and young pigs the highest point on the animal is the top of the head when it is held in a comfortable position.

The report states that for cattle the height of the compartment should be at least 20 cm above the top of the head of each animal when it is standing in a comfortable position. In our view, for cattle with horns, the allowance of 20 cm should be calculated from the top of the horns.

The Commission's letter confirmed that in the case of sheep and cattle the highest point of the animals as stated by the scientists is undoubtedly the head being held up. The letter concluded that none of the animals should be able to touch the ceiling with its head.

Failure to enforce the requirements on vehicle standards for journeys in excess of 8 hours

Points 1.2 & 1.3 of Chapter V of Annex I to Regulation 1/2005 provide that journeys shall not exceed 8 hours unless the transporting vehicle meets certain additional requirements that are set out in Chapter VI of Annex I.

FVO reports stress that CAs often grant certificates of approval to vehicles that do not meet the requirements for vehicles that are used for journeys exceeding 8 hours.⁶

Suggested action

- CCAs should give clear guidance to local officials as to how to assess if a vehicle meets the standards for vehicles used to transport animals for over 8 hours. It would be helpful if the CCA were to provide a checklist for officials who are assessing such vehicles. Such a checklist has been drawn up by the German government.
- Guidance is needed both for officials who inspect vehicles to determine whether a certificate of approval should be granted and for officials who carry out checks during a long journey to assess whether trucks meet the requirements set out in Chapter VI of Annex I for vehicles that are used for journeys over 8 hours. The latter checks are needed as officials cannot solely rely on the fact that a vehicle has a certificate of approval as its condition may have deteriorated since the certificate was granted. Moreover, a number of the requirements set out in Chapter VI apply not so much to the structure of the vehicle

⁶ For example see the FVO reports on France and Bulgaria (notes 1 & 2)

and its equipment but to factors that must be provided on each journey such as bedding, water and feed.

- Guidance is particularly needed in respect of the provisions in Chapter VI regarding:
 - The watering system and drinking devices (see below for more detail)
 - The ventilation system
 - The temperature monitoring, recording and warning systems
 - The satellite navigation system.

Deficiencies in the provision of water

Paragraph 1.4 of Chapter V of Annex I to Regulation 1/2005 provides that, in the case of journeys exceeding 8 hours, animals must be given liquid at certain intervals while they are on board the vehicle. Paragraph 2 of Chapter VI lays down certain provisions concerning the watering system and the drinking devices.

A range of deficiencies concerning the supply of water have been found in the transports monitored by AA. These include:

- Insufficient number of drinking devices in the vehicle
- Drinking devices are often installed on only one side of the truck with the result that many animals cannot reach them
- Defective water systems that fail to function
- Water system empty or turned off
- Water troughs full of faeces
- Water system not appropriate for the transported species. For example, calves and lambs are not accustomed to the nipples that are used on many trucks and do not know how to operate them
- Sometimes nipples are positioned too high for lambs to reach them

Suggested action

- CCAs should issue guidance to local officials as to the need to check that there are a sufficient number of drinking devices in the vehicle, that the water system and drinking devices are functioning properly and that they are designed and positioned in a way that is appropriate for the species and age of animals that are being carried.

Transport of unweaned calves and lambs

Regulation 1/2005 lays down shorter permitted maximum travelling times for unweaned calves and lambs than for adult cattle and sheep. The Regulation provides that:

- after 9 hours transport unweaned calves and lambs must be given a rest of at least one hour so that they can be given liquid and, if necessary, fed.
- after a further 9 hours transport unweaned calves and lambs must be unloaded and given food, water and at least 24 hours rest.

The transport of unweaned calves and lambs poses particular problems as cold water is an inappropriate liquid for them.

Suggested action

CCAs should advise local officials that the Commission has addressed, on 4 December 2009, a number of recommendations to Member States for the transport of unweaned animals on long journeys.⁷ The Commission recommended that:

- For practical purposes calves could be considered as unweaned under the age of two months and lambs under the age of six weeks.
- Before or during the transport, the CA should systematically investigate which arrangements have been made to ensure that animals are offered electrolytes or milk substitutes during the resting period. Metal nipples or troughs alone should not be considered as being adapted for drinking by unweaned animals.
- The transport of unweaned animals over long journeys should not be authorised if the outside temperature during the journey is likely to be less than 0 degrees Centigrade.

It is generally known by transporters, veterinarians and the authors that warm electrolytes or milk replacer cannot be offered on board the truck. Accordingly, calves should not be kept on the vehicle for the rest period of at least one hour that must be given after 9 hours transport. Instead they should be unloaded at a control post and given warm electrolytes or milk replacer. They should also be given warm electrolytes or milk replacer during the 24 hour rest period that is required after 19 hours transport.

Defective partitions

Reports by AA often note that there is a large gap between partitions and the floor of the truck; this leads to a risk that animals' legs can get stuck and injured in the gap. Such partitions do not comply with paragraph 1.1 of Chapter II of Annex I to the Regulation which provides that "Means of transport, containers and their fittings shall be designed, constructed, maintained and operated so as to: (a) avoid injury and suffering and to ensure the safety of the animals".

Suggested action

- CCAs should advise local officials that the use of partitions with a large gap between the partition and the floor of the truck is inconsistent with the requirements of Regulation 1/2005.

Failure to transport horses in individual stalls

Paragraph 1.6 of Chapter VI of Annex I provides that, when horses are transported on journeys exceeding 8 hours, they shall be transported in individual stalls. Reports by the FVO and AA indicate that this requirement is often ignored. The FVO has stressed that the use of rubber mats suspended by chains does not create separate individual stalls as required by Regulation 1/2005 and leads to cases where horses which lie down during the journey are stepped on by other horses.⁸ The FVO has also made it clear that partitions made of tarpaulin are not suitable to form individual stalls for horses.⁹

Suggested action

⁷ SANCO D5 DSdj D (2009) 450351

⁸ DG (SANCO)/2008- 7982– GR. General report of a series of missions carried out in 2007 to evaluate controls of animal welfare during transport of equidae destined for slaughter.

⁹ DG(SANCO) 2009-8245 - MR FINAL. Final report of a mission carried out in Romania from 25 May to 29 May 2009 in order to evaluate the implementation of animal health and animal welfare rules in respect of trade in horses.

- CCAs should advise local officials that proper individual stalls must be provided for horses that are transported for over 8 hours. The FVO has indicated that such stalls should be made of solid material.¹⁰ The Commission has stated that individual stalls for horses must be of rigid construction and that they must be designed to protect horses from the motion during the journey or the movements or kicks of the horses themselves and to avoid injury or suffering of the animals. The Commission has confirmed that rubber mats, chains or ropes do not appear to be able to ensure that the aims of the Regulation are achieved.¹¹

Unbroken horses should not be transported on journeys exceeding 8 hours

Paragraph 1.9 of Chapter VI of Annex I provides that unbroken horses shall not be transported on journeys exceeding 8 hours. Article 2(y) of the Regulation provides that unbroken horses are “Equidae that cannot be tied or led by a halter without causing avoidable excitement, pain or suffering”.

Suggested action

- CCAs should advise local officials that unbroken horses cannot be transported on journeys exceeding 8 hours. As this provision cannot be checked during a road check, it must be appropriately checked by the CA before the journey and at the place of destination.

Transport of unfit animals

The transport of unfit animals remains common in a number of Member States even though such transport is clearly prohibited by EU legislation.¹²

Suggested action

CCAs should:

- Remind local officials that Chapter I of Annex I to Regulation 1/2005 contains detailed provisions on the factors that make animals unfit for transport.
- Provide local officials with the “Guidelines to assess fitness for transport of adult bovine animals” that are being prepared by a range of bodies including the UECBV and the Federation of Veterinarians of Europe.¹³
- Remind veterinary officials at slaughterhouses that appropriate action must be taken on arrival of an unfit animal.

Effective liaison between Member States

A key provision of Regulation 1/2005 is designed to ensure that when a CA, for example in a country of transit or destination, finds breaches of the Regulation, it reports them to the CA of the Member State of departure and the CA that granted the authorisation to the transporter or the certificate of approval of the vehicle and, where the driver is involved in the failure to

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¹¹ Letter from the Commission to the World Society for the Protection of Animals dated 16 January 2008

¹² See for example the 2009 FVO report on France at note 2.

¹³ These guidelines are being drawn up by Animals’ Angels, COPA-COGECA (European Farmers and Agri-Cooperatives), European Livestock Transporters, Eurogroup for Animals, Federation of Veterinarians of Europe, Institut de l’Elevage, International Road Transport Union and UECBV (European Livestock and Meat Trading Union)

observe the requirements of the Regulation, the CA that issued the driver's certificate of competence. These provisions are set out in Article 26 (2)&(3). Their purpose is to enable the relevant CAs to take steps to ensure that similar breaches do not occur in future.

FVO reports show that these provisions are frequently ignored and that CAs which discover infringements often do not report them to the other relevant CAs as required by Article 26 (2)&(3).¹⁴

Suggested action

- CCAs should establish clear lines of communication with the CAs of other Member States to ensure that infringements are rapidly and effectively communicated to other relevant CAs, i.e.:
 - the CA of the Member State of departure,
 - the CA that granted the authorisation to the transporter
 - where the infringement relates to the vehicle, to the CA that granted the certificate of approval of the vehicle
 - where the driver is involved in the failure to observe the requirements of the Regulation, the CA that issued the driver's certificate of competence.
- CAs that receive notification of infringements must take steps to ensure that similar breaches do not occur in future.
- This communication can be easily achieved by making use of the contact points established in each Member State under Article 24(2) of Regulation 1/2005. A positive example of such communication is the collaboration between the Netherlands and Italy.

Checks during the journey

Under Article 15 of Regulation 1/2005 the competent authority must carry out checks at any stage of long journeys.

Suggested action

One of the most effective places to carry out checks is during the loading of the animals at the start of the journey. The authorities should check a proportion of loadings. At this time they would be able to observe and deal with the following common problems:

- The use of vehicles that do not meet the standards required for journeys over 8 hours
- Unsuitable or non-functioning watering and drinking devices
- Water tanks not filled with water
- Inadequate ventilation
- Insufficient headroom
- The transport of unfit animals
- Animals being carried at above the permitted loading densities
- Falsification of the actual "time of first animal loading" that must be indicated in section 2 of the journey log
- Failure of the veterinarian to sign section 2 of the journey log.

Regulation on official controls

¹⁴ See for example the 2009 FVO report on France at note 2.

Regulation (EC) No 882/2004 of the European Parliament and of the Council concerns official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. It contains a number of provisions which, if adhered to, will improve the effectiveness of official controls designed to ensure compliance with Regulation 1/2005.

The following provisions are of particular importance:

- CAs shall ensure that staff performing official controls:
 - a) receive, for their area of competence, appropriate training enabling them to undertake their duties competently and to carry out official controls in a consistent manner.
 - b) keep up to date in their area of competence and receive regular additional training as necessary (Article 6).
- CAs shall carry out official controls in accordance with documented procedures. These procedures shall contain information and instructions for staff performing official controls (Article 8).

Suggested action

- CAs should provide the required staff training and information and instructions for staff performing official controls. FVO reports show that many problems are caused by the CCA failing to prepare documented procedures and to give adequate information and instructions to officials as to how to carry out controls.

Measures to be taken in the event of non-compliance with Regulation 1/2005

Regulation 1/2005 requires penalties provided for infringements to be effective, proportionate and dissuasive. In some Member States the fines are too low to be dissuasive.

In some cases Member States do not have the power to compel transporters from other Member States to pay fines. In addition, Member States are not effectively using the powers given to them by the Regulation to secure improved compliance with the legislation.

Suggested action

Member States should ensure that they have the power to impose fines that are sufficiently high to be dissuasive. They should also ensure that they have the necessary legal powers to require transporters from other Member States to pay fines imposed in respect of infringements that take place in their territory.

Member States should be willing in appropriate cases to use the following powers that are provided by Article 26 of the Regulation:

- require the transporter concerned to remedy the breaches observed and – crucially - to establish systems to prevent their recurrence
- subject the transporter concerned to additional checks, in particular requiring the presence of a veterinarian at loading of the animals. Requiring the presence of a veterinarian at loading would be particularly helpful in preventing recurrence of breaches.
- suspend or withdraw the authorisation of the transporter or the certificate of approval of the means of transport concerned or the driver's certificate of competence.

Member States should be willing in appropriate cases to use the following powers, provided by Article 23 of the Regulation, to address serious problems that arise during the journey:

- transferring the consignment or part of it to another means of transport. Such action may, for example, be appropriate in the case of animals that are being transported in excess of the permitted loading densities or with insufficient headroom or where a vehicle that does not meet the requirements for journeys in excess of 8 hours is being used on such a journey.
- unloading the animals and holding them in suitable accommodation with appropriate care until the problem is resolved.