100 Reasons

to Revise Council Regulation EC 1/2005 on the Protection of Animals during Transport.

A List of Demands by Animals' Angels.

ANIMALS' ANGELS

we are there with the animals

Cover picture:
Bram transported from the Netherlands to Bulgaria, June 2021

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Dedication

For the cow Erika.

She was born in Germany.
We met her in Morocco in October 2020 –
on her last journey to a slaughterhouse.

And for those politicians, veterinarians,
experts, NGO colleagues and journalists who
see Erika and all the other animals transported
across the globe – not as commodities
but as sentient beings.
We thank you for standing up for the animals
and working hard to make their lives better.

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Abstract

The increasing number of animals transported worldwide is a matter of shared concern. There is scientific consensus that transport and related operations are inherently stressful for animals and effect their welfare. It is also undisputed that stress has a negative impact on the animals' health and makes them more susceptible to diseases.

To protect animals from suffering during transport has become a priority for EU citizens and political leadership. Since 2007, Council Regulation (EC) No 1/2005[1] governs the protection of animals during transport in the EU. The Regulation has become the object of criticism soon after it came into force. A main point of concern has always been the lack of an absolute transport time limit. The Regulation allows animals to be transported endlessly within the EU and to non-EU countries. In addition, the Regulation is extremely complex, vague, and partly contradicts other EU rules. It neglects certain species commonly transported as well as essential issues such as temperature limits.

For years, veterinary experts, NGOs, EU citizens and the EU Parliament have been calling for a revision of the Regulation. Instead, the EU Commission kept insisting on improved enforcement of the existing rules. But, despite enormous efforts, up to today the enforcement of the Regulation has kept failing. Now, finally, there is hope for change. As part of its 'Farm-to-Fork Strategy', the Commission is revising the Regulation and will table a new legislative proposal.

In the present dossier Animals' Angels points out which topics of the Regulation have to be revised. In 22 chapters, Animals' Angels takes position on issues such as transport time, loading densities, fitness for transport, temperature limits, official controls, the sanctioning system and many more. More than 100 demands are presented. The dossier is based on scientific findings, on more than 20 years of experience in investigating animal transports in the field, on manifold empiric examples and on information received by stakeholders with first-hand experience such as veterinary and police officers, transporters, keepers, and drivers.

Animals' Angels calls for a detailed technical review of the Regulation aiming for the best possible protection of the animals transported. But above all, Animals' Angels is calling for a rethink. EU Treaties recognise animals as sentient beings. It is high time to do justice to this recognition. The revised Regulation on the protection of animals during transport has to reflect a morally acceptable treatment of animals that respectfully considers their life and their suffering as sentient beings.

[1] Council Regulation (EC) No 1/2005 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; hereinafter 'the Regulation'.

Introduction

Billions of 'farmed' animals are being transported every year in the European Union (EU)[2] as well as from[3] and to[4] the EU. These are not sheer numbers, but individuals. Millions of non-human animals, sentient beings, every single one with its own needs and feelings. They all are subjected to commercial activities within the EU's agriculture industry, and during transport they suffer from fear, pain, stress, exhaustion, thirst, hunger, injuries, and sickness. Death of a certain number of individuals is accepted as a routine consequence of transport for some species.[5]

'Transport of livestock is undoubtedly the most stressful and injurious stage in the chain of operations between farm and slaughterhouse and contributes significantly to poor animal welfare and loss of production.' [6] This is the view of the Food and Agriculture Organisation of the United Nations (FAO). It does not stand alone. There is scientific consensus that transport is stressful for the animals, affects their welfare and is likely to affect their health as stress has a detrimental impact on the animals' physical condition.[7]

We have a duty of care towards the animals, and besides, focussing on animal health and public health, animal welfare has become a priority for EU citizens and governments. This means – among others – that the stress and the suffering animals go through during transport must be prevented or at least reduced as much as possible.

Animal transport is also a very complex activity, from a technical point of view as well as from the administrative aspect. Animal transport involves many operators with very different characteristics ranging from rural small-scale farmers to international entrepreneurs with large vehicle fleets and large number of staff. It usually involves different authorities and even authorities from various countries within and outside the EU. It involves not only EU and national animal welfare and health regulations but also, e.g., road safety requirements and rules on driving times. In case of export to non-EU countries, extensive provisions, e.g., regarding border crossing, import or taxes must be added.

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2 EU27 exports to EU27-INTRA: 1,248,078,124 live animals for year 2020 (acc. to Eurostat).

3 EU27 exports to EU27-EXTRA: 213,126,972 live animals for year 2020 (acc. to Eurostat).

4 EU27 imports from EU27-EXTRA: 24,907,044 live animals for year 2020 (acc. to Eurostat).

5 Vecerek, V. et al. (2016): Negative Trends in Transport-related Mortality Rates in Broiler Chickens; Asian Australasian Journal of Animal Science, Vol. 29, No. 12. Pages 1796-1804. Link: https://pubmed.ncbi.nlm.nih.gov/26954219/ (last accessed 08.08.2021).

6 FAO (2001): Guidelines for Humane Handling, Transport and Slaughter of Livestock. Food and Agriculture Organization of the United Nations, Regional Office for Asia and the Pacific. RAP Publication 2001/4, Bangkok. Page 33. Link: http://www.fao.org/3/x6909e/x6909e.pdf (last accessed 08.08.2021).

7 Manteca, X. (2008): Physiology and Disease. In: Appleby, M.C. et al. (Eds.): Long Distance Transport and Welfare of Farm Animals. CAB International, 2008. Pages 69-76.

Animal transport is a commercial activity involving financial interests of multiple stakeholders. The undisputed low level of compliance with the animal welfare rules is only partly due to a lack of competence and training. Rather, the focus of the entrepreneurs involved is on cost optimisation, usually at the expense of animal welfare.

The inherent complexity of animal transport and the fact that they are moving from one place to the other, and thus, from one area of responsibility to the other, makes it extremely difficult for the competent authorities to monitor them. It requires a good information flow and cooperation between authorities, constant training of the staff on the ground, e.g., veterinary services and police forces, as well as the availability of sufficient human resources.

With the adoption of Council Regulation (EC) No. 1/2005 on the protection of animals during transport in December 2004,[8] the EU established uniform rules on animal transport for all Member States to improve the application and enforcement of the animal protection rules within the EU. The Regulation aims to prevent unnecessary suffering and injury to the animals being transported.

The Regulation was implemented in 2007. Since then, practice has shown that its provisions are not able to sufficiently protect the animals submitted to commercial transports. Furthermore, experience has shown the requirements of the current Regulation remained widely unenforced. The reasons are various.

First and foremost, it must be noted that the so-called animal welfare provisions of the Regulation do not correspond to the literal meaning of 'welfare'. They do not aim to ensure wellbeing and adequate comfort of the transported animals, but only to avert death and serious physical harm. In other words, the aim does not really seem to be the protection of the animals as sentient beings, but the protection of the animals as commodities. The aim is for the 'commodity' to arrive at its destination intact.

Furthermore, the current Regulation is extremely complex and contains a vast number of provisions and derogations, as well as numerous vague rules leaving room for (mal)interpretation. This constitutes a major and often unmanageable challenge. Not only for the inspection authorities but also for the transport companies. Additionally, EU-wide checks to enforce the Regulation are simply not practicable due to lack of personnel, funding, training, and infrastructure. Member States state that in certain areas the Regulation has shown to be unsuitable and that shortcomings have been evident, creating difficulties in fully complying with the legal text.[9]

Enormous efforts have been undertaken by the EU to improve the implementation and enforcement of the Regulation. E.g., in 2015, the EU Commission launched a pilot project aiming at improving animal welfare during transport by developing and disseminating 'Guides to

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[8] Council Regulation (EC) No 1/2005 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; hereinafter 'the Regulation'.

[9] See page 26: https://dserver.bundestag.de/btd/18/067/1806750.pdf (last accessed 08.08.2021).

Good and Best Practice for the Transport of Animals'.[10] The EU Animal Welfare Platform, created in 2017, envisaging the ongoing enforcement problems, put animal transport high on the agenda.[11]

Yet, animal suffering on board the transports within the EU and to non-EU countries continues, day by day.

Apart from the fact that proper enforcement keeps failing, certain problems are inherent in animal transport, particularly in long-distance transport. This is where the Regulation fails first and foremost as it does not foresee any transport time limit.

Animal welfare is a topic of high importance for EU citizens. Accordingly, the Farm-to-Fork Strategy recognises the importance attached to better animal welfare, and aims to make progress in this area, among others, with the revision of the Regulation.

With more than 20 years of experience on the road investigating animal transports, Animals' Angels highly appreciates this initiative.

We call upon the EU Commission to make room for a rethink. Animals are not goods; they are sentient beings. This is already anchored in the EU treaties. It is time to do justice to this recognition. The revised Regulation on the protection of animals during transport should reflect a morally acceptable treatment of animals that considers their life, suffering and death as sentient beings.

The last decades have shown that animal transport rules must be simpler and easier to enforce. The first step towards improved animal welfare and better implementation of the Regulation would be to drastically reduce transport times for all animals. Many complex and difficult-to-control procedures would be eliminated.

Herewith, following long-standing expertise and taking into account information received on the ground by veterinarians, police forces, transporters, drivers and animal handlers as well as scientific findings, Animals' Angels presents a list of more than 100 demands for the revision of Council Regulation (EC) 1/2005 justifying all claims in detail. In line with Animals' Angels' field of activity, the demands relate to 'farm' animals. The list of demands does not claim to be exhaustive but reflects the problems Animals' Angels regularly encounters in practice.

[10] http://www.animaltransportguides.eu/ (last accessed 08.08.2021).
[11] https://ec.europa.eu/food/animals/animal-welfare/eu-platform-animal-welfare/thematic-sub-groups/animal-transport_en (last accessed 08.08.2021).

CHAPTER I:

Contravention of international and EU policies

Reason 1

The current Regulation counteracts and contradicts the EU's commitment to the UN Sustainable Development Goals.

Transport as well as animal welfare are considered highly relevant to achieve several of the 17 Sustainable Development Goals (SDGs).[12] António Guterres, Secretary-General of the United Nations, states in his foreword of the 2020 Report on SDGs that *'(...) global efforts to date have been insufficient to deliver the change we need (...)'*[13] and clarifies that *'the*

[12] Technical Working Group on Transport (2015): Analysis of the transport relevance of each of the 17 SDGs. Page 2. Link: https://sustainabledevelopment.un.org/content/documents/8656Analysis%20of%20transport%20relevance%20of%20SDGs.pdf (last accessed 08.08.2021) / See also: Eurogroup for Animals (2018): Animal Welfare, Trade and Sustainable Development Goals. Link: https://issuu.com/eurogroupforanimals/docs/e4a-sdg_and_aw_report_03-2019-screen (last accessed 08.08.2021).

[13] United Nations (2020): The Sustainable Development Goals Report 2020. Page 2. Link: https://unstats.un.org/sdgs/report/2020/The-Sustainable-Development-Goals-Report-2020.pdf (last accessed 08.08.2021).

17 Sustainable Development Goals demand nothing short of a transformation of the financial, economic and political systems (…). They require immense political will and ambitious action by all stakeholders.'

The Farm-to-Fork Strategy and the revision of the Regulation provide crucial opportunities to move towards these goals:

Currently, animals in the EU are raised, fattened / used for production, and slaughtered in different locations. Sometimes hundreds or thousands of kilometres apart. In 2019, over 1.5 billion ovine animals, bovines, poultry, and pigs were transported alive within the Union and from the EU to non-European countries.[14] More than ever before. Long distance animal transport plays a crucial role in the EU's highly specified animal 'production system' as they permit and enable its existence. Animal transports are therefore partly responsible for the detrimental effects of the ways 'farm' animals are currently kept (severe animal welfare concerns, harmful effects on the environment, the decreasing quality of soil and ground water, the increasing species extinction, and the worsening of the climate crisis). In addition to that, *'the transport of animals is a result of economic and logistical factors, while at the same time it can give rise to additional social and environmental costs (increased road traffic, additional CO_2 emissions)'*[15].

To reach the SDGs, significant changes towards more sustainability are needed within the agricultural as well as the transport sector:

Regarding agriculture, the FAO states in its report *Transforming the livestock sector through the Sustainable Development Goals* that there is *'an urgent need to curb the negative effects of livestock production on biodiversity and the environment (…). In other words, enhancing livestock's contribution to the SDGs will require a profound transformation of the sector'*[16]. Further they state that *'the World Livestock Report calls for an integrated framework towards sustainability that simultaneously addresses the environmental, social and economic dimensions in a more balanced manner'*[17].

Regarding transport, the Technical Working Group on Transport of the United Nations also calls for a more sustainable and environmentally friendly manner within its sector: the group notes that transport is '*(…) associated with a number of direct and indirect externalities such as traffic congestion, air pollution (…)'*[18] and *'(…) that transport has to be understood as means to an end – rather than an end in itself. Transport is not only a matter of developing transport infrastructure and services, but rather the ease of reaching destinations in terms of proximity, convenience and*

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14 Eurogroup for Animals (2021): Live Animal Transport: Time to change the rules. Appendix A, page 74ff. Link: https://www.eurogroupforanimals.org/sites/eurogroup/files/2021-01/2020_01_27_efa_transport_white_paper_0.pdf (last accessed 08.08.2021).

15 European Parliament (2012): Report on the protection of animals during transport. Committee on Agriculture and Rural Development. Rapporteur: Janusz Wojciechowski (2012/2031(INI)). Page 4. Link: https://www.europarl.europa.eu/doceo/document/A-7-2012-0331_EN.pdf (last accessed 08.08.2021).

16 FAO (2018): World Livestock: Transforming the livestock sector through the Sustainable Development Goals - In brief. Page iii. Link: http://www.fao.org/3/CA1177EN/ca1177en.pdf (last accessed 08.08.2021).

17 Ibid. Page 6.

18 Technical Working Group on Transport (2015): Analysis of the transport relevance of each of the 17 SDGs. Page 3. See footnote 12.

safety'[19]. Further it points out that *'at this point in time, we note that advocacy for sustainable transport is emerging strongly'*[20].

The current Regulation allows unlimited transportation of animals in terms of distance and total duration. In a case study from 2017, the Dutch-based Wageningen University concludes: *'Throughout the years, several reports produced by important scientific bodies and committees (…) have clearly shown that long-distance transport of live animals for slaughter should be phase out not only due to animal welfare problems, but also due to public health and food security risks. Furthermore, fossil fuel-based transport is an important contributor to global emissions affecting climate. (…) Thus, long-distance transport of live animals has several drawbacks'*.[21]

In the light of the current Covid-19 pandemic, the topic of long-distance animal transport gains even more relevance as, *'the intensive farming systems may facilitate the transmission of epidemics with animal density and organization segmented pathways that causes the movement of animals between farms and between countries'*[22]. The EU Commission adds, *'the calls for shorter supply chains have intensified during the current outbreak'*[23].

Also, with regards to the Covid-19 pandemic, the United Nations state that *'governments and businesses should heed the lessons learned from this wake-up call to formulate the kinds of transitions needed to build a healthier, more resilient and more sustainable world'*[24].

With the Farm-to-Fork Strategy, the EU Commission recognizes the crucial role of agriculture in the pursuit of a more sustainable treatment of our planet and states that *'European food should (…) become the global standard for sustainability'*[25].

Demand 1

The EU's commitment to the 17 Sustainable Development Goals should be paid full respect in the Regulation and bring about direct legal consequences.

[19] Ibid. Page 4.
[20] Ibid. Page 2.
[21] Baltussen, W. et al. (2017): Transport of live animals versus meat. Case studies of spent hens and lambs, using newly developed calculation model. Wageningen, Wageningen Economic Research, Report 2017-065. Page 7. Link: https://edepot.wur.nl/420339 (last accessed 08.08.2021).
[22] European Commission (2020): Study on Future of EU livestock: how to contribute to a sustainable agricultural sector? Page 38. Link: https://op.europa.eu/en/publication-detail/-/publication/b10852e8-0c33-11eb-bc07-01aa75ed71a1/language-en (last accessed 08.08.2021).
[23] European Commission (2020): A Farm to Fork Strategy. For a fair, healthy and environmentally friendly food system. Communication COM(2020) 381 final. Page 2. Link: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0381 (last accessed 08.08.2021).
[24] United Nations (2020): The Sustainable Development Goals Report 2020. Page 3. See footnote 13.
[25] European Commission (2020): A Farm to Fork Strategy. Page 4. See footnote 23.

Reason 2

The current Regulation counteracts and contradicts the animal welfare standards of the World Organisation for Animal Health (OIE) as well as the concerns of EU's political bodies.

The World Organisation for Animal Health (OIE) states in its Terrestrial Animal Health Code that *'the use of animals carries with it an ethical responsibility to ensure the welfare of such to the greatest extent practicable'*[26]. In Article 7.3.1. the OIE specifies that *'the amount of time animals spend on a journey should be kept to the minimum'.* All EU Member States are members of the OIE and have accordingly committed themselves to the OIE standards. However, the EU does not implement these standards with regard to animal transport. The Regulation does not foresee an absolute journey time limit. Instead, the Regulation even allows for animals to be transported, including to non-EU countries, without requiring any limit in time.

This is despite the fact that strong voices within the EU have been formulating their concerns regarding animal transport and especially long journeys for decades:

- **European Parliament, 2001:** *'In the case of cattle, horses, sheep and pigs not intended for specific breeding and/or sporting purposes, transport should be limited to a maximum of eight hours duration'*[27].
- **S.C.A.H.A.W. (Scientific Committee on Animal Health and Animal Welfare) report, 2002:** *'Hence such animals should not be transported if this can be avoided and journeys should be as short as possible'*[28].
- **Council of Europe, 2003:** *'(…) for reasons of animal welfare, the period during which animals, including animals for slaughter, are transported should be reduced as far as possible (…)'*[29].
- **EFSA (European Food Safety Authority), 2004:** *'Transport should therefore be avoided wherever possible and journeys should be as short as possible'*[30].

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[26] OIE Terrestrial Animal Health Code 2019, Article 7.1.2. point 6

[27] European Parliament resolution on the Commission report on the experience acquired by Member States since the implementation of Council Directive 95/29/EC amending directive 91/628/EEC concerning the protection of animals during transport, point 1, text adopted 13.11.2001, Strasbourg. Link: https://www.europarl.europa.eu/sides/getDoc.do?reference=A5-2001-0347&type=REPORT&language=EN&redirect (last accessed 28.07.2021).

[28] EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). Report of the Scientific Committee on Animal Health and Animal Welfare, adopted on 11.03.2002. Page 95 (point 12.1). Link: https://ec.europa.eu/food/system/files/2020-12/sci-com_scah_out71_en.pdf (last accessed 08.08.2021).

[29] European Convention for the Protection of Animals during International Transport (revised), Official Journal of the European Union, 13.07.2004. Page 1. Link: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:241:0022:0043:EN:PDF (last accessed 08.08.2021).

[30] EFSA (2004): Opinion of the Scientific Panel on Animal Health and Welfare on a request from the Commission related to the welfare of animals during transport (Question N° EFSA-Q-2003-094). The EFSA Journal 44, 1-36. Page 1. Link: https://www.efsa.europa.eu/de/efsajournal/pub/44 (last accessed 08.08.2021).

- **Federation of Veterinarians of Europe (FVE), 2007:** *'(…) the (long-distance) transport of live animals carries serious risks for the welfare of these animals. Since many years already, FVE holds the opinion that fattening of animals should take place within or near the place of birth and animals should be slaughtered as near to the point of production as possible'*[31].
- **European Parliament, 2012:** *The European Parliament calls on the Commission and the Council to review Regulation 1/2005 to establish a maximum 8-hour limit for the journeys of animals transported for the purpose of being slaughtered'*[32].
- **MEP Maria Noichl, S&D Group, 2019:** *'Transport of live animals is often cheaper than transporting meat but this should not be the objective. We need to address this animal suffering – ideally with long-distance transport for adult animals limited to a maximum of eight hours. This could also have a positive impact on the environment, with fewer animal transport trucks on the road'*[33].
- **European Parliament, 2019:** *'Calls (…) for animal journey times to be as short as possible and in particular for the avoidance of long and very long journey times as well as journeys outside the EU's borders, by employing alternative strategies (…)'*[34].
- **Håkan Henrikson, Chief Veterinary Officer & Head of Trade and Industry Swedish Board of Agriculture, 2021:** *'Replacing transports of animals with transports of meat is an ultimate goal'*[35].
- **Julia Klöckner, German Agriculture Minister, 2021:** *'I clearly believe that we need a regionalization of the slaughter structure. There must be more decentralized farms again. (…). After all, de-centralization corresponds to society's desire for regional production. Above all, however, it serves to improve animal welfare if transport distances are significantly shortened as a result'*[36].
- **Declaration by the Netherlands, Germany and Luxembourg on the Council conclusions concerning animal welfare in long-distance maritime transport to third countries, 2021:** *'(…) we call for an EU-wide ban on the long-distance transport of livestock to third countries, both by land and by sea. This should be implemented in the upcoming revision of Council Regulation (EC) No 1/2005. We strongly advocate a transition from the movement of live animals to trade in meat and carcasses as well as genetic material'*[37].

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[31] FVE (2007): Community Animal Health Strategy, 2007-2013, 'Prevention is better than cure', FVE comments, FVE/07/doc/099. Link: https://uevp.fve.org/cms/wp-content/uploads/2007_Animal-Health-Strategy_Prevention-is-better-than-cure-1.pdf (last accessed 08.08.2021).

[32] EP written declaration 49/2011, adopted 15.03.2012, point 2. Link: https://www.europarl.europa.eu/doceo/document/DCL-7-2011-0049_EN.pdf?redirect (last accessed 08.08.2021).

[33] https://www.socialistsanddemocrats.eu/newsroom/sds-its-time-member-states-respect-rules-animal-transport-within-and-outside-eu-animal (last accessed 08.08.2021).

[34] European Parliament resolution 2018/2110(INI), recommendation 47. Link: https://www.europarl.europa.eu/doceo/document/TA-8-2019-0132_EN.pdf (last accessed 08.08.2021).

[35] Presentation during ANIT hearing on 01.02.2021.

[36] http://www.animal-health-online.de/gross/2021/04/29/mehr-tier-wohl-durch-verkuerzte-transportwege/34862/ (last accessed 15.07.2021).

[37] https://www.bmel.de/SharedDocs/Downloads/DE/Presse/erklaerung-nl-de-lux-tiertransporte.pdf;jsessionid=C3840BCA081087A11F889E54E5C2DC68.live921?__blob=publicationFile&v=2(last accessed 14.07.2021).

The commitment of each Member State to their OIE membership including their agreement to fully comply with OIE standards is currently not put into practice. The clear and strong voices from political and scientific bodies across the EU have not influenced the Regulation to date.

Even though Whereas (5) of the Regulation reads: *'For reasons of animal welfare the transport of animals over long journeys, including animals for slaughter, should be limited as far as possible'*, the fifth recital is currently purely declarative and not implemented in the legal text bringing about direct legal consequences.

Demand 2

Compliance with OIE standards and respect of expert opinions within the EU requires direct legal consequences of Whereas (5) in the legal text of the Regulation.

Reason 3

The Regulation is not in line with the Treaty on the Functioning of the European Union.

The Treaty on the Functioning of the European Union (TFEU) sets out organisational and functional details of the European Union. Under Title II, Article 13 the European Union declares that *'in formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage'*[38].

With this Article, the European Union recognizes animals as sentient beings and sets animal welfare as a key principle that should be paid full regard to. A paper of Compassion in World Farming on Article 13 concludes that: *'The obligation to pay "full regard" applies both when the Union and the Member States are dealing directly with animal welfare and when they are addressing other matters that are likely to have a direct or indirect impact on animal welfare. It obliges the Union and the Member States to take animal welfare into account in a comprehensive, thorough*

[38] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF (accessed 14.07.2021).

and serious manner in formulating and implementing their policy in specified fields'[39].

The introduction of Article 13 did not remain unnoticed. On 23rd April 2015, the European Court of Justice, for example, ruled about animals being exported to a non-European country: *'In its judgment, the Court referred to the animal welfare principle of Article 13 to estimate that the scope of EU transport Regulation 1/2005 is not limited to transports taking place inside EU borders, but also covers transports starting from inside the EU territory'*[40].

While Article 13 expresses a clear commitment to animal welfare and is understood as such by third parties, it has not yet reached the legislative framework for the transport of European animals.

As presented in this report, the animal welfare problems during transport remain manifold. Political bodies and scientific studies across the EU highlight an urgent need for action.

Demand 3

Article 13 of the Treaty on the Functioning of the European Union should be paid full respect and bring about direct legal consequences to improve the welfare of animals during transport.

Reason 4

The Regulation is not in line with new scientific findings.

Whereas (11) of the Regulation reads: *'In order to ensure a consistent and effective application of this Regulation (…) in the light of its basic principle according to which animals must not be transported in a way likely to cause injury or undue suffering to them, it is appropriate to set out detailed provisions addressing the specific needs arising in relation to the various types of transport. Such detailed provisions should be (…) timely updated whenever, in particular in the light of new scientific advice, they appear no longer to ensure compliance with the above principle for particular species or types of transport'.*

There is a broad range of scientific evidence concerning animal welfare during transport. Crucial parts of the Regulation are based on scientific evidence of the early 1990s. *'(…) Regulation (EC) No 1/2005 was*

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[39] CIWF (2014): Animal Welfare Article of the Treaty on the Functioning of the European Union is Undermined by Absence of Access to Justice. Page 2. Link: https://www.ciwf.org.uk/media/7427367/article-13-tfeu-undermined-by-lack-of-access-to-justice-december-2014.pdf (last accessed 08.08.2021).

[40] Judgment of the Court (Fifth Chamber) of 23 April 2015 Zuchtvieh-Export GmbH v Stadt Kempten, Case C-424/13, Link: https://www.lawyersforanimalprotection.eu/european-courts-cases/ (last accessed 08.08.2021).

adopted in December 2004. However, the Council decided to maintain the previous standards on travelling times, resting times and space allowances, which were adopted in 1995 (Directive 95/29/EC) and based on a scientific opinion established in 1992'[41].

Newer scientific findings that have already existed prior to the ratification of the Regulation have not been included in the legislative text. In addition, new scientific evidence has been produced since 2007 which also has not yet been included in the Regulation.

One example is the journey time of horses, the corresponding intervals for watering and feeding, and the space allowances for horses:

- **S.C.A.H.A.W. (Scientific Committee on Animal Health and Animal Welfare) report, 2002:** *'A wide range of measures of physiological responses and increments in disease occurrence show that horse welfare during transport becomes considerably worse after 8-12 hours of transport without rest. Horses require food and water more frequently than do ruminants. (…). Transporting horses for periods greater than 12 hours greatly increases their risk of developing shipping fever'*[42].
- **EFSA Scientific Opinion Concerning the Welfare of Animals during Transport, 2011:** *'On watering and feeding intervals, journey times and resting periods, journey duration should not exceed 12 hours for horses (…)'*[43].
- **EFSA Scientific Opinion Concerning the Welfare of Animals during Transport, 2011:** *'Space allowance for horses should be given in terms of kg/m² instead of m²/animal'*[44].
- **Padalino B., Raidal S.L., 2020:** *'This study documented that travelling in a wide bay was advantageous for the horses, since they could balance better and demonstrated fewer anxiety-related behaviours'*[45].

Despite available new scientific evidence, the specifications for horses have remained unchanged since the Regulation came into force in 2007.

Whereas (11) should no longer be purely declarative. The broad spectrum of scientific findings on transport related issues keeps constantly growing. Findings are to be taken into consideration for timely updates of the Regulation.

Demand 4

Whereas (11) to the Regulation should be implemented in the legal text bringing about direct legal consequences.

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41 EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. EFSA Panel on Animal Health and Welfare (AHAW), EFSA Journal 2011; 9(1):1966. Page 6. Link: https://www.efsa.europa.eu/de/efsajournal/pub/1966 (last accessed 08.08.2021).

42 EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 83 (point 8.6.). See footnote 28.

43 EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. Page 1. See footnote 41.

44 Ibid. Page 1 (Abstract)

45 Padalino, B., Raidal, S.L. (2020): Effects of Transport Conditions on Behavioural and Physiological Responses of Horses. Animals 2020, 10(1):160. Link: https://www.mdpi.com/2076-2615/10/1/160 (last accessed 08.08.2021).

CHAPTER II:

Journey times

Reason 5

The Regulation does not foresee any absolute journey time limit.

The Regulation does not lay down a maximum journey time. It permits commercial transports of live animals, including animals transported for the purpose of being slaughtered, over long and very long distances across Europe and to non-EU countries. Pursuant to Article 2 (m) a 'long journey' describes every journey that exceeds 8 hours, starting from when the first animal of the consignment is moved.[46] Despite the fact that point 1.2. of Chapter V of Annex I of the Regulation actually states that the journey times for equines, cattle, sheep, goats and pigs shall not exceed 8 hours, the Regulation permits the extension of journeys over 8 hours under certain conditions. More concrete this means

[46] The term 'journey' is defined according to Article 2 (j) of the Regulation as the entire transport operation that starts at the place of departure and ends at the final place of destination, including any unloading, accommodation and loading occurring at intermediate points in the journey, whereas 'transport' means the actual movement of the animals in one or more means of transport, including the related operations such as loading, unloading, transfer and rest according to Article 2 (w) of the Regulation.

that equidae and pigs can be transported for 24 hours, then have a 24-hour rest in a designated staging point (so-called control post) before starting another 24-hour transport interval. Theoretically, this can be repeated endlessly. Cattle, sheep, and goats can be transported for 29 hours, including one break of min. 1 hour on board the truck after 14 hours of transport. After 29 hours they must be granted 24 hours of rest in a control post before a new 29-hour transport interval starts. Again, this cycle can be repeated indefinitely. Unweaned calves, lambs, goat kids, foals and piglets can be transported for 9 hours, then have a 1-hour rest on board the vehicle, then be transported further 9 hours. After these 19 hours on board the trucks, they must rest in a control post for 24 hours before the 19-hour transport interval could be done again etc. Also, for other species like poultry and rabbits no transport time limit is foreseen in the Regulation. Further exceptions are made, for example, in the case of sea transport, where the transport times on board the vessel do not need to be counted as long as the watering and feeding intervals are met. I.e. timely unlimited transports of animals are permitted by the Regulation in spite of the fact that long journeys are likely to have detrimental effects on the health and welfare of the animals causing stress and suffering.

By not stipulating a journey time limit, the Regulation is not in line with the standards of the World Organisation for Animal Health (OIE). The OIE Terrestrial Animal Health Code requires in its Article 7.3.1.: *'The amount of time animals spend on a journey should be kept to the minimum'*[47] *(see also: Reason 2 of Chapter I)*.

With the coming into force of the Lisbon Treaty, commercial long-distance transports of live animals have no legal justification any more in the European Union. The Lisbon Treaty re-affirms the European Union's commitment to animal welfare and with Article 13 of the Treaty on the Functioning of the European Union (TFEU) creates an explicit duty regarding animal welfare under EU law *(see also: Reason 3 of Chapter I)*.

Scientists, veterinary experts, politicians, and civil society demand a limitation of the journey time:

Every transport causes stress and often fear, pain and suffering to the animals as they are separated from their herd members, loaded and unloaded into unfamiliar surroundings, often mixed together with new animals and confined on board the transport vehicles in (over-) crowded conditions. Unfamiliar noises and smells, as well as movement and vibration of the transport vehicles cause additional stress to the animals. During transport, the animals lack space to move freely, are deprived of water and food for prolonged period of time and often exposed to adverse temperatures and poor ventilation. Obviously, the longer the transport takes, the worse the transport conditions become for the animals. Scientific experts state that stress can turn into suffering for the animals already after a short period of time, and that it must be assumed that after 4 hours of transport and at the latest after

[47] https://www.oie.int/en/what-we-do/standards/codes-and-manuals/terrestrial-code-online-access/ (last accessed 28.07.2021).

8 hours most animals suffer during transport[48]. Scientific experts recommend that the journeys for animals should be as short as possible because after a few hours of transport the animals' welfare tends to become poorer as the journey length increases[49]. The experts explain that with the increasing duration of a journey, the welfare of the animals generally gets worse because they become more fatigued, incur a steadily increasing energy deficit, become more susceptible to existing infections, and may become diseased because they encounter new pathogens.

Scientists also warn that many infectious diseases may be spread as a result of animal transport. For example, outbreaks of classical swine fever and of foot and mouth disease can be made worse because animals are transported and, in some cases, transmit the disease at staging points or markets. Major disease outbreaks have very important impacts on animal welfare as well as causing economic problems, and regulations concerning the risks of disease are necessary on animal welfare grounds. As stated by EFSA (2011), *'stresses associated with handling and transport may cause latent infections with, for instance, Salmonella or Pasteurella sp. that proceed to clinical disease. Such animals are more likely to infect others during the journey or after arrival at their destination and in many cases (e.g. salmonellosis) this will also increase the risk to public health. This is the case for the whole panorama of the infectious animal diseases.'*[50] If stress for the animals is reduced and the mixing of animals is minimised, disease and hence poor welfare can be prevented or made less likely as *'a particularly important consequence of better animal welfare is that animals are more resistant to pathogens.'*[51]

Veterinary experts and scientist have been claiming for years that *'animals should be reared as close as possible to the premises on*

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[48] Fikuart, K.: Tiertransporte. In: Sambraus, H. & Steiger, A. (1997): Das Buch vom Tierschutz. Ferdinand Enke Verlag Stuttgart, p. 496, 497; ders. in TVT-Nachrichten 2/2001, 8 / Hirt, A. et al. (2016) Tierschutzgesetz – Kommentar. Verlag Franz Vahlen, Munich, 3rd edition. Page 861.

[49] EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Point 12.1.1. See footnote 28.

[50] EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. Page 59. See footnote 41.

[51] Council of the European Union (2019): Council conclusions on animal welfare - an integral part of sustainable animal production, adopted on 16 December 2019. Link: https://data.consilium.europa.eu/doc/document/ST-14975-2019-INIT/en/pdf (last accessed 28.07.2021) / See also: EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Point 3, page 14-18. See footnote 28 / EFSA (2017): EMA and EFSA joint scientific opinion on measures to reduce the need to use antimicrobial agents in animal husbandry in the European Union, and the resulting impacts on food safety (RONAFA). EFSA Journal 15 (1). Link: https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2017.4666 (last accessed 27.07.2021) / Büttner, K., Krieter, J. (2020): Illustration of Different Disease Transmission Routes in a Pig Trade Network by Monopartite and Bipartite Representation. Animals 2020, 10, 1071. 18 pp. / Crockram, M.S. (2007): Criteria and potential reasons for maximum journey times for farm animals destined for slaughter. Applied Animal Behaviour Science 106. Page 240 -241. Link: https://www.researchgate.net/publication/248335667_Criteria_and_potential_reasons_for_maximum_journey_times_for_farm_animals_destined_for_slaughter (last accessed 28.07.2021).

[52] FVE (2008): FVE calls to end suffering of animals during long distance transports. Position paper. Page 2. Link: https://fve.org/cms/wp-content/uploads/065-Long-distance-transport-of-livestock-Final.pdf (last accessed 28.07.2021) / FVE (2016): The welfare of animals during transportation. FVE position paper. Page 3. Link: https://fve.org/cms/wp-content/uploads/fve_08_016_transport.pdf (last accessed 28.07.2021).

which they are born and slaughtered as close as possible to the point of production.'[52]

Scientific studies revealed that the transport of meat instead of live animals is more sustainable[53], which becomes even more relevant considering the new Farm-to-Fork strategy of the European Union for a fair, healthy and environmentally-friendly food system.[54]

The European Parliament has already called for a limitation of transport times to a maximum of 8 hours in 2001[55], in 2003[56] and in 2011[57]. Again in 2019, the European Parliament called on the Commission and the Member States to promote a shift, where possible, towards the transportation of meat or carcasses, instead of live animals[58]. More than 1 million EU citizens called twice already for a restriction of 8 hours for animal transports in 2012[59] and 2017[60].

And yet, to this day animals are still transported across whole Europe and beyond on (very) long journeys for days or even weeks. As showed in a study of the European Parliament on the implementation of the Regulation in 2018, the duration of long-distance transports within the EU has significantly increased in the year 2015 compared to 2005: long journeys over 8 hours had more than doubled in this time period and very long journeys requiring at least a 24-hour rest increased by more than 50%.[61] **This is also regardless the fact that the fifth recital of the Regulation reads: *'For reasons of animal welfare the transport of animals over long journeys, including animals for slaughter, should be limited as far as possible'.***

With increased duration of the journey, other transport stressors increase, too. Animals' Angels has witnessed in numerous occasions that during long journeys, the animals regularly suffer from hunger, thirst, exhaustion, heat or cold stress, confinement, social stress, poor air quality due to insufficient ventilation and dirty bedding. Scientists

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53 Baltussen, W. et al. (2009): Sustainable production: transporting animals or meat? Link: http://edepot.wur.nl/11502 (last accessed 27.07.2021).

54 https://ec.europa.eu/food/horizontal-topics/farm-fork-strategy_de (last accessed 28.07.2021).

55 European Parliament Resolution on the Commission report concerning the protection of animals during transport, text adopted 13.11.2001, Strasbourg. See footnote 27.

56 Opinion of the Committee on the Environment, Public Health and Consumer Policy on 20 February 2004 on the proposal for a Council regulation on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EEC (COM(2003) 425 – C5-0438/2003 – 2003/0171(CNS)). Link: https://www.europarl.europa.eu/sides/getDoc.do?reference=A5-2004-0197&type=REPORT&language=EN&redirect#_part5_def1 (last assessed 27.07.2021).

57 EU Parliament (2011): Written Declaration pursuant to Rule 123 of the Rules of Procedure on the establishment of a maximum 8-hour journey limit for animals transported in the European Union for the purpose of being slaughtered. Link: https://www.europarl.europa.eu/doceo/document/DCL-7-2011-0049_EN.pdf?redirect (last accessed 28.07.2021) / European Parliament resolution of 12 December 2012 on the protection of animals during transport (2012/2031(INI)). Link: https://www.europarl.europa.eu/doceo/document/TA-7-2012-0499_EN.html (last accessed 28.07.2021).

58 European Parliament resolution of 14 February 2019 on the implementation of Council Regulation (EC) No 1/2005 on the protection of animals during transport within and outside the EU (2018/2110(INI)). See footnote 34.

59 8-hours petition by Animals' Angels 2012.

60 Stop the trucks campaign by Eurogroup for Animals 2017.

61 European Parliament (2018): European Implementation Assessment of the Regulation (EC) No 1/2005 on the protection of animals during transport and related operations. EPRS Study. Page 48. Link: https://www.europarl.europa.eu/RegData/etudes/STUD/2018/621853/EPRS_STU(2018)621853_EN.pdf (last accessed 28.07.2021).

reported that transports of already six hours (and longer) had a negative impact on the welfare of cattle[62] and that mortality rates of cattle increased with the length of the journey[63].

Also, for pigs it is reported that *'mortality increases with journey length, with best pig survival, and least weight loss, occurring when journeys are less than 100 km, compared to journeys of 300 km or more.'*[64]

As reported by EFSA (2011), at any journey above 4 hours, poultry are exposed to greater welfare risks,[65] whereas the main risk factors for bird mortality are the length of the journey and adverse temperature conditions.[66] In Annex I of the EU National Contact Points' (NCP) Network Document on the Welfare of Poultry During Transport to Slaughter (2015) already journeys of more than two hours are ranked as one of the highest risks to poultry welfare under poor thermal transport conditions (i.e. hot and humid or very cold).[67]

For small ruminants, *'it has been reported that transport is less tiring for sheep/goats because as opposed to cattle and horses, both lambs and adult sheep lie down during transport.'*[68] As stated by EFSA (2011), it is unclear if this lying behaviour during transport represents indeed 'rest' as a coping mechanism for the animals, or if they actually fail to cope with the transport conditions and lie down due to 'exhaustion'.[69] Padalino et al. (2018) found that sheep were the most affected species by transport in their study on mortality and morbidity of 'farm' animals on long journeys via a Southern Italian control post. Earlier studies have reported that resting and ruminating behaviours of lambs were reduced in transport and that after journeys of more than 12 hours the animals did not only show stress signs but also were dehydrated and lost weight.[70]

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62 E.g. Gebrensenbet, G. et al. (2005): Effect of transport time on cattle welfare and meat quality. Technical Report, Uppsala, 73 p. Link: https://pub.epsilon.slu.se/3809/ (last accessed 28.07.2021).

63 FAWC (2019): Opinion on the Welfare of Animals during Transport. Page 65. Link: https://consult.defra.gov.uk/transforming-farm-animal-health-and-welfare-team/improvements-to-animal-welfare-in-transport/supporting_documents/fawcopinion-onthewelfareofanimalsduringtransport.pdf (last accessed 27.07.2021).

64 Ibid. Page 68.

65 EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. Page 51, 80. See footnote 41.

66 FAWC (2019): Opinion on the Welfare of Animals during Transport. Pages 50, 72, 76. See footnote 63 / Vecerkova, L. et al. (2019): Welfare of end-of-lay hens transported for slaughter: effects of ambient temperature, season, and transport distance on transport-related mortality. Poultry Science, Volume 98, Issue 12. Pages 6217-6224. Link: https://www.sciencedirect.com/science/article/pii/S0032579119579263 (last accessed 28.07.2021).

67 EU national contact points for animal welfare during transport (2015): Network Document on the Welfare of Poultry During Transport to Slaughter. https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp?FormPrincipal:_idcl=-FormPrincipal:_id1&FormPrincipal_SUBMIT=1&id=f59b9b9-def2-4e5f-981a-b8fdd1b3dbd2&javax.faces.ViewState=WYxU%2BTUy8w34dko6I9yaLym%2Fe3c8pXlC921qH-jCdEl05Q9k8hRqI9p4IoJlsIBSX3xon1nzYAy%2B45NjmG18XqKs1RRo-Jen2ahvdbQf7Pv23WA4T0qNHI0I13OfNbYlVlMYueLvOFXrbSY1krslUVhgoZU5s%3D (last accessed 02.08.2021).

68 Padalino, B. et al. (2018): Road Transport of Farm Animals: Mortality, Morbidity, Species and Country of Origin at a Southern Italian Control Post. Animals 2018, 8, 155. Link: https://www.mdpi.com/2076-2615/8/9/155/htm (last accessed 28.07.2021).

69 EFSA (2011): Scientific Opinion concerning the welfare of animals during transport. Page 30. See footnote 41.

70 Padalino, B. et al. (2018), see footnote 68.

Concerning the feeding and watering provisions for poultry[71] it must be stated that a.) as the animals are transported in containers and transport crates, respectively, it is not possible to properly feed and water them during transport. The crates are too small, and the loading densities are too high. This has been confirmed by the EU Commission in a letter communication with Animals' Angels, already dated back 2005.[72] Considering that e.g. broiler chickens, laying hens or turkeys are often in weak physical conditions and vulnerable to high welfare risks during (un-)loading and transport, journey times need to be clearly reduced, also to avoid that the animals suffer additionally from food and water deprivation during transport; b) the journey times for newly hatched chickens must be reduced. *'Dehydration and undernutrition are major causes of mortality during and after transport in chicks,'*[73] but current legislation still allows that they are transported for 24 hours without additional water or food provided that the journey is completed within 72 hours after hatching.[74] Newly hatched chicks can only feed from their yolk sac for a certain time after hatching before it is depleted. As scientific reviews show post-hatch feed and water deprivation results in reduced body weight and less growth of the chicks. Also, mortality rates increase significantly at 6 weeks of age when the chicks have not been fed and watered for more than > 36 hours after hatching.[75]

Like for poultry, scientific studies also showed that *'the most critical conditions for rabbits are when they are transported over 4 hours and at environmental temperatures above 18-20°C and a relative humidity of 70-75%.'*[76] Mortality rates of rabbits increased with the length of the journey.[77] As rabbits are commercially transported in containers on multi-deck trucks with around 1,500 to 6,000 animals on board, *'provision of water and feed as stated in EC Regulation 1/2005 is not possible either during the journey, or during the resting periods and lairage.'*[78] EFSA (2011) recommends to limit the journey time of rabbits to at least 7 hours in order to reduce stress and mortality, and that the lairage

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71 Chapter V Point 2 of Annex I of the Regulation

72 EU Commission, DG Health and Consumer Protection, FVO Directorate F5 - reply letter to Animals' Angels, dated 1 April 2005 (ref. no.: TC/dht D (2005) 650400).

73 FAWC (2019): Opinion on the Welfare of Animals during Transport. Page 72. See footnote 63.

74 Chapter V Point 2.1.(b) of the Regulation

75 de Jong, I.C. et al. (2017): A 'meta-analysis' of effects of post-hatch food and water deprivation on development, performance and welfare of chickens. PLoS ONE 12(12). Link: https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0189350#sec028 (last accessed 28.07.2021). / FAWC (2019): Opinion on the Welfare of Animals during Transport. Pages 72 – 73. See footnote 63.

76 Verga, M. et al. (2009): Welfare aspects in rabbit rearing and transport. Italian Journal of Animal Science, Vol. 8 (Suppl. 1), 191-204. Link: https://www.researchgate.net/publication/41393408_Welfare_aspects_in_rabbit_rearing_and_transport (last accessed 28.07.2021)

77 Valkova, L. et al. (2021): The Health and Welfare of Rabbits as Indicated by Post-Mortem Findings at the Slaughterhouse. Animals 2021, 11, 659. Link: https://www.mdpi.com/2076-2615/11/3/659 (last accessed 28.07.2021) / Voslarova, E. et al. (2016): Mortality in rabbits transported for slaughter. Animal Science Journal 2018, 1–6. Link: https://onlinelibrary.wiley.com/doi/epdf/10.1111/asj.13002 (last accessed 28.07.2021) / Verga, M. et al. (2009): Welfare aspects in rabbit rearing and transport. See footnote 76.

78 EFSA (2011): Scientific Opinion concerning the welfare of animals during transport. Page 40, 79. See footnote 41.

time inside the containers must be counted to the transport time as it does not present a resting period for the animals.[79]

In cases of severely sick or injured animals, emergency situations or accidents, it is often very difficult to find appropriate facilities for emergency unloading of the animals, especially considering the low number of control posts in many EU Member States. Currently, there are 10 Member States without any approved control post, and 12 Member States only have 1 to 6 control posts per country, including large countries like Spain, Romania, Bulgaria, Greece or Czech Republic.[80] Emergency situations can occur on short and long journeys. However, when such situations happen on short-distance transports, the place of departure and destination, respectively, is much nearer than compared with long journeys over several hundreds or thousands of kilometres. So, the animals can be unloaded in a shorter time and veterinary care can be provided more quickly.

As stated by the Committee on the Environment, Public Health and Consumer Policy of the European Parliament already back in 2004: ***'Both scientific research and practical experience show that suffering is inherent in long journeys.'***[81] Nothing has changed in this regard to this day. It is finally time to do so.

Demand 5

Introduction of absolute journey time limits:[82]
8 hours maximum for all animals except birds, rabbits and so-called 'spent' animals.
4 hours maximum for birds, leporidae (e.g. rabbits) and 'spent' animals.

Reason 6

The Regulation does not limit the journey time for unweaned animals.

According to the Regulation, unweaned animals (including calves, lambs, goat kids, foals and piglets) can be transported for 18 hours under the condition that they are provided with liquid (and if necessary, food) on board the means of transport after nine hours.[83] Unweaned

[79] Ibid. Page 80.
[80] List of approved control posts based on Article 3 Council Regulation (EC) 1255/97 (Updated 14/07/2021): https://ec.europa.eu/food/system/files/2021-08/aw_list_of_approved_control_posts.pdf (last accessed 26.08.2021).
[81] Opinion of the Committee on the Environment, Public Health and Consumer Policy on 20 February 2004 on the proposal for a Council regulation on the protection of animals during transport. See footnote 56.
[82] N.B.: The focus of this report lies on 'farm' animals. There might be exemptions in the journey time limits, for example, for 'sport' or 'leisure' horses, always under the condition that the purpose of the transport is not mainly economic but the participation in a competition, change of residence of a horse owner, etc.
[83] Chapter V Point 1.4.(a) of the Regulation

animals are those who, due to their young age, still depend on their mother's milk or industrial milk substitutes. Their metabolism is not, or not yet completely, ready for solid food and water.

For example, pursuant to Chapter VI point 1.9 of Annex I of the Regulation, calves older than 14 days are already allowed to be transported on long journeys > 8 hours. At this very young age they are very vulnerable due to an immunological gap as their passive immunity (from their mother's colostrum) is low at the age of 2 – 4 weeks while an own antibody response (active immune system) needs to build up first.[84] At this critical moment, unweaned calves are commonly transported from their birthplace to rearing facilities, in many cases even via markets. Only recently, Animals' Angels has documented transports of unweaned calves between different markets in Spain.[85] The young animal babies were transported from one market to another for several days. As reported by Velarde et al. (2021) post-transport diseases are particularly found after long marketing events and higher mortalities have been observed in calves who were transported at an age younger than 3 weeks.[86] As described by Marahrens and Schrader (2020), *'when moved to new environments during this sensitive phase, in combination with stress during transport, both, morbidity, especially for diarrhoea and pneumonia, and mortality are increased, sometimes considerably, for up to 3 weeks after arrival in the new holding.'*[87]

It must be considered that at present, there are no drinking devices available that are suitable to provide unweaned animals – mostly calves and lambs - with milk or milk substitutes on the transport vehicles. According to Velarde et al. (2021), *'to meet the basic physiological and behavioural needs, unweaned calves need between 10 and 20% of BW [body weight] as temperate milk or milk replace daily and 16-22 MJ and 160-240 g crude protein'*[88], whereas electrolytes cannot be considered as diet to meet the nutritional demands of the calves and to satisfy the calves' hunger. Furthermore, to be properly fed, unweaned calves need to suckle on a teat or artificial (and flexible) rubber teat while *'the position of the head during milk drinking is essential to prevent liquid from flowing into the developing rumen'*.[89] The feed (milk or milk replacer) must have a controlled temperature of > 30°C. In order to ensure that every animal baby gets sufficient amount of liquid food and to avoid overfeeding guidance and assistance at the feeding system by the animal keeper could be necessary. After liquid feeding, the

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84 Velarde, A. et al. (2021): Research for ANIT Committee – Particular welfare needs of unweaned animals and pregnant females, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels. Page 8, 14. Link: https://www.europarl.europa.eu/RegData/etudes/STUD/2021/690874/IPOL_STU(2021)690874_EN.pdf (last accessed 29.07.2021).

85 Anda and Animals' Angels report on transports of unweaned calves from Santiago (Galicia) to Pola de Siero (Asturias) and from Pola de Siero to Esponellá, Girona (Catalonia), date of report: 07.06.2021

86 Velarde, A. et al. (2021): Research for ANIT Committee – Particular welfare needs of unweaned animals and pregnant females. Page 8, 12, 18. See footnote 84.

87 Marahrens, M. and Schrader, L. (2020): Animal Welfare during Transport: Technical requirements for long-distance transport of unweaned calves. German Federal Research Institute for Animal Health (FLI). Link: https://www.openagrar.de/receive/openagrar_mods_00060429 (last accessed 29.07.2021).

88 Velarde, A. et al. (2021): Research for ANIT Committee – Particular welfare needs of unweaned animals and pregnant females. Page 24. See footnote 84.

89 Ibid. Page 13.

Spain, May 2021 – Calf Paco (picture above) is very thin with sunken flanks and alopecia on his hind legs. Calf Miro (picture below) breathes accelerated and coughs. Both were transported between different markets in Galicia and Asturias for min. two days, before being sent on long journey to their final destination in Catalonia.

calves need to rest for at least three hours in order to properly digest.[90] It is obvious, that the calves' needs cannot be met on board the transport vehicles, and that *'during journey unweaned calves may experience negative welfare consequences such as prolonged hunger and thirst, resting problems, thermal stress and diseases (…) [which] is likely to increase over long journeys.'*[91] This clearly contradicts Article 3 (a) of the Regulation.

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[90] Marahrens, M. and Schrader, L. (2020): Animal Welfare during Transport: Technical requirements for long-distance transport of unweaned calves. Page 6. See footnote 87.

[91] Velarde, A. et al. (2021): Research for ANIT Committee – Particular welfare needs of unweaned animals and pregnant females. Page 14. See footnote 84.

Scientists and veterinary experts agree that the feeding requirements for unweaned animals laid down by the Regulation pretending to enable long-distance transports of unweaned calves, cannot be fulfilled.[92] Therefore, including large EU transport companies call for the end of long-distance transports of unweaned calves.[93]

It is noteworthy that recently the German Federal Council (Bundesrat) agreed on an amendment of the national animal transport regulation, deciding that unweaned calves are no longer allowed to be transported from the age of 14 days but only from minimum 28 days onwards due to the above-mentioned animal welfare concerns.[94]

There is sufficient scientific evidence that the needs of unweaned animals cannot be ensured during transport and practice has shown that the provisions are not enforceable. Therefore, it is time to amend the current Community legislation as pointed out in recital (8) of the Regulation.

Demand 6

Introduction of a maximum journey time limit of 8 hours for all unweaned/early weaned animals, adapted to their specific welfare needs and including a transport ban of very young animals (e.g. for calves <younger than 28 days).

Reason 7

The restrictions for the transport of unbroken horses foreseen in the Regulation are not implemented and not enforceable in practice.

In its Annex I Chapter VI point 1.9., the Regulation specifies that unbroken horses may not be transported on long journeys. By unbroken horses, the legislator means those who are not used to wear a halter and thus cannot be tied or led by a halter without causing avoidable excitement, pain, or suffering.[95]

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92 Marahrens, M. and Schrader, L. (2020): Animal Welfare during Transport: Technical requirements for long-distance transport of unweaned calves. See footnote 87. / Rabitsch, A. (2020): Gutachten zum Transport nicht entwöhnter Kälber im Auftrag des Landes Baden-Württemberg. Link: https://mlr.baden-wuerttemberg.de/fileadmin/redaktion/m-mlr/intern/dateien/PDFs/SLT/2020-05-10_Gutachten_Rabitsch_Transport_nicht_entwoehnter_Kaelber.pdf (last accessed 30.07.2021).

93 Committee of Inquiry on the Protection of Animals during Transport (2021): Written questions to Péter Hencz, Hunland Trans Kft, Public Hearing on long distance transports of live animals to third countries: checks and issues when leaving the EU. ANIT Committee, European Parliament, 1 March 2021. Link: https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/ANIT/DV/2021/03-01/Questions-Answers_PeterHencz_HunlandTransKft_EN.pdf (last accessed 01.08.2021).

94 Bundesrat – Drucksache 394/21 (Beschluss). Link: https://www.bundesrat.de/SharedDocs/drucksachen/2021/0301-0400/394-21(B).pdf?__blob=publicationFile&v=1 (last accessed 29.07.2021).

95 Article 2 lit (y) of the Regulation

The legislator has excluded unbroken horses from journeys over 8 hours as these untamed, mostly young horses can cope even less than tame, older horses with the stress that would be imposed on them during long-distance journeys, and the risk for transport-related disease and injury is higher in untamed horses.[96]

Despite this prohibition, unbroken horses are regularly transported on long-distance journeys.

It would be necessary for the authorities, before authorising a transport of horses, to verify whether each animal is broken and thus allowed to be sent on a long journey. Or if the horse is unbroken and thus the transport over a long distance cannot be permitted.

Following the Animal Transport Guide to good practices for the transport of horses destined for slaughter, a check on whether a horse is broken or not is considered as good practice and requires the following measures:[97]

- Check together with the animal keeper
- Take into consideration age and origin of the animals
- Being able to approach the horse without causing excitement
- Being able to put on a halter without causing excitement
- Being able to lead the horse by a halter without causing excitement (this does not necessarily mean that the horse can be tied up)
- Being able to tie the horse by a halter without causing excitement (although some broken horses can pull back violently when tied).

This inspection is time-consuming and requires knowledge about how to handle horses and being able to understand their reactions. Therefore, in practice, the checks very often are just not carried out. Furthermore, if a transport of young horses is inspected during transport, i.e. while the horses are on board the truck, it is impossible for the inspection authorities to verify whether they are unbroken or not.

As stated by Menchetti et al. (2021) *'(…) in practice, official veterinarians cannot verify regulatory compliance as there is no valid tool for the classification of horses as broken or unbroken.'* Further: *'the definition of unbroken horses, as written in the current legislation, is unclear. This could have led to confusion and consequently to the transport of unbroken horses over long distances and in inappropriate transport conditions.'* They emphasize *'the need to include, within the ongoing revision of the current legislation, a better definition of unbroken horses'*, and propose the introduction of the so-called Broken/Unbroken Test (BUT) for assessment and scoring of horse behaviour during approach, haltering, and handling.[98]

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[96] Menchetti, L. et al. (2021): Development and Validation of a Test for the Classification of Horses as Broken or Unbroken. Animals 2021, 11, 2303. Link: https://www.mdpi.com/2076-2615/11/8/2303 (last accessed 08.08.2021).

[97] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of horses destined for slaughter. Point 140, page 41. http://animaltransportguides.eu/wp-content/uploads/2016/05/EN-Guides-Horses-final.pdf (last accessed 08.08.2021).

[98] Menchetti, L. et al. (2021): Development and Validation of a Test for the Classification of Horses as Broken or Unbroken. See footnote 96.

Italy, 2019 – Exhausted unbroken horses 'for slaughter', illegally transported on long distance from Spain to Italy.

In 2013, a parliamentary question was tabled regarding the transport of unbroken horses over long distances. It stated: *'investigations and checks carried out over the years have shown that the vast majority of horses transported from Spain to Italy for the purpose of being slaughtered are unbroken. This transport is authorised by the authorities at the places of departure in Spain, in violation of Council Regulation (EC) No 1/2005. Checks carried out by the authorities in Italy (country of destination) and France (transit country) are wholly insufficient. For example, in 2009 no sanctions were applied in Italy in respect of unbroken horses transported on long journeys from Spain, and in 2010 only three sanctions were imposed. How does the Commission intend to rectify this systematic and ongoing failure by the Spanish, Italian and French authorities to enforce Council Regulation (EC) No 1/2005?'*[99]

[99] Question reference: E-005025/2013. Link: https://www.europarl.europa.eu/doceo/document/E-7-2013-005025_EN.html (last accessed 29.07.2021).

To make sure that unbroken horses are not transported on long journeys and thus not caused severe undue suffering, the maximum transport time must be reduced significantly for all equines.

A 2008-study on horse transport in the EU comes to the result that a finite journey limit of maximum 12 hours will facilitate traceability and enforcement by cutting the involvement of multiple agencies across numerous Member States.[100]

Please note that scientific studies have verified poor welfare in horses being transported on long distances to slaughter, including severe lameness and injuries, and a high level of noncompliance with the Regulation.[101] Fatigue and exhaustion in horses are linked to long journeys, too. It is reported that *'24 hours of transport requires approximately the same amount of energy as 24 hours of walking'* due to keeping balance on board the moving truck.[102] Also, dehydration and higher risk of respiratory problems have been referred i.a. to the length of the journey.[103] Oikawa and Jones (2000) described that the risk of transport-related pyrexia (fever) and respiratory disease raises for the horses when transported longer than 10 hours.[104] Padalino et al. (2017) found *'an association between transport-related health problems [of horses] and journey-duration and the likelihood of developing a more severe illness (i.e. respiratory and gastrointestinal problem or death/euthanasia) was higher on journeys over 24 hours than on journeys of less than 8 hours.'*[105] For example, they documented the likelihood of respiratory problems in horses approx. 15x higher on intermediate journeys (8 – 24 hours) and 100x higher on long journeys of more than 24 hours. Unbroken horses who are not accustomed to confinement inside transport vehicles, handling, close human contact and other involved transport procedures are likely exposed to even more transport stress and suffering.

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[100] World Horse Welfare (2008): Dossier of Evidence. Recommendations for amendments to EU Council Regulation (EC) No 1/2005. Page 33. Link: https://storage.googleapis.com/stateless-whwwp-screenbeetle-c/2019/09/e216fe81-world-horse-welfare-2008-dossier-1.pdf (last accessed 29.07.2021).

[101] Marlin, D. et al. (2011): Welfare and health of horses transported for slaughter within the European Union Part 1: Methodology and descriptive data. Equine Veterinary Journal 2011, Vol. 43. Pages 78 – 87. Link: https://beva.onlinelibrary.wiley.com/doi/10.1111/j.2042-3306.2010.00124.x (last accessed 28.07.2021).

[102] World Horse Welfare (2011): Dossier of evidence. Second Edition. Part 1: Journey Times. Page 18. Link: https://storage.googleapis.com/stateless-whwwp-screenbeetle-c/2019/09/fac4aef5-world-horse-welfare-2011-dossier.pdf (last accessed 28.07.2021).

[103] Weeks, C.A. et al. (2021): Welfare issues related to transport and handling of both trained and unhandled horses and ponies. Equine Veterinary Education, Vol. 24, Pages 423 – 430. Link: https://beva.onlinelibrary.wiley.com/doi/10.1111/j.2042-3292.2011.00293.x (last accessed 28.07.2021) / Roy, R.C. et al. (2014): Welfare of horses transported to slaughter in Canada: assessment of welfare and journey risk factors. WAFL Conference 2014, Poster 93, page 172.

[104] Oikawa, M. and Jones, J.H. (2000): Studies of the causes and effects of transport-associated stress and shipping fever in athletic horses. In: Kohn, C.W. (ed.): Guidelines for Horses Transported by Road and Air. American Horse Shows Association, New York, USA. Pages 35 – 62. Link: https://www.researchgate.net/publication/313715198_Studies_of_the_causes_effects_of_transport-associated_stress_shipping_fever_in_athletic_horses (link accessed 28.07.2021).

[105] Padalino, B. et al. (2017): Risk factors in equine transport-related health problems: A survey of the Australian equine industry. Equine Veterinary Journal, 49(4), Pages 507–511.

Demand 7

Introduction of a maximum journey time of 8 hours for all equines.[106]

Reason 8

The Regulation does not limit the journey time for so-called 'spent' animals at the end of their productive lives.

So-called 'spent' or 'end-of-career' animals are taken – different to animals raised for meat production – to the slaughterhouse when they are weak and often suffer from any kind of health impairments. This mainly involves 'dairy' cows, sheep, sows and laying hens. These 'discarded' animals are of low economic value as they have reached their end of 'productive life' and are not useful for the industry anymore. Accordingly, the economic incentive is quite low to take special care of these vulnerable animals during transport to slaughter.

For example, 'dairy cull' cows suffer commonly from locomotion problems like lameness or udder infections and mastitis. As cited in Stojkov et al. (2018), 'cull' cattle were more likely to suffer from lameness or to become a downer or even die during journey when the transport distance was 400 km or more, indicating fitness issues and negative effects of long-distance transport on 'cull' cattle.[107] Despite being weak, especially 'dairy cull' cows are often not sent directly to slaughter but traded via markets or other assembly centres. In this case, it is likely that the animal condition worsens significantly during the process (e.g. stressful procedures such as loading and unloading are at least doubled), and the animal suffering is prolonged. Animals' Angels has witnessed repeatedly that emaciated, sick or injured cows are sold and transported via markets despite being obviously unfit for transport.[108]

For 'cull' sows it has been reported that the majority of them arrive at the slaughterhouse in poor conditions, including fatigue, lameness and very low body condition scores (BCS). Also, increased mortality has been reported. Thodberg et al. (2019) found in Denmark that after

[106] N.B.: The focus of this report lies on 'farm' animals. There might be exemptions in the journey time limits, for example, for 'sport' or 'leisure' horses, always under the condition that the purpose of the transport is not mainly economic but the participation in a competition, change of residence of a horse owner, etc.

[107] Stojkov, G. et al. (2018): Hot topic: Management of cull dairy cows—Consensus of an expert consultation in Canada. Journal of Dairy Science Vol. 101 No. 12. Link: https://www.researchgate.net/publication/327774684_Hot_topic_Management_of_cull_dairy_cows-Consensus_of_an_expert_consultation_in_Canada (last accessed 30.07.2021).

[108] E.g. Anda and Animals' Angels report to call on EU legislators to ban 'cull dairy' cows from livestock markets, May 2021.

Spain, May 2021 – 'Spent' cows in extremely poor conditions, sold at Galician markets and further transported to the slaughterhouse.

the transport of 'cull' sows, among others, wounds and injuries such as vulva and udder lesions increased, there was evidence of dehydration, the gait score worsened and an increase in torn off hooves was observed. Further they found several unfit sows unable to move or close to collapse after 8 hours of transport.[109] Sows are often collected from different farms before transported to the slaughterhouse which increases the journey time and transport-related risks to animal welfare

[109] Thodberg, K. et al. (2019): Transportation of Cull Sows—Deterioration of Clinical Condition From Departure and Until Arrival at the Slaughter Plant. Frontiers in Veterinary Science, 6. Link: https://www.frontiersin.org/articles/10.3389/fvets.2019.00028/full#h6 (last accessed 27.07.2021).

Germany, March 2021 – Transport of sows to a German slaughterhouse. Sow Emma (above) with decubitus ulcers in her shoulder area, thin and still producing milk. Sow Martha (below) suffers from heat stress and is panting with open mouth at outside temperatures around 25/26°C.

for each animal, considering that sows are often culled shortly after the weaning of their piglets which makes them especially prone to heat stress (often they still produce milk and need to drink more water).[110]

Concerning 'spent' laying hens, EFSA (2011) stated that it is important to consider the type and age of the birds as e.g. 'spent' laying hens who *'have a very high risk of skeletal pathology, bone weakness, old and new fractures and dislocations, pecking damage and catching and handling induces injuries'*[111] and scientific studies showed that they *'exhibit increased fear following transportation (…) [and] did not appear to habituate to transport stress on journeys lasting up to 5 hours.'*[112]

[110] Crockram, M. (2020): Welfare issues associated with the transport of cull sows to slaughter. Veterinary Record, 186(6). Page 183–184. Link: https://www.proquest.com/openview/21a1ec2f540408c977c7f4c19eeb0c02/1?pq-origsite=gscholar&cbl=2041027 (last accessed 27.07.2021).

[111] EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. Page 120. See footnote 41.

[112] Ibid. Page 48.

'Spent' animals are in a very delicate, fragile physical condition and their vulnerability makes them prone to serious welfare risks during transport, even on short transport distances from the farm to the nearest slaughterhouse. However, the Regulation does not consider this category of animals at all.

Please note that additional animal suffering related to the physical compromised state of 'spent' animals is very likely, and often animals become downers during transport, or are even loaded as downers. According to Animals' Angels observations, unfit 'spent' animals are transported in the whole EU whereas the assessment of whether an animal is fit for transport varies greatly from country to country and sometimes even from region to region. This also applies to the corrective measures taken when unfit animals arrive at slaughterhouses or markets. There are transporters specialized in the transport of 'cull' animals and certain slaughterhouses still accept downer animals. It is very alarming that transports of downer animals are still accepted despite veterinary controls *(see also Reason 27 of Chapter V: Fitness for transport)*.

For obvious animal welfare reasons, it is urgently needed to develop and promote on-farm slaughter, mobile slaughter, and on-farm euthanasia in order to reduce the transport of 'spent' animals as much as possible. If they are transported, the transport time (including loading and unloading) may not exceed 4 hours. In these cases, temperature, space and bedding requirements should be revised in the Regulation to take into consideration the vulnerability of these 'spent' animals.

Also, 'spent' animals should only be destined for direct local slaughter or brought to the nearest slaughterhouse to reduce the journey time, whereas the transport via markets or other assembly centres must be prohibited.

Demand 8

Introduction of an absolute journey time limit for 'spent' animals to 4 hours and a general ban of transports of 'spent' animals via markets or other assembly centres.
If 'spent' animals like cows, hens or sows are transported, the Regulation must ensure that their special needs are fully taken into account, additionally to the 4-hour transport limit:

- Significantly more space and bedding
- Sufficient supply of water and food
- Separation of the compromised animals
- Reduction of the temperature range in which compromised animals may be transported.

Reason 9

The Regulation does not foresee an absolute journey time limit for animals transported in containers.

According to Article 2 (g) of the Regulation a 'container' is defined as any crate, box, receptacle or other rigid structure used for the transport of animals which is not a means of transport. Particularly birds (incl. chickens, turkeys, ducks and geese), leporidae (incl. rabbits) and mustelidae (incl. mink) are transported in those containers on a commercial basis.

Table 1: Number of chickens (excl. chicks < 185 g), turkeys and rabbits and hares, exported within the EU and beyond in 2019 (Source: Eurostat 2021):

Species	Intra-EU	Extra-EU
Chickens (> 185 g)	466,696,077	1,319,494
Turkeys	11,434,456	243,120
Rabbits and hares	2,615,241	19,096

The Regulation does not foresee a journey time limit for the transport of animals in containers. This is alarming for several reasons:

- The animals transported in containers cannot be properly provided with water and food. Accordingly, during long journeys they are exposed to prolonged periods of hunger and thirst. *Please see Reason 5 above and Reason 68 of Chapter XIV: Containers and crates.*
- Regularly, animals get stuck with their body parts inside the containers which causes injuries, suffering, and even death. Often, this happens due to harsh handling during loading. The longer the subsequent transport takes, the longer the animals have to endure in such compromising situation, risking severe animal welfare consequences. *Please see Reason 67 of Chapter XIV: Containers and crates.*
- Often, no access is granted to the animals transported in containers. Thus, animals in need cannot be helped but are left to their fate. On long journeys, this becomes worse, and the welfare of the animals deteriorates significantly. *Please see Reason 66 of Chapter XIV: Containers and crates.*
- Insufficient ventilation inside the containers can cause poor thermal conditions for the transported animals, whereas especially poultry and rabbits are very prone to heat or cold stress. Again, the longer the journey takes, the more the suffering of the animals increases. *See also Chapter VI: Temperature limits.*

According to EFSA (2011) the risk of poor welfare of poultry increases with any journey above 4 hours,[113] whereas the main risk factors for bird

[113] Ibid. Page 51, 80.

mortality are the length of the journey and adverse temperature conditions.[114] For rabbits, mortality rates increase with the length of the journey, too.[115] Also, it is reported that transports for rabbits become most critical when exceeding 4 hours and at surrounding temperatures >18-20°C combined with a relative humidity of 70-75%.'[116] *Please, see also Reason 5 above.*

Demand 9

Introduction of a maximum journey time of 4 hours for animals transported in containers, especially considering birds (e.g. chickens, turkeys, ducks, geese) and leporidae (e.g. rabbits).

Reason 10

The Regulation does not properly prevent so-called 'assembly centre hopping'.

According to Article 2 (r) of the Regulation a 'place of departure' is defined as a place where the animals had been accommodated for at least 48 hours before they are loaded from there on to a transport vehicle. However, the Regulation makes an exemption for so-called assembly centres, i.e. places such as holdings, collection centres and markets at which 'farm' animals of different origins are grouped together to form a new consignment.[117] This exemption says that an assembly centre can be considered as a place of departure if 1.) the transport distance between the first place of loading and the assembly centre is less than 100 km[118]; or 2.) the animals have been unloaded, rested and provided with water and food for at least 6 hours at the assembly centre prior to their further transport[119].

Animals' Angels has regularly documented how this exemption is used to disguise the real journey time of the animals.

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[114] FAWC (2019): Opinion on the Welfare of Animals during Transport. Pages 50, 72, 76. See footnote 63 / Vecerkova, L. et al. (2019): Welfare of end-of-lay hens transported for slaughter: effects of ambient temperature, season, and transport distance on transport-related mortality. See footnote 66.

[115] Valkova, L. et al. (2021): The Health and Welfare of Rabbits as Indicated by Post-Mortem Findings at the Slaughterhouse. See footnote 77 / Voslarova, E. et al. (2016): Mortality in rabbits transported for slaughter. See footnote 77 / Verga, M. et al. (2009): Welfare aspects in rabbit rearing and transport. See footnote 76.

[116] EFSA (2020): Scientific opinion on the stunning methods and slaughter of rabbits for human consumption. EFSA Journal 2020;18 (1):5927. Page 19, 32. Link: https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2020.5927 (last accessed 02.08.2021). See also: Verga, M. et al. (2009): Welfare aspects in rabbit rearing and transport. See footnote 76.

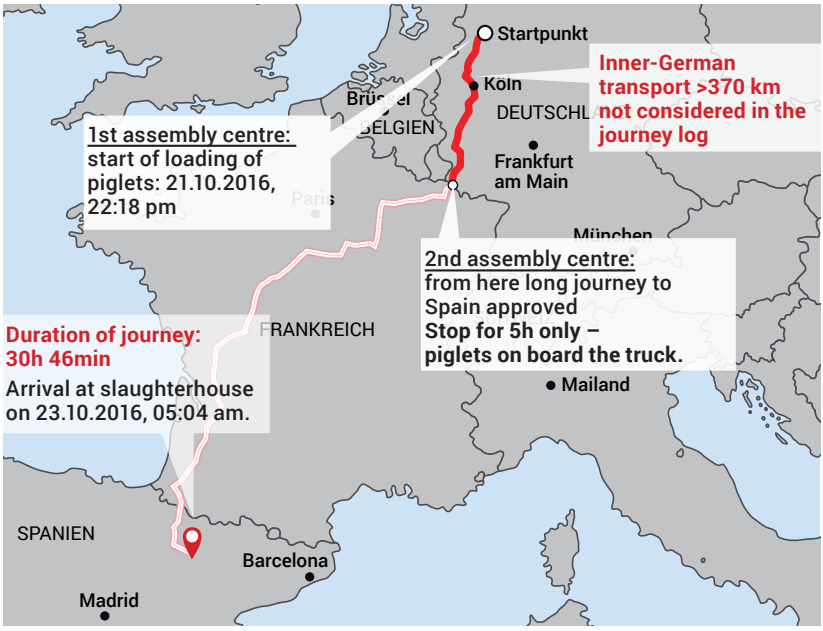
[117] Article 2 (b) of the Regulation

[118] According to Article 2 (r) (i) of the Regulation

[119] According to Article 2 (r) (ii) of the Regulation

Example 1: Assembly centres indicated as place of departure without taking into account the previous transport:

Assembly centres are indicated in the journey logs for long-distance transports of animals as place of departure, regardless of the fact that often the animals remain the same consignment for further transport. For example, this was observed in transports of very young piglets from Germany to a Spanish slaughterhouse. The piglets were transported first from an assembly centre in Northern Germany where they have been collected from different farms previously; then, the consignment of piglets was transported to a second assembly centre in South-Western Germany. According to the Regulation, the piglets should have been unloaded there for at least 6 hours, and also a new consignment of animals should have been prepared there. In reality, however, the same piglets were further transported on the same transport vehicle without even unloading and granting them the 6-hour rest. On the papers, the long journey of these piglets only includes the transport part from the second assembly centre to the destination, a slaughterhouse in Spain – completely ignoring the previous transport of more than 370 km from the first assembly centre to the second one. By doing so, the organiser of the transport obviously wanted to hide the total journey time. By 'splitting' the transport into two separate ones on the paper, they avoided exceeding officially the 29 hours transport limit and thus circumvented a 24-hour break for the animals after



Example of 'assembly centre hopping' in the case of transports of piglets (~10 kg each) from Germany to Spanish slaughterhouse

29 hours of transport.[120] Even if the animals would have been unloaded for 6 hours at the assembly centre, this practice clearly ignores the fact that at assembly centres animals 'originating from different holdings are grouped together to form consignments'[121]. I.e. it cannot

[120] Animals' Angels report on early-weaned piglets from Germany to Spain, 21.-23.10.2016 (in German only).

[121] According to Article 2 (b) of the Regulation

These very young piglets were transported transported 'for slaughter' from Germany to Spain, November 2016.

be considered a new consignment if only a few animals are exchanged; *'rather, the animals must be "newly grouped" at the assembly centre.'*[122]

Similar cases of 'assembly centre hopping' have been documented for transports of unweaned calves on the route from Lithuania to the Netherlands[123], as well as from Austria via Bolzano, Italy, to Spain.[124]

Case 2: Assembly centre indicated as place of destination without taking into account the subsequent transport

Repeatedly, Animals' Angels observed transports of cattle, pigs and horses departing from Spain with destination in Italy. In order to stay within the maximum allowed transport time of 29 hours, an assembly centre near Rome was indicated as place of destination, despite the fact that the animals were actually destined to much more distant locations in Southern Italy. As the transports would have exceeded the 29-hour limit, the organiser and transporter of the journey would have been required to unload and rest the animals for 24 hours along the route. By stating that the assembly centre near Rome is the final destination in Italy, on the papers the journeys could be completed without the required 24-hour rest. In Italy, the transports continued with national transport documents ('Modello 4') after stopping for several hours at the assembly centre but clearly less than 48 hours.[125] However, the Regulation defines in Article 2 (s) a 'place of destination' as a place at which the animals are unloaded from the truck and rested for min. 48 hours, in case they are not directly sent to a slaughterhouse. Obviously, this provision was completely ignored by the organiser of

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[122] Maisack, C. and Rabitsch, A. (2018): Tiertransporte – Verlängerung der Beförderungsdauer durch illegales "Sammelstellen-Hopping". Amtstierärztlicher Dienst und Lebensmittelkontrolle, issue no. 25 – 2/2018, p. 92-95. English translation: Animal Transports – Prolongation of the Journey Time by Illegal "Hopping" between Assembly Centres. Page 42. Link: http://rabitsch-vet.com/fileadmin/user_upload/Live_Animal_Transport.pdf (last accessed 08.08.2021).

[123] Information received e.g. during AA-investigation SG.04.04.2016, Trailing LT – NL, 21.-24.04.2016. / Maisack, C. and Rabitsch, A. (2018): Animal Transports – Prolongation of the Journey Time by Illegal "Hopping" between Assembly Centres. Page 40, 43-44. See footnote 122.

[124] Ibid. Page 40, 42-43.

[125] E.g.: Animals' Angels report on a transport of pigs for slaughter from Spain to Italy, 12.02.2016 – 14.02.2016 / Animals' Angels and Anda report on long distance transport of bulls destined for slaughter from Spain to Italy (via France and Italian assembly centre), date of report: 08.08.2019 / Animals' Angels and Anda report on a transport of pigs from Spain to Italy, via assembly centre/control post in Italy, date of report: 20.09.2019 / Animals' Angels and Anda report on a transport of horses and cattle from Spain to Italy, date of report: 15.10.2020.

such transports, with the aim to hide the total journey time of the animals.

The so-called assembly centre hopping causes extreme stress for the animals as several transports including loading and unloading operations are involved as well as unfamiliar surroundings, prolonged times without food and water, and often exceeded journey times without proper rest. The exemption in the Regulation concerning assembly centres actually makes it *'possible to avoid the 24 hours rest and prolong the allowed transport times considerably (…). This constitutes a contradiction and can cause animals to be transported without proper rest for days on end. It is most probably not what the legislator intended, but it is the practical consequence of the current Regulation.'*[126]

Demand 10

The exemption concerning the 6-hour rest at assembly centres has to be deleted and 'assembly centre hopping' must be forbidden. Instead, precise provisions easy to understand, implement and check are needed to ensure proper enforcement of the Regulation. A general journey time limit of 8 hours would assist in this regard.

Reason 11

Social regulation for drivers and resting times for animals are not congruent.

The Regulation (EC) 1/2005 and the Regulation (EC) 561/2006 on the harmonisation of certain social legislation relating to road transport[127] are inconsistent and not synchronised to each other as regards the maximum driving hours and rest periods for drivers with the allowed transport intervals and resting periods for the animals.

The incompatibility concerns long-distance transports carried out by two drivers and exceeding a journey time of 20 hours. Regulation (EC) 561/2006 stipulates that after maximum of 20 hours of driving, the two drivers are not allowed to be in the moving truck for at least nine hours. This is while equines and pigs are allowed to be transported 24 hours non-stop and cattle, sheep and goats even 29 hours.[128]

The mismatch between the two EU Regulations has even more severe consequences when such a long journey is carried out by one driver only. As required by Regulation (EC) 561/2006, one driver is

[126] Animals' Angels (2016): The Myth of Enforcement. Page 82. Link: https://www.animals-angels.de/fileadmin/user_upload/03_Publikationen/Dokumentationen/Animals_Angels_Myth_of_Enforcement.pdf (last accessed 02.08.2021).

[127] Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85. See: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32006R0561 (last accessed 08.08.2021).

[128] With a break of one hour.

allowed to drive only nine hours.[129] After these nine hours, the driver has to take a rest of 11 hours.[130]

According to Article 3 (a) of the Regulation, *'all necessary arrangements have been made in advance to minimise the length of the journey and meet animals' needs during the journey.'*

Practice has shown that the incompatibility of the two Regulations either leads to a prolongation of the journey time for the animals or to the non-observance of the social legislation relating to road transport. Practice has also shown that during plausibility checks according to Article 14 of the Regulation, the requirements of Regulation (EC) 561/2006 are not taken into consideration.

I.e. transports over thousands of kilometres and several days are carried out by one driver only and authorised in this way.[131] Again, and again, NGOs observe animal transports parked at rest areas with the animals on board for nine or more hours, while the driver(s) take their mandatory rest.[132]

Just as undesirable is it when the drivers exceed their permitted driving hours due to time and economic pressure encountering physical limits. In this case, they also put their lives at risks and those of the other road users and the animals.

Already back in 2001, the European Parliament called for *'concrete proposals (…) for harmonising travelling/driving and resting/rest periods for animals and drivers.'*[133] 20 years have passed in the meanwhile – without any adjustment. It is time to change that!

Long-distance transports carried out by only one driver do not only violate EU law but are also irresponsible and ethically reprehensible in terms of working conditions for drivers, road safety and animal welfare.

Demand 11

Introduction of an absolute journey time limit to 8 hours to ensure compatibility with driver's hours according to social legislation relating to road transport.

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[129] Exceptionally 10 hours. In both cases interrupted by a 45 min break after 4,5 hours driving.

[130] Exceptionally 9 hours.

[131] E.g.: Animals' Angels report on transports of pregnant heifers from Denmark to Uzbekistan, 15.-25.04.2021 / Animals' Angels report on transports of pregnant heifers from Austria to Uzbekistan, date of report: 15.05.2021 / Animals' Angels report on a transport of pregnant heifers from Lienen, Germany, to Morocco, date of report: 14.07.2019 (only German) / Animals' Angels report on transport of pregnant heifers from Austria to Uzbekistan, date of report: 18.04.2019 (only German) / Animals' Angels letter to CVOs and NCPs of the EU Member States on the problematic use of only one driver for long distance transports – incompatibility between Reg (EC) 1/2005 and Reg (EC) 561/2006, dated 26 August 2019.

[132] E.g.: Animals' Angels report on transport of 66 pregnant heifers from the Netherlands to Uzbekistan, 07. – 16.02.20201 / Animals' Angels report on two transports of pregnant heifers from Brandenburg, Germany, to Turkmenistan, 18. – presumably 28.02.2020 / Animals' Angels report on three transports of pregnant heifers from Liepe, Germany, to Azerbaijan, date of report: 15.04.2019 / Animals' Angels email notification re 'short notice about two Danish transports, observed in Belarus on 16.02.2019'.

[133] European Parliament resolution on the Commission report concerning the protection of animals during transport, text adopted 13.01.2001, Strasbourg. See footnote 27.

CHAPTER III:

Space allowance (floor space)

Reason 12

The space allowances indicated in the Regulation are insufficient and do not properly protect the animals' health and welfare.

Article 3 of the Regulation lays down the general conditions for animal transport, which include that sufficient floor area must be provided for the animals appropriate to their size and the intended journey (Article 3 (g)). Furthermore, it must be ensured that the animals' needs are met during the journey (Article 3 (a)).

The Regulation provides in Annex I Chapter VII tables with minimum values for space requirements for equidae, cattle, sheep, goats, pigs, and poultry. The Regulation also stipulates that the surface area indicated in the tables may vary depending on the breed, the size, the physical condition of the animal, the weather, and the likely journey

time. Practice has shown that the space allowances as indicated in the tables are insufficient to allow the animals,

- to lie down and rest without being trampled on by other animals,
- to stand up again,
- to move adequately and turn around[134],
- to have access to the watering devices,
- to be able to regulate their body temperature,
- to avoid body contact.

Additionally, with the densities provided in the tables of the Regulation, the single animal is not entirely visible. Therefore, most of the time it is impossible for drivers, attendants, and authorities to properly inspect and, when necessary, care for the animals.[135]

At the same time, operators usually stick to the minimum values indicated in the tables without considering the other values as, for example, length of the journey, animal condition such as pregnancy or animal breed. Authorities also base their checks on the indications in the tables as the other values are interpretable and entail legal uncertainty. To remain on the 'safe side', authorities all too often ignore those values to avoid trouble with the transporters and possible liability claims.

All these factors lead to animal suffering due to insufficient space on board the means of transport.

Demand 12

As a general rule, the revised Regulation should ensure that there is sufficient space for each animal on board the means of transport to guarantee their safety, their resting comfort, their movement within the compartment, among others to easily reach the drinkers and to regulate their body temperature without being forced to be in body contact with other animals.
See Demands 13 – 19 below for species-specific indications.

[134] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of cattle. Recommendation 87, mutatis mutandis, Link: http://animaltransportguides.eu/wp-content/uploads/2016/05/Guides-Cattle-EC-Templ.pdf (last accessed 14.07.2021).

[135] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of sheep. Recommendation, page 42. Link: http://animaltransportguides.eu/wp-content/uploads/2016/05/EN-Guides-Sheep-final.pdf (last accessed 14.07.2021) / See also: European Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 19. See footnote 28.

Reason 13

The indications of the Regulation concerning space allowances for horses are inappropriate to properly protect the animals during road transport.

The Regulation lays down the following figures for the transportation of horses by road:[136]

Category	Area (in m²)/animal
Adult horse	1,75 m² (0,7 × 2,5 m)
Young horses (6 — 24 months) (for journeys of up to 48 hours)	1,2 m² (0,6 × 2 m)
Young horses (6 — 24 months) (for journeys over 48 hours)	2,4 m² (1,2 × 2 m)
Ponies (under 144 cm)	1 m² (0,6 × 1,8 m)
Foals (0 — 6 months)	1,4 m² (1 × 1,4 m)

The Regulation adds that *'during long journeys, foals and young horses must be able to lie down'* and that *'these figures may vary by a maximum of 10% for adult horses and ponies and by a maximum of 20% for young horses and foals, depending not only on the horses' weight and size but also on their physical condition, the meteorological conditions, and the likely journey time'*.[137]

These indications are inappropriate to sufficiently protect horses during transport. In its scientific opinion published in 2011[138], EFSA concludes that in the case of horses, space allowances should be given in terms of kg/m² instead of m²/animal where animals are likely to differ significantly in weight or body condition. The EFSA report cites Westen et al. (2010)[139], stating that *'because of the large heterogeneity of transported horses, space allowances should be based on the length and width of individual animals rather than fixed figures for the total population.'* The report goes on to say that *'these authors discussed the pros and cons of three different approaches for attempting to define the specific requirements of the space allowance for horses and ponies during transport: 1) minimum floor area, 2) space allowance per animal on body mass or wither height, 3) amount of space between the horse and the compartment walls (partitions and sides of the vehicle). Westen et al. (2010) concluded that providing a fixed space allowance that covers "adult" horses is entirely inappropriate, whereas an alternative acceptable approach would be to specify that individual compartments must be at least X cm wider and Y cm longer than the horse when standing in a natural posture'*.

[136] Annex I Chapter VII section A of the Regulation.
[137] Ibid.
[138] EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. See footnote 41.
[139] Westen, H. et al. (2010): Horse and pony dimensions and the implication for space allowance on transport vehicles. World Horse Welfare, Anne Colvin House, Snetterton, Norfolk, NR16 2LR, 23 pp.

Indeed, looking at the different horse breeds[140] and the differences in body condition, weight, and size of the animals, it is obvious that the approach taken by the Regulation laying down the space requirements by age only is insufficient. The Regulation requires a width of 70 cm for adult horses. While this width might be sufficient for an adult Arabian horse, for an adult Percheron horse it may be totally insufficient.

When space is insufficient, the animals cannot move sufficiently to keep balance on board the vehicle and to stand up again in case of falling. Where the animals are penned in single stalls with insufficient space, i.e., touching the side walls with their shoulder, belly, and thigh, they cannot even spread their legs for urinating. Accordingly, the 'EU Guide to good practices for the transport of horses destined for slaughter' consider it best practice when *'horses are provided with adequate space to prevent balancing problems, injury and damage to the vehicle. Some horses need more space than others because of their size, breed or stance: they "stand wide". A guideline is to provide between 10 and 20 cm of total space between animal and partitions.'*[141]

Practice has shown that the permissive provision of the Regulation to provide more space depending on the horses' weight and size but also on their physical condition, the meteorological conditions, and the likely journey time, is rarely considered, especially when it comes to transport of horses destined for slaughter with a lower economic value.[142] Practice has also shown that for the authorities it is difficult to enforce such permissive provisions *(see above Reason 12)*. Also, the Regulation does not mention the need for more space for pregnant mares, even though the 2002-SCAHAW report already came to the result that pregnant females need approximately 10% more space in the last third of gestation[143].

Equally unclear is the statement of the Regulation that young horses must have the possibility to lie down on long journeys. For long journeys of up to 48 hours the Regulation requires a stall-width of 60 cm for young horses. A horse cannot lie down in a stall of 60 cm: he would have severe difficulties to get up again, as he cannot stretch his legs and properly impulse himself to get up.

A recent study concluded that travelling in a wide bay was advantageous for the horses, since they could balance better and demonstrated fewer anxiety-related behaviours than horses travelling in single bays.[144]

Also, when horses are not single stalled, scientific studies show that high density in horse transport increases the incidence of falls and in-

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[140] https://en.wikivet.net/Equine_Breeds_-_WikiNormals (last accessed 14.07.2021).
[141] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of horses destined for slaughter. Page 32. See footnote 97.
[142] Animals' Angels report on long transport of unbroken horses from Spain to Italy, Lithuanian transport company: Mak´s Logistika, date of the report: 31.07.2019 / Animals' Angels report on two long transports of horses from Poland to Italy, Polish transport company Studzianki, date of the report: 09.11.2020.
[143] EU Commission (2002): The Welfare of Animals during Transport. SCAHAW Report. Page 39. See footnote 28.
[144] Padalino, B., Raidal, S. (2020). Effects of Transport Conditions on Behavioural and Physiological Responses of Horses. Animals 2020, 10(1):160. Page 15. See footnote 45.

juries and makes it more difficult for a horse to get up again after a fall.[145] The OIE Platform on Animal Welfare for Europe[146] stated that some farmers believed that fairly high stocking densities allow horses to support one another during transport – but research has shown that this is completely untrue and that when animals went down on the floor in high densities, they were trapped on the floor by the remaining animals 'closing over' and occupying the available standing space. Finally, in high densities, the horses also had a difficult time finding a position or place for their neck and head which is indispensable to maintaining balance.

The EU Guide to good practices for the transport of horses destined for slaughter[147] also outlines that for best balancing and adequate space provision of the horses to be transported, they are to be stalled diagonally with stalls 30-40 cm skewed and that if stalled diagonally, the animals are placed with the hindquarter in driving direction. The latter was also confirmed by recent scientific studies.[148]

The Regulation requires that equidae elder than 8 months must wear halters during transport (except unbroken animals).[149] This requirement could be misinterpreted in a way that horses should be tied during the journey. However, the opposite is the case. Wherever possible, horses should be transported loose. Scientific studies[150] examined the stress level of horses traveling loose in individual box stalls, compared with horses traveling tied or cross-tied, finding that the tied horses had larger increases in the selected stress parameters than occurred in the horses traveling loose. For instance, a substantial increase in the neutrophil-lymphocyte ratio occurred in the tied horses compared with the loose horses. They also showed that tying a horse's head above the height of the withers, where he is unable to lower his head to ground level, compromises the immune system and increases the number of bacteria in the secretions of the airways. A horse must lower his head for natural drainage of secretions and to be able to cough effectively to rid the airways of dust, etc.[151] Scientists therefore recommend that horses be transported in box stalls where they can freely raise and lower their head and neck, rather than tying them during long distance transport.[152]

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[145] Collins, M.N. et al. (2000): Effects of density on displacement, falls, injuries, and orientation during horse transportation. Applied Animal Behaviour Science 67(3):169-179. Link: https://pubmed.ncbi.nlm.nih.gov/10736527/ (last accessed 08.08.2021).

[146] OIE Platform on Animal Welfare for Europe, Training Programme on welfare of animals during long distance transport by land, Ver. 07/12/2016. Page 51. Link: https://rpawe.oie.int/fileadmin/upload-activities/upload-transport/tot_ldt/training_materials/tot-ldt_technical-note_final_en.pdf (last accessed 08.08.2021).

[147] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of horses destined for slaughter. Page 32. See footnote 97.

[148] Padalino, B., Raidal, S. (2020). Effects of Transport Conditions on Behavioural and Physiological Responses of Horses. Animals 2020, 10(1):160. Page 15. See footnote 45.

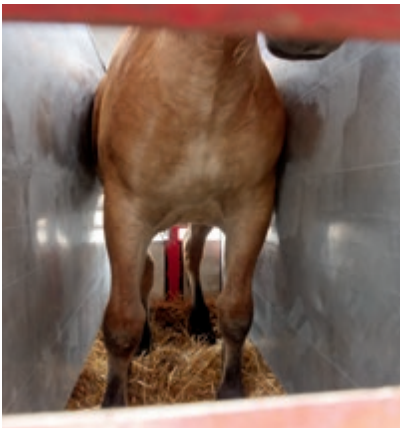
[149] Annex I Chapter III point 1.11 of the Regulation.

[150] UC Davis Center for Equine Health (2003): How cross-tying during transport affects horses. The Horse Report, Volume 21, Number 4. Page 4. Link: https://ceh.vetmed.ucdavis.edu/sites/g/files/dgvnsk4536/files/local_resources/pdfs/pubs-HR21-4-bkm-sec.pdf (last accessed 09.08.2021).

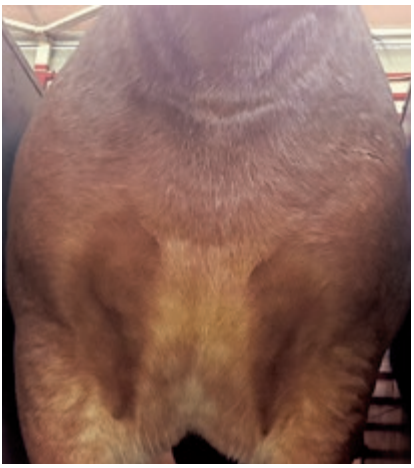
[151] Raidal, S. L. et al. (1997): Effect of transportation on lower respiratory tract contamination and peripheral blood neutrophil function. Aust. Vet. J. 75:433–438.

[152] UC Davis Center for Equine Health (2003): How cross-tying during transport affects horses. The Horse Report. Page 4. See footnote 150.

For the reasons stated above, the indications on the loading density of horses should be revised. Scientific findings that lead to better protection of the animals during transport should be taken into account.



June 2021 – Young horses transported from Spain to Italy. The animals do not have enough space to balance the movement of the vehicle or to put their legs outside to urinate.



October 2020 – Horses transported from Poland to Italy in too narrow stalls by a Polish transporter.

Demand 13

Space allowances for horses should be given in terms of kg/m². The Regulation should lay down clearly that in case of single stalled animals, at least 10-20 cm of total space between animal and partitions must be provided. It should lay down that mares in the last third of the gestation period must be provided at least 10% more space as well as equines transported during elevated temperatures. Furthermore, the Regulation should require that equines are stalled diagonally with stalls 30-40 cm skewed and placed with the hindquarter in driving direction. The Regulation should also state clearly that equines should not be tied during transport, and where this is not possible, they should be able to lower the head without running the risk of getting tangled with their legs.

Reason 14

The Regulation does not provide any detailed indications for space allowances for donkeys and hybrids.

The Regulation lays down the space requirements for domestic equidae in Annex I Chapter VII section A. However, the tables indicating the space allowances for rail, road, air, and sea transport only mention horses.

This leads to legal uncertainty regarding the space allowances for donkeys and hybrids.

Demand 14

The Regulation should lay down clear indications for space allowances for all equines, including donkeys and hybrids.

Reason 15

The indications of the Regulation concerning space allowances for pigs are inappropriate to properly protect the animals during road transport.

For transport by rail and by road, the Regulation requires that all pigs must at least be able to lie down and stand up in their natural position. To comply with these minimum requirements, the loading density for pigs of around 100 kg should not exceed 235 kg/m^2. Furthermore, it lays down a permissive provision stating that the breed, size, and physical condition of the pigs could mean that the minimum required surface area indicated in the tables must be increased; a maximum increase of 20% may also be required depending on the meteorological conditions and the journey time.[153]

These indications are insufficient to properly protect pigs during transport.

The requirement of 235 kg/m^2 for pigs of around 100 kg is based on sternal lying. As required by the Regulation, space allowances must permit the animals to lie down and to stand in their natural position. However, the Regulation does not consider that the animals must also be able to move and walk to the drinkers (often placed on one side of the vehicle only), and that the animals need space to stretch and lay in a lateral position to thermoregulate. For pigs to be able to move and to thermoregulate, significantly more space is necessary.[154] Scientific studies came to the result that the minimal floor area offered in animal transportation vehicles, according to European legislation, is insufficient in the case of all pigs lying in the fully recumbent position simultaneously, without the pigs being forced to partially overlap one another[155] or just without being in physical contact with each other.[156] Accordingly, the EU Guide to good practices for the transport of pigs also acknowledges the space allowances as given in the Regulation as insufficient and considers it better practice to grant more space to the animals.[157]

According to Bracke et al. (2020) it must be ensured that the animals can move to the watering devices and in case of high ambient temperatures, be able to lie down in a fully recumbent position for thermoregulation.[158]

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[153] Annex I Chapter VII section D of the Regulation

[154] Bracke, M.B.M. et al. (2020): Review of climate control and space allowance during transport of pigs. EU Reference Centre for Animal Welfare Pigs. Page 19. Link: https://edepot.wur.nl/515292 (last accessed 15.07.2021).

[155] Arndt, H. et al. (2019): Do Pigs Have Adequate Space in Animal Transportation Vehicles? - Planimetric Measurement of the Floor Area Covered by Finishing Pigs in Various Body Positions. Frontiers in Veterinary Science 5:330. Link: https://doi.org/10.3389/fvets.2018.00330 (last accessed 09.08.2021).

[156] Bracke, M.B.M. et al. (2020): Review of climate control and space allowance during transport of pigs. Page 5. See footnote 154.

[157] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of pigs. Page 32f. Link: http://animaltransportguides.eu/wp-content/uploads/2016/05/Guides-Pig-EC-Templ.pdf (last accessed 15.07.2021).

[158] Bracke, M.B.M. et al. (2020): Review of climate control and space allowance during transport of pigs. Page 19. See footnote 154.

Apart from the fact that the space allowance indicated in the Regulation for the above-mentioned reasons are inadequate to sufficiently protect the animals, the fact that the Regulation does not extrapolate any other pig body weight than 100 kg leads to legal uncertainty. It is impossible for transporters as well as for the authorities to properly calculate the density when a pig has a weight of more or less than 100 kg and when pigs of different sizes and weights are transported.

For the reasons stated above, the indications on the loading density of pigs should be revised. Scientific findings that lead to better protection of the animals during transport should be considered and transporters and authorities should be given clear rules.

Germany, June 2021 – Transport of young pigs; lack of sufficient space for all pigs to lie down. Despite high temperatures (30°C), the animals don't have space to thermoregulate.

Demand 15

Space allowances for pigs should be revised ensuring that pigs have sufficient space to lie down in sternal and recumbent position with the legs stretched out in a 'square' without touching or overlapping with other pigs and to move to the drinking devices of the vehicle. The Regulation should give transporters and competent authorities a tool to easily determine the space requirements for pigs of all sizes and weights and in case animals of different sizes and weights are transported.

Reason 16

The indications of the Regulation concerning space allowances for cattle are inappropriate to properly protect the animals during road transport.

The Regulation provides the following minimum space allowances, based on different weights of cattle, for their transportation by road:[159]

Category:	Approximate weight (in kg):	Area (in m^2)/animal:
Small calves	50	0.30 to 0.40
Medium sized calves	110	0.40 to 0.70
Heavy calves	200	0.70 to 0.95
Medium sized cattle	325	0.95 to 1.30
Heavy cattle	550	1.30 to 1.60
Very heavy cattle	> 700	> 1.60

Controversy has arisen over the years, regarding the interpretation of this table. What is the minimum space for cattle with a weight of 420 kg, i.e., those between medium and heavy cattle? The answer was uncertain and needed interpretation. A table has been proposed by Animals' Angels, which provides more precise space allowances for cattle, with weight intervals of 10 kg, based on an allometric formula. The European Commission considered the table and the formula to be plausible.[160] This table has certainly been more practical for those operators who have received it. The table in the Regulation provides too wide weight intervals which cause uncertainty and arbitrary interpretations.

The evaluation of the range of the indicated spaces per category is also controversial. Some veterinarians interpret the range as being between a minimum and a maximum space: example given, for heavy calves of 200 kg, minimum space is 0.70 sqm, maximum space is 0.95 sqm. In other words, for cattle up to 324 kg, 0.70 sqm is the legal minimum. Chapter VII of the Regulation only lays down minimum space allowances and not maximum, stating *'space allowances for animals shall comply at least with the following figures.'* Therefore, the correct interpretation is both values of the range represent minimum spaces for cattle from 200 kg to 324 kg; however, there is no widespread agreement on this.

The Regulation provides that the above listed *'figures may vary, depending not only on the animals' weight and size but also on their physical condition, the meteorological conditions, and the likely journey time.'*[161] Animals' Angels investigations have shown that transporters simply apply the very minimum space, and the authorities regularly approve it.

[159] Annex I Chapter VII section B of the Regulation.
[160] Letter of the European Commission dated 26.09.2009, protocol no. SANCO D5LPA/fr D(2009) 450264.
[161] Annex I Chapter VII section B of the Regulation

At the same time, the minimum space has proven to be totally insufficient to guarantee the welfare of cattle during transport, as it results in crowded conditions. These are worse when the cattle belong to stocky and muscular breeds, which need more space, or when they have long horns that disturb or injure their mates.

Animals forced to stand, because the space does not allow them to lie down, and in permanent physical contact have been found to be transported in accordance with the table of the Regulation.[162] With these minimum space allowances, there is not even room for them to comfortably stand in a natural position. Due to the physical contact, their heads are often squashed between the bodies of their conspecifics, hence they need to keep them lifted up or held down in unnatural positions. They are forced to brace against their neighbours to avoid being crushed. In such conditions, animals who are far from the drinking troughs have no space to approach them during long journeys.

On 08.07.2021 Animals' Angels spoke to drivers in the field transporting cattle destined for slaughter from Spain and France to Italy. Once more they confirmed: when transporting cattle in densities in line with the legal requirements, they must be wary of animals that lie down to rest and force them to stand up, as otherwise the risk of injuries and haematomas is too high.[163]

Absolute space allowances determined by the weight of cattle showed not to ensure their minimum welfare during transport, because animals vary in size and body shape.[164] Allometric equations have proved to be a more appropriate basis to determine space allowances for animals.[165] Scientific literature developed already some equations: the formula $A = 0.0315\ W^{0.67}\ m^2$ [166] was recommended for groups

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[162] Examples: 1) INTRA.FR.2019.0103002, INTRA.FR.2019.0103002 - V1, INTRA.FR.2019.0102899 - V1. Animals´ Angels observed this transport in France on 21.11.2019. Limousine and Charolais cattle were loaded in a truck and trailer. The team counted 9+9 cattle in the first deck of the truck and 9+8 animals in the first deck of the trailer. Each deck of Michieletto truck and trailers usually measure 17 sqm. This means that cattle had 0.94 sqm in the truck and 1 sqm in the trailer. Cattle were 200 kg, according to the documents: according to the Regulation they need minimum 0.70 to 0.90 sqm each. An average total calculation gives 70 cattle on 68 sqm=0.97 sqm average space for each cattle. Nevertheless, the team observed that the animals were all squeezed against each other and the side walls; they had no space to move around and forcefully push the others to do so. One used his horns punching a companion attempting to gain space. They braced against each other, some standing a bit obliquely leaning against the other. They were unsteady, trying to find space almost constantly. / 2) Animals´ Angels observed a transport of Charolais cattle from France to Italy on 22.11.2018. Their weight was approximately 400 kg. They appeared very crowded in the trailer and a bull was trampled for lack of space. They were extremely crowded in the truck, all squeezed against one another. The 14 bulls in the first deck of the trailer had 1.21 sqm each; the 18 heifers in the truck had 0.94 sqm each. Cattle of 400 kg need minimum 0.95-1.30 sqm each, according to the Regulation. The calculation of density indicated that space allowance complied with the law in the trailer, but animals were severely crowded. Space in the truck was slightly under the minimum (- 0.01 sqm) but the animals were severely crowded.

[163] Information received during AA-investigation JH.015.2021

[164] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of cattle. Recommendation 87. See footnote 134.

[165] Petherick, J.C. and Philips, C. (2009): Space allowances for confined livestock and their determination from allometric principles. Applied Animal Behaviour Science 117(1-2). Link: https://doi.org/10.1016/j.applanim.2008.09.008 (last accessed 09.08.2021).

[166] EU Commission (2002): The Welfare of Animals during Transport. SCAHAW Report. Page 54. See footnote 28.

of cattle needing to rest, drink and be fed, in long journeys – and $A = 0.021\ W^{0.67}\ m^2$, only suitable for short journeys defined as less than 5 hours.[167] The most recent guidelines of the European Commission[168] inappropriately recommend this last formula for all, short and long journeys of cattle.

The presence of horns or high temperatures or the state of pregnancy are reasons to increase space for cattle, to avoid injuries or heat stress, respectively, and to meet the higher physical demands of pregnant animals. Space for horned or pregnant animals should be increased by 10%.[169]

September 2020 – Transport of calves from Slovakia to Turkey. The space allowances are in line with the indications of the requirements laid down in the tables of Annex I Chapter VII section B of the Regulation. However, the animals do not have enough space to all lie down at the same time and to move to the drinkers. There is a high risk for the animals of getting injured or being unable to get up as standing animals trample on lying ones or close-up above them.

[167] Ibid. Page 51, 54
[168] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of cattle. Paragraph 2.3.2. See footnote 134.
[169] Ibid. Recommendation 85 / see also: EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 55. See footnote 28.

France, 23.11.2018 – Severely crowded cattle observed at the French border of Frejus. Density calculation resulted compliant with the legal space allowances. Trucks of Italian transporters.

France, 21.11.2019 – Severely crowded cattle observed at the French border of Frejus. Density calculation resulted compliant with the legal space allowances.[170]

Demand 16

Space allowances for cattle need to be revised and increased, according to an allometric equation that takes weight and body shape into account. Space allowances for horned and pregnant cattle and during high temperatures must be increased and indicated.

[170] Video showing densities in cattle: https://www.youtube.com/watch?v=qh_vDZG-ZeuQ&feature=youtu.be.

Reason 17

The indications of the Regulation concerning space allowances for ovine and caprine animals are inappropriate to properly protect the animals during road transport.

The Regulation provides the following minimum space allowances for sheep and goats, based on different weights, for their transport by road:[171]

Category + weight (in kg)	Area (in m^2)/animal:
Shorn sheep and lambs of 26 kg and < 55	0,20 to 0,30
Shorn sheep > 55	> 0,30
Unshorn sheep < 55	0,30 to 0,40
Unshorn sheep > 55	> 0,40
Heavily pregnant ewes < 55	0,40 to 0,50
Heavily pregnant ewes > 55	> 0,50
Goats < 35	0,20 to 0,30
Goats 35 to 55	0,30 to 0,40
Goats > 55	0,40 to 0,75
Heavily pregnant goats < 55	0,40 to 0,50
Heavily pregnant goats > 55	> 0,50

The Regulation adds as an indication that for small lambs an area of under 0,2 m^2 per animal may be provided. The Regulation provides that the above listed figures *'may vary, depending on the breed, the size, the physical condition, and the length of fleece of the animals, as well as on the meteorological conditions and the journey time.'*

As for cattle, the interpretation of the range of indicated spaces per category is just as controversial. Some interpret the range as being between the minimum and the maximum space, whereas both indicated values represent minimum spaces.

According to Animals' Angels' findings and analysis of transport documents, operators and authorities prove to apply the very minimum densities *(see above Reason 12)*, and in some cases even exceed them. According to the experience of Animals' Angels, minimum legal space allowances mean that sheep and lambs stand in body contact and cannot all lie down at the same time or move to reach drinkers (usually installed only on one side of the vehicle). Under these conditions, they cannot adapt their preferred spacing strategies, and animals who fall or lie down are at a high risk of being trampled or smothered. Additionally, thermoregulation is severely hindered by forced physical contact and a subsequent lack of air flow between the animals.

Therefore, the space allowances should be increased, according to allometric equations that consider different body shapes and different

[171] Annex I Chapter VII Section C of the Regulation.

19.12.2020 – Transport of lambs from Romania to Italy. Each lamb weighed an average of 24.6 kg and had 0.20 sqm. Many lied down but those standing had no space to lie, except on top of the others.

27.03.2021 – Transport of lambs from Romania to Italy. Each lamb weighed an average of 17.3 kg and had 0.16 sqm. Many lied down but those standing had no space to lie, except on top of the others.

breeds. For long journeys, scientific literature suggested the formula $A = 0.037\ W^{0.67}\ m^2$, when animals need more space to be fed and watered.[172] On the contrary, the formula $A = 0.021\ W^{0.67}\ m^2$ only allows animals to stand[173] in physical contact and showed not to be adequate for sheep.[174] An allometric equation should be introduced for goats, too.

[172] EU Commission (2002): The Welfare of Animals during Transport. SCAHAW Report. Page 50. See footnote 28.

[173] Ibid. Page 49: 'for animals of the weights studied by Knowles et al (1998), this stocking density is too high and causes fatigue. It has been recommended that space allowance must be enough for all animals to be able to lie down (Knowles et al., 1998).'

[174] FAWC (2019): Opinion on the welfare of animals during transport. Page 206: 'The evidence indicates that the space provided by minimum legislation and calculations with a k-value of 0.021 are unacceptable, as they do not allow the sheep to adopt their preferred spacing strategy and lead to more losses of balance, slips and falls.' See footnote 63.

Ovine and caprine animals need more space when they have horns, long fleece, when they are pregnant and during high temperatures. Scientific literature suggested that both unshorn lambs and sheep of ≥ 26 kg need 25% more space than shorn animals[175]. Ovine and caprine animals with horns need at least 10% more space.[176] The same applies to pregnant animals. During hot weather space allowance should be increased by 30%.[177]

Small lambs, as defined by the Regulation, are understood to be lambs under 26 kg. For them, the law has indicatively recommended a space of less than 0.2 m². Such an inaccurate indication revealed a gross basic error: less than 0.2 m^2 also means 0.1 m^2, 0.05 m^2 or zero m^2. In practice this means that small lambs, for which there is an important market[178], are generally subjected to crowded transport conditions. Any value indicating less than 0.20 m^2 appears to be accepted by veterinary officials who authorise or inspect these transports. In addition to the value of the space as indicated in the tables of the Regulation, there is also another type of assessment to be made when judging welfare: the visual assessment.[179] Veterinarians stated the fear of legal actions from stakeholders if they were to enforce greater space allowances, as they lack legal certain provisions to do so. Therefore, it is necessary to correct the indication of space allowance for small lambs, according to the above allometric formula, and to give a precise and practical tool to inspectors and operators.

Demand 17

Increase existing minimum space allowances for ovine and caprine animals. Delete the provision according to which an area under 0.2 m^2 may be provided for small lambs (i.e., < 26 kg) and provide a realistic and precise range of measures for these animals. Indicate greater space allowances for fleeced/unshorn, horned and/or pregnant animals and for transports during elevated temperatures.

[175] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of sheep. Recommendation 74. See footnote 135.
[176] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of cattle. Recommendation 85, mutatis mutandis.
[177] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of sheep. Recommendation 147. See footnote 135.
[178] Example: Italy imported 915,664 lambs from EU countries in 2019 (source: Eurostat).
[179] Bracke, M.B.M. et al. (2020): Review of climate control and space allowance during transport of pigs. Page 33: 'In addition to the legal requirements mentioned above, the competent authorities in Denmark have guidelines for the control of vehicles. The tables below are intended as support for the competent authorities, but the assessment still mainly relies on the visual inspection on site, checking whether the conditions on the vehicles allow the animals to lie down and stand up in a natural position, as specified in Council Regulation (EC) 1/2005 (EC, 2004)'. See footnote 154.

Reason 18

The indications of the Regulation concerning space allowances for poultry are inappropriate to properly protect the animals during road transport.

The Regulation provides minimum space allowances according to different weights of birds as follows:[180]

Category:	**Area (in cm²):**
Day-old chicks	21 — 25 per chick
Poultry other than day-old chicks: weight (in kg)	**Area (in cm² per kg)**
< 1,6	180 — 200
1,6 to < 3	160
3 to < 5	115
> 5	105

The Regulation states that these values may be adapted according not only to weight and size of the birds but also to their physical condition, the meteorological condition, and the journey time. This provision is crucial, since thermal stress and journey time are the most relevant stressors for birds[181] *(see also Chapter II: Journey times and Chapter VI: Temperature limits)*. But transporters and authorities need precise indications on how to adapt space allowances when temperatures are high (> 22°C[182]) or very low, and when journeys are long.

The Regulation must also indicate increased space allowance for birds in cages which are stacked in the warmer areas of vehicles and specify where these places are.

Scientific literature stated that broilers[183] and hens with less space than 207 cm^2/kg run a higher risk of mortality on journeys up to 8 hours: wider space allowances reduced mortality.[184] Therefore, it seems that space indicated by the Regulation should be revised and increased.

The allometric equation $A = 0.021\ W^{0.67}\ m^2$ was suggested for domestic fowls and $A = 0.0252\ W^{0.67}\ m^2$ for turkeys.[185] Considering that the first formula indicates the minimum space that animals need to

[180] Annex I Chapter VII section E of the Regulation.
[181] EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. Page 49, 56, 70, 80. See footnote 41.
[182] Ibid. Page 85.
[183] Weeks, C.A. (2014): Poultry handling and transport. In: Grandin, T. (ed.): Livestock Handling and Transport, 4th edition, CAB International, Wallingford, UK. Chapter 20, 378-398. Page 9: 'The FAO (2011) estimates that 87% of transported poultry is broiler chickens.' Link: http://www.lapsinfo.com/sites/default/files/45_livestock_handling_and_transport_-_weeks_-_2007.pdf (last accessed 15.07.2021).
[184] Ibid. Page 9.
[185] EFSA (2004): Opinion of the Scientific Panel on Animal Health and Welfare on a request from the Commission related to the welfare of animals during transport. Pages 14-17. See footnote 30.

stand[186] and not to lie or sit, that birds are forced to sit down during transport, that poultry includes different bird species with different body shapes, that commercial transport involves different species such as geese, ostriches, ratites, fowls, ducks, pigeons and quail, it is necessary to deepen the research on the right allometric formula for each species of birds. The right equation should ensure enough space for the birds to choose to avoid physical contact with the others and to adopt a comfortable position. Space allowances for specific temperatures must be provided, too, according to the different thermal comfort zones of birds.[187]

Demand 18

Scientific research is needed[188] on the adequate allometric formula to indicate the minimum space that birds need during transport.[189] On the base of its outcome, indicate space allowances for the commercial transport of birds during cold and hot temperatures, in combination with temperature limits.

Reason 19

The Regulation does not foresee any detailed requirements for space allowances for rabbits.

Despite recommendations and requests from NGOs and scientific literature to indicate space allowances for rabbits, research remained insufficient for what concerns space allowances protecting rabbits

[186] EU Commission (2002): The Welfare of Animals during Transport. SCAHAW Report. Page 50: 'For journeys of less than four hours it is not necessary that all animals are able to lie down so the equation to use for space allowances for shorn sheep is A= 0.021 $W^{0.67}$ m2'. See footnote 28.

[187] Example: 20°C is the upper limit for broilers, hens and turkeys: at higher temperatures, space should be increased by at least 10% according to EFSA (2004): Opinion of the Scientific Panel on Animal Health and Welfare on a request from the Commission related to the welfare of animals during transport. Pages 15-17. See footnote 30.

[188] FAWC (2013): FAWC Advice on space and headroom allowances for transport of farm animals. Page 10: 'Research is urgently required to identify acceptable values of K for other combinations.' Link: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/324500/FAWC_advice_on_space_and_headroom_allowances_for_transport_of_farm_animals.pdf (last accessed 15.07.2021), confirmed by latest FAWC opinion: Opinion on the welfare of animals during transport (2019), page 7.

[189] Ibid. Page 11: 'The allometric approach provides a common, scientific basis on which to recommend minimum space allowances for different weights of a given type of animal and type of journey. The approach could allow increased precision and hence improvement of animal welfare. However, choice of K value is critical, and appropriate values are yet to be determined for many combinations of animal and journey type', confirmed by the latest FAWC Opinion on the welfare of animals during transport (2019), page 7.

sufficiently during transport.[190] Existing studies merely analysed habitual densities during rabbit transports.[191]
Depending on temperature, which is a crucial stress factor for rabbits during transport, loading densities must be indicated. Rabbits do not sweat and need space to adopt appropriate postures to dissipate heat. Loading density with temperatures above 20°C[192] should allow rabbits to lie flat[193], with ears extended[194], avoiding physical contact with the other animals. In cold temperatures, space must be enough to allow rabbits to change position, to avoid direct exposure to colder areas.[195]

It is recommended that research is carried out into the most suitable formula for calculating the space that rabbits require during transport. As rabbits need to be able to lie down to dissipate heat and are usually transported seated, the formula for minimum space $A = 0.021\ W^{0.67}\ m^2$ is not appropriate.

Demand 19

Following scientific research[196] on the adequate allometric formula to indicate the minimum space that rabbits need during transport[197], considering the postures they need to adopt and especially to dissipate heat. On the base of its outcome, indicate space allowances for the commercial transport of rabbits during cold and hot temperatures, in combination with temperature limits.

[190] EFSA (2011): Scientific Opinion Concerning the Welfare of Animals during Transport. Page 76: 'Recommendation for further research: Further research is needed to better define the allowed minimum space allowance and thermal range during transport of rabbits.' See footnote 41.
[191] Buil, T. et al. (2004): Critical points in the transport of commercial rabbits to slaughter in Spain that could compromise animals' welfare. World Rabbit Science 12(4). Page 72. Link: https://polipapers.upv.es/index.php/wrs/article/view/566 (last accessed 09.08.2021) / See also: EFSA (2011): Scientific Opinion Concerning the Welfare of Animals during Transport. Pages 40-41. See footnote 41.
[192] EFSA (2011): Scientific Opinion Concerning the Welfare of Animals during Transport. Page 45. See footnote 41.
[193] EFSA (2020): Health and welfare of rabbits farmed in different production systems. EFSA Journal 2020;18(1):5944. Page 65: 'At a live weight of 2.5 kg, stretched lying positions required between 593 and 621 cm2 per animal, the latter almost equalling (97%) the space allowance at a stocking density of 16 animals per m2 (Giersberg et al., 2015)'. Link: https://www.efsa.europa.eu/en/efsajournal/pub/5944 (last accessed 09.08.2021).
[194] EFSA (2011): Scientific Opinion Concerning the Welfare of Animals during Transport. Page 46. See footnote 41.
[195] Canadian Code of Practice for the Care and Handling of Rabbits. Paragraph 6.4 'preparation for transport'. Link: https://www.nfacc.ca/rabbit-code-of-practice#section6 (last accessed 09.08.2021).
[196] FAWC (2013): FAWC Advice on space and headroom allowances for transport of farm animals. Page 7. See footnote 189.
[197] EFSA (2011): Scientific Opinion Concerning the Welfare of Animals during Transport. Page 76. See footnote 190.

CHAPTER IV:

Internal heights (space above the animals)

Reason 20

Except for equidae, the Regulation does not lay down species-specific indications for the height above the animals inside the vehicle compartments or containers but only gives very general indications open to interpretation.

The Regulation's provisions concerning the space above the animals during transport are reduced to the following: *'Sufficient floor area and height is provided for the animals, appropriate to their size and the intended journey'*[198] and *'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'*[199].

Only for equines a specific requirement is set. According to Annex I Chapter III point 2.3 *'the minimum internal height of compartment shall be at least 75 cm higher than the height of the withers of the highest animal.'*

[198] Article 3 (g) of the Regulation.
[199] Annex I Chapter II point 1.2 of the Regulation.

Practice shows that insufficient headroom is a common and persistent problem in animal transports which leads to severe animal suffering, injuries and even death of the transported animals.[200]

The problem is attributable to the lack of specific information in the Regulation, which on the one hand, leads to legal uncertainty, and on the other hand to interpretations to the disadvantage of the animals. The requirements concerning the space above the animals stipulated in the Regulation are insufficient to guarantee the animals' health, safety, and comfort during transport. As mentioned above, the Regulation solely indicates that the space above the animals must be 'sufficient'. The undefined legal term 'sufficient' and the generic indication 'above the animals' offers a lot of room for interpretation which is, as practice has shown, laid out to the disadvantage of the animals.

For example, in Italy in December 2020, Animals' Angels requested the official check of a road transport of lambs. Reason for the request was that the animals were touching the ceiling with their heads and

Italy, 19.12.2020 – Nine months old lambs loaded in four decks in a semitrailer with Romanian license plate.

Left: Italy, 30.03.2021 – Two months old lambs loaded in four decks in a semitrailer with Hungarian license plate. Right: Romania, 22.04.2021 – four months old lambs loaded in four decks in a semitrailer with Romanian license plate .

[200] EU Commission (2002): The Welfare of Animals during Transport. SCAHAW Report. Page 49: 'The height of compartments for sheep will cause them problems if they are unable to stand in a comfortable position. This position involves the head being held up so that the top of the head is the highest point on the animal. Since the space above the back of a sheep is not great if the roof is at head height, high temperature and humidity resulting from poor ventilation can cause severe problems for sheep. The space above the top of the head should therefore be 15 cm for vehicles with good forced ventilation systems and at least 30 cm for vehicles without forced ventilation'. See footnote 28.

even backs. However, the official veterinarian carrying out the check denied the obvious, adding that the legislation does not say that there must be space above the heads and that the Regulation should lay down a clear measure like for horses, therefore this transport complied with the law.[201]

The term 'sufficient' and the expression 'above the animals' must be specified. The minimum measures of heights for the different animal species and the point of the body from which to calculate them, must be laid down in the revised Regulation. Following scientific research, the minimum space requirements above the animals shall be laid down for every species in accordance with their weight and age. As a general principle it shall be considered that *'none of the animals should be able to touch the ceiling with its head being held up and having its four legs on the ground.'*[202]

March 2021 – Pregnant heifers transported from the Netherlands to Russia. Some animals nearly touch the ceiling of the transport vehicle with their head.

Demand 20

Introduction of species-specific rules for the space above the animals inside compartments, crates, and containers, which clearly state that none of the animals should be able to touch the ceiling with their heads, horns, or combs while having the head held up and having their four or two legs on the ground. See Demands 21 – 25 below for species-specific indications.

[201] See Animals' Angels report on a long transport of lambs from Romania to Italy observed near Faenza, Italy, 2020.
[202] Letter SANCO, dated 04.09.2009.

Reason 21

The Regulation does not lay down specific requirements for the height above cattle during transport.

The Regulation does not lay down specific requirements for the height above cattle during transport. As mentioned above *(see Reason 20)*, it is only required that the space above the animals is 'sufficient'. This term is broad and open to interpretation.

In practice, the lack of specific rules concerning the space above cattle during transports leads to the following problems: fully grown cattle, even of tall breeds such as Holstein, are loaded on double-deck trucks even though the space above the animals is less than a hand's width or there is no space at all. An equal situation occurs when calves are transported in three decks.

March 2020 – Pregnant heifers transported from Germany to Turkey. The deck height is insufficient for the taller animals.

April 2021 – Pregnant heifers transported from Denmark to Uzbekistan. The deck height is insufficient for the taller animals.

Transporters, respectively the contracting companies, try to carry out animal transports as economically as possible. Being able to load more animals on more decks is worthwhile in its purely economic sense. As a result, animals are loaded on multideck vehicles without much account being paid to the height inside the compartments. When the space above the animals is not enough, the animals cannot stand in their natural position or raise their heads. The situation is especially severe in case of horned animals. The insufficient head room regularly leads to injuries on the animals' backs and tail roots. The animals are hindered to move sufficiently. When touching the ceiling with their backs, they cannot even urinate in a natural position. Additionally, the ventilation within the compartments is hindered when there is no space above the animals.

In case of cattle, the highest point of the animals is the head being held up, and in case of horned animals the ends of the horns. According to SCAHAW, an appropriate specification should be a minimum of 20 cm clear space above the highest part of the tallest animal on board the vehicle.[203] These specifications apply to calves as well as to adult animals. This minimum height proposed by SCAHAW should be significantly increased in journeys exceeding 8 hours. Furthermore, following SCAHAW, the figure of 20 cm clear space should apply for all vehicles[204], so for vehicles with good forced ventilation systems as well as for vehicles without ventilation. A scientific study published in 2012 came to the result that cattle headbutted the roof of the compartment with a clearance of 10, 15 and 20 cm above them. It concluded that to enable to express their normal behaviour and not headbutt the roof, the head room must be sufficient, suggesting a clearance of more than 20 cm.[205]

To ensure an appropriate deck height, cattle with height at withers exceeding 110 cm may only be transported on one deck.

Demand 21

Introduction of specific rules for the space above the animals for cattle, i.e., clearly stating that there must be more than 20 cm above the top of horns or heads of animals and that cattle with height at withers exceeding 110 cm may only be transported one deck.

[203] EU Commission (2002): The Welfare of Animals during Transport. SCAHAW Report. Pages 79, 99. See footnote 28.
[204] Ibid. Page 99.
[205] Lambooj, E. et al. (2012): Compartment height in cattle transport vehicles. Livestock Science 148, 87-94, Link: https://doi.org/10.1016/j.livsci.2012.05.014 (last accessed 16.07.2021).

Reason 22

The indications of the Regulation concerning space allowances for ovine and caprine animals are inappropriate to properly protect the animals during road transport.

As mentioned above *(see Reason 20)*, it is only required that the space above the animals is 'sufficient'. This term is broad and open to interpretation.

Generally, sheep are loaded on three decks of road vehicles. All too often, they don't have sufficient room above them. I.e., the space above the animals is so limited that they cannot stand in their natural position but touch the ceiling with their heads and/or backs. This poses a risk of injury such as bruising and haematomas, and the limitation of movement, e.g., to reach the watering devices. Additionally, the natural and mechanical ventilation is hindered when there is too little space or no space above the animals. This can lead to high ammonia concentrations and subsequent respiratory disorders and cough. Poor air condition, the impossibility to stand in a natural position, comprised health and limited or no access to water are factors that likely lead to earlier exhaustion in the transported animals. Equally, when lambs are loaded on four decks of road vehicles, they have insufficient room above them and suffer from the same consequences.

Following the recommendations by SCAHAW[206] and confirmed by the European Commission[207] the space above the top of the head (as their highest point) should be 15 cm for vehicles with good forced ventilation systems and at least 30 cm for vehicles without forced ventilation. The same recommendation should be extended to caprine animals for analogy[208].

Demand 22

Introduction of specific rules for the space above the animals for ovine and caprine animals, i.e., clearly stating that there must be at least 15 cm, respectively at least 30 cm, above the top of horns or heads of the animals.

[206] EU Commission (2002): The Welfare of Animals during Transport. SCAHAW Report. Page 98. See footnote 28.

[207] Ibid. Page 49.

[208] The Regulation regulates space allowances for sheep and goats together, with the same measures, being the two species similar in size and shape. EFSA (2011) treats the two species, caprine and ovine, together: examples at page 113, table A4, valid for sheep and goats, provides that the lack of space on the top of the head of sheep and goats is a welfare problem. In the same report, table 1, page 11, space allowances for sheep and goats are analysed together. See footnote 41.

Reason 23

The Regulation does not lay down specific requirements for the height above pigs during transport.

As mentioned above *(see Reason 20)*, it is only required that the space above the animals is 'sufficient'. This term is broad and open to interpretation.

The height of compartments for pigs needs to be calculated in relation to the height above the highest part of the body. The highest point of the body of young pigs is the top of the head, and for older or larger pigs it is the centre of the back. Following the recommendations of the EU Commission[209], the space above the highest point of pigs should be 15 cm for vehicles with good forced ventilation systems and at least 30 cm for vehicles without forced ventilation.

Demand 23

Introduction of specific rules for the space above the animals for porcine animals, i.e., clearly stating that there must be a clearance of a minimum of 15 cm for vehicles with good forced ventilation systems and at least 30 cm for vehicles without forced ventilation above the highest parts of their bodies.

Reason 24

The Regulation does not lay down specific requirements for the height above poultry during transport.

As mentioned above *(see Reason 20)*, it is only required that the space above the animals is 'sufficient'. This term is broad and open to interpretation.

In general, the height of the containers used for the transport of poultry is too low for the animals to stand during transport. They are consequently forced to remain in a cowered position, also during long journeys. As a result, the natural ventilation within the containers is hindered and the mortality rates in birds during transport are extremely high. The importance of the internal height when it comes to thermoregulation was held by various experts: *'High crating densities increase the economic gain of the transporters, but birds are less able to cope with*

[209] EU Commission (2002): The Welfare of Animals during Transport. SCAHAW Report. See footnote 200.

their environment with behavioural adaptation, e.g. by regulating their body temperature. Especially in hot weather conditions stocking densities have to be reduced in order to facilitate air movement and protect birds from increasing heat and humidity within the crates. In this case the over-head space and therefore the height of the crates have to be additionally taken in consideration'[210].

Therefore, it is crucial to lay down the minimum heights of the containers used for the transport of poultry according to the height of the comfortably standing bird. To the height of the naturally standing bird, the space must be added that permits airflow throughout the containers.

The average height of a comfortably standing 'laying' hen is 35 – 56 cm.[211] The height of the containers used for the transport of chicken should thus be at least 45 – 66 cm (height of the naturally and comfortably standing animal plus 10 cm space for free air flow).

Demand 24

Introduction of specific crate height requirements for poultry ensuring at least 10 cm clearance above their heads in a standing position.

August 2020 – Transport of hens in cowered position, France.

[210] Paolo Dalla Villa et al. (2009): TECHNICAL REPORT submitted to EFSA, 'Project to develop Animal Welfare Risk Assessment Guidelines on Transport'. Page 49. Link: https://efsa.onlinelibrary.wiley.com/doi/pdf/10.2903/sp.efsa.2009.EN-21 (last accessed 09.08.2021).

[211] https://www.huhn-erleben.de/h%C3%BChner/unsere-h%C3%BChner/h%C3%BChnerrassen/ (last accessed 09.08.2021).

Reason 25

The Regulation does not lay down indications on the internal height for rabbits during transport.

As mentioned above *(see Reason 20)*, it is only required that the space above the animals is 'sufficient'. This term is broad and open to interpretation.

In general, the height of the containers used for the transport of rabbits is too low for the animals. The animals touch the top of the containers with their ears and often even with their heads and backs. Consequently, they cannot sit in their natural upright position with their ears[212] in an upright position[213], and the natural ventilation within the vehicles is blocked. High mortality rates in rabbit transports are a result of this transport practice.

The height of the crates for the transport of rabbits should be different according to the breed, age and size of the rabbit, and of such size that rabbits sit in their natural upright position, and never less than 35 cm for rabbits going to slaughter.[214] This way, another problem would be avoided at the same time: that rabbits' ears are squeezed by the containers stacked on top, as it happens when ears protrude the upper part of the containers *(see also Chapter XIV: Containers and crates)*.[215]

Demand 25

Introduction of specific crate height requirements for rabbits depending on the breed, age and size of the animals, ensuring that they can sit in their natural upright position while upheld ears do not touch the top of the crate.

[212] In case of uppity-eared animals

[213] EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 26: 'Rabbits tend to sit upright as a "control and safety" behaviour'. See footnote 28.

[214] EFSA (2004): Opinion of the Scientific Panel on Animal Health and Welfare on a request from the Commission related to the welfare of animals during transport. Page 26. See footnote 30.

[215] Animals' Angels report on a national transport of rabbits, Padua, Italy, 2011, pages 2-3.

CHAPTER V:
Fitness for transport

Reason 26

The definitions of the Regulation about fitness for transport are not comprehensive and leave room for interpretation.

Fitness for transport is a major factor affecting the welfare of animals during transport. Transport includes inevitable stress factors for all animals, such as handling, regrouping, vehicle motion, temperature extremes, lack of space, limited access to food and water. If animals are weak, ill, or injured, they are more vulnerable to such stressors. *'Welfare risks during transport are greater for animals which are injured or sick'*.[216]

Yet, the Regulation does not comprehensively specify what 'fitness for transport' means. Animals under specified ages, pregnant females with 90% gestation period or more, and females who have given birth in the previous week are considered unfit for transport.[217] Other possible circumstances where animals should be considered unfit, because of impaired health or wellbeing, are however not further specified. Points 2 (a) and (b) of Chapter I of Annex I solely state that *'animals that*

[216] European Parliament (2018): European Implementation Assessment of the Regulation (EC) No 1/2005 on the protection of animals during transport and related operations. EPRS Study. Page 81. See footnote 61.

[217] Annex I Chapter I point 2(c)(d)(e)(f) of the Regulation.

are injured or that present physiological weakness or pathological processes shall not be considered fit for transport, and in particular if: (a) they are unable to move independently without pain or to walk unassisted; (b) they present a severe open wound, or prolapse'.

There are several additional circumstances when an animal may be considered unfit for transport, which are not reflected in the Regulation.

The Canadian Health of Animals Regulations[218], for example, include comprehensive lists of conditions where animals are to be considered 'unfit' or 'compromised'. To name only but a few, an animal that *'has laboured breathing; is extremely thin; exhibits signs of dehydration; exhibits signs of hypothermia or hyperthermia; exhibits signs of a fever; has a gangrenous udder; exhibits signs of exhaustion'*; and more, is unfit for transport. Lameness and hernia are further specified and subdivided. An animal is unfit if she/he is *'lame in one or more limbs to the extent that it [the animal] exhibits signs of pain or suffering and halted movements or a reluctance to walk; is lame to the extent that it [the animal] cannot walk on all of its legs; has a hernia that (i) impedes its movement, including when a hind limb of the animal touches the hernia as the animal is walking, (ii) causes the animal to exhibit signs of pain or suffering, (iii) touches the ground when the animal is standing in its natural position, or (iv) has an open wound, ulceration or obvious infection.'*

Also, the OIE Terrestrial Animal Health Code[219] includes a more comprehensive list on definitions of fitness to transport than the Regulation. Unfit animals are, inter alia, those *'that are sick, injured, weak, disabled or fatigued; unable to stand unaided and bear weight on each leg; blind in both eyes; cannot be moved without causing them additional suffering;'* etc.

These examples underline the incompleteness of the Regulation concerning its definitions of 'fitness for transport'. Additionally, many of the specifications in the Regulation are vague, partly difficult to assess and leave a lot of room for interpretation. For example, 'unable to move independently without pain', is held vaguely and its assessment is hence dependent on the subjective evaluation of the assessor. Lameness in animals has multiple faces, and so does the pain expression of animals. If a wound or prolapse is 'severe' or not is subject to interpretation.

This leads to confusion and uncertainty what fitness for transport means. *'It appears that the understanding of the term 'fitness' itself seems to be problematic (with differing interpretations) and that the people concerned (farmers, drivers and inspectors) are inadequately trained (…)'.* [220]

In practice, this lack of understanding about fitness for transport is highly concerning. It exposes the animals to unnecessary, additional, and severe suffering.

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[218] Article 136 (1) of Part XII of the Health of Animals Regulations. Link: https://laws-lois.justice.gc.ca/eng/regulations/c.r.c.,_c._296/page-16.html#h-548075 (last accessed 05.08.2021).

[219] Article 7.3.7. of Chapter 7.3 of Terrestrial Animal Health Code. Link: https://www.oie.int/fileadmin/Home/eng/Health_standards/tahc/2018/en_chapitre_aw_land_transpt.htm (last accessed 05.08.2021).

[220] European Parliament (2018): European Implementation Assessment of the Regulation (EC) No 1/2005 on the protection of animals during transport and related operations. EPRS Study. Page 23. See footnote 61.

For example, in 2018, Animals' Angels documented the loading of several unfit bulls. In one case, bulls transported on a long journey were unloaded at an intermediate stable. Once the animals were unloaded, it became apparent to Animals' Angels that two of the bulls were unfit for transport: bull Adnan[221] was recumbent at any time of observation by Animals' Angels and only got up after animation by the drivers, in one case collapsing again immediately. He was severely lame and partly non-weight bearing on both hind legs, reluctant to move and exhibited signs of pain, by tensed facial expression, bend back, ears kept backwards[222]. Bull Dagnan was non-weight bearing on one leg and showed pain by halted movements and ears kept backwards. Nevertheless, both bulls were apparently considered fit for transport by the drivers. Both animals were reloaded and transported for another 950 km.[223] In another case, bulls were transported on a long journey to Turkey.

Again, once the animals were unloaded at an intermediate stable, it became evident to Animals' Angels that several of them were not fit for further transportation: one bull, Uguray, was blind and severely stressed and disoriented; four bulls were lame/partly non-weight bearing; several bulls walked reluctantly/in pained gaits; one bull, Camer, went down once unloaded and was then unable to rise. Camer was subsequently forced to rise by workers with physical forces and practices deemed illegal in Europe. He then walked in a pained gait and showed exhaustion. All bulls were reloaded by or under observation of European drivers and transported for further approx. 3 hours.[224]

August 2018 – Romanian bulls transported to Turkey. The bull Camer was re-loaded despite being unfit for transport.

[221] Names were given by Animals' Angels, to underline that each animal is an individual with intrinsic value.
[222] Bech Gleerup, K. et al. (2015): Pain evaluation in dairy cattle. Page 30. Link: https://www.researchgate.net/publication/283008574_Pain_evaluation_in_dairy_cattle (last accessed 05.08.2021).
[223] Animals' Angels report on a transport of young bulls from Hungary to Turkey, 2018, Pages 2-3.
[224] Animals' Angels report on four transports of bulls from Romania to Turkey, 2018, Pages 5-9.

Fitness for transport is the main violation of the Regulation, according to the Member States annual inspection reports.[225] This proves considerable need for action in this area. One means to counteract these violations is by setting clear, understandable, and comprehensive definitions on 'fitness for transport'.

Demand 26

Introduction of a comprehensive and precise list about animal conditions (incl. symptoms, pain behaviour, signs of diseases) when animals are to be considered 'unfit for transport'.

Reason 27

The Regulation offers too much leeway for the evaluation if a compromised animal is fit for transport.

Article 3 of the Regulation states that animals must be fit for the journey. Annex I Chapter I point 3 (a) in turn provides exemptions from the required 'fitness for transport'. Sick or injured animals may be considered fit for transport if they are *'slightly injured or ill and transport would not cause additional suffering; in case of doubt, veterinary advice shall be sought'*.

This paragraph leaves a lot of room for interpretation and is very problematic. The evaluation if a compromised animal is fit to be transported or not is left to the parties involved, e.g., to the farmer, transporter, driver, and not necessarily to the veterinarian who only needs to be consulted in case of doubt.

The problem is manifold: on the one hand, it must be reminded that transports of 'farmed' animals are an economic activity from which stakeholders such as transporters and farmers make a living. Economic benefits are an important decision driver and can confront animal welfare. So, it stands to reason that a compromised or unfit animal is quickly considered fit for transport by concerned stakeholders, even if she/he is not, when viewed independently. Otherwise, repercussions such as financial costs for the veterinary visit and possible veterinary treatment, and eventual further logistical questions for the disposal of the carcass arise. *'Commission audits concluded that practical and economic considerations regularly lead to situations where animals are declared fit when they are not.'* [226]

[225] European Parliament (2018): European Implementation Assessment of the Regulation (EC) No 1/2005 on the protection of animals during transport and related operations. EPRS Study. Page 103. See footnote 61.
[226] Ibid. Page 24.

On the other hand, the Regulation does not narrow down what 'slightly injured or ill' means. It does not list possible conditions that may fall under this category. *For the lack of specifications, see above Reason 26.*

Moreover, the assessment whether an animal is fit for transport, compromised, or unfit is not an easy one. Inter alia, it requires knowledge about animal behaviour, animal health and the Regulation. Lack of knowledge and training may also lead to situations where animals are considered fit for transport by stakeholders, even if they are not. When stakeholders have no 'doubts' about their own judgement, they will not consult veterinary advice in the first place.[227] Hence, there is also a need for more training to recognise unfitness for all involved stakeholders.

The Canadian Health of Animals Regulations[228] specify conditions under which animals are to be considered as 'compromised'. Compromised conditions include an animal that *'is blind in both eyes; is lame other than in a way that is described in the definition unfit; is in a period of peak lactation; exhibits any other signs of infirmity, illness, injury or of a condition that indicates that it has reduced capacity to withstand transport'*, and further.

For example, Animals' Angels documented the reloading of several compromised/unfit animals at a French market . In none of the cases veterinary advice was sought by the involved traders and drivers. One cow, Carla, was lame and partly non-weight bearing, and showed pain by an arched back. Three sheep, Jean, Amélie and Elvira, were non-weight bearing on one leg each. The sheep Karin and the calf Alex showed anomalies of their hind legs and were incapable to move without difficulties, Karin showed additionally pain by an arched back. Apparently, the stakeholders involved saw no reason to classify the animals as compromised or unfit for transport, hence did not seek veterinary advice.[229]

Compromised animals often include so-called 'end-of-career' animals. Animals at the end of their 'career' are taken to the slaughterhouse when they are weakened and frequently suffer from health impairments of any kind. Animals' Angels has documented the condition of these animals during transport in many cases. For example, 'spent dairy' cows often have pre-existing physical limitations and health conditions that can affect their welfare during transport and increase the risk of transport-related injuries and suffering. The same applies to 'end-of-career' sows, sheep or 'laying' hens. Lameness, udder disease or emaciation are common in 'dairy' cows at the end of their career. For example, in 2018, Animals' Angels observed 'spent dairy' cows at markets in Spain. The physical state of many of them was alarming and rendered them compromised and/or unfit for transport. At one market, cows with following health problems were observed: extreme thinness with body condition score 1; emaciation; lameness, inability to stand or walk without pain, e.g., due to joint in-

[227] Ibid. Page 101.
[228] Article 136 (1) of Part XII of the Health of Animals Regulations. See footnote 218.
[229] Animals' Angels report on the livestock market in Sancoins, France, 2018, Pages 2-3.

flammations, inflammations in claws or overgrown claws; udder inflammations; udder abscesses; signs of severe pain; abrasions or open wounds, and more. Despite their alarming health and wellbeing conditions, they were presented for sale, loaded, and transported to slaughterhouses.[230]

As seen, compromised and unfit animals are often being considered fit for transport even if they are not, for various reasons. One means to counteract this is the mandatory assessment by a trained veterinarian of any animal that shows slightly compromised health or wellbeing. The evaluation if transport will have detrimental effects on the welfare of compromised animals should always be left to the specialist in this area, veterinarians. *'The veterinarian is the person ultimately responsible to declare an animal fit or unfit for travel.'*[231]

However, also veterinary assessment is not always accurate. In 2021, Animals' Angels observed again compromised and unfit cows at the end of their career at the same market in Spain. Despite a veterinarian being present, no intervention to prevent the sale and transport of these animals was observed.[232] Also, audit reports of the Commission showed that in some Member States the transport of unfit animals was considered acceptable by private and official veterinarians, as well

Santiago, Spain, April 2018

as by farmers and transporters. Animals who were unfit to travel according to the Regulation were nevertheless transported, often accompanied by certificates of compliance issued by veterinarians.[233]

This raises concern to another issue: The Regulation does not provide any template for such veterinary certificates which authorise the transport of compromised animals. Such template is needed, especially to define a time limit during which the certificate is valid. If a lot of time elapses between the issuing of the certificate and the time of

[230] Animals' Angels and Anda report on animal market at Santiago de Compostela, Galicia, Spain, 18.04.2018, Pages 1-9.
[231] EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 19. See footnote 28.
[232] Animals' Angels Report on Investigation into the Animal Market of Santiago de Compostela, Galicia, Spain, 2021, Page 20.
[233] European Parliament (2018): European Implementation Assessment of the Regulation (EC) No 1/2005 on the protection of animals during transport and related operations. EPRS Study. Page 24. See footnote 61.

loading, the health and wellbeing of the concerned animal may change dramatically and render a compromised animal unfit for transport. The European Implementation assessment of the Regulation also noted that an insufficiently clear and narrow legislative context may explain the transport of unfit animals: *'(…) for instance, sometimes there is a long period between the establishment of the certificate and the actual transport and slaughter of the animal because the period during which certificates are legally binding is not restricted (…).'*[234]

Santiago, Spain , May 2021

Demand 27

- Veterinary advice must always be sought for any compromised animal, e.g., an animal with questionable health or wellbeing.
- A comprehensive list should specify animal conditions (incl. symptoms, pain behaviour, signs of diseases) in which animals are to be considered 'compromised'.
- A template for veterinary certificates accompanying compromised animals should be provided, with a specified legally binding time-period of validity.
- Compromised animals may only be transported with such a veterinary certificate, or under veterinary surveillance, for the purpose of veterinary treatment.

[234] Ibid. Page 24.

Reason 28

The Regulation does not prohibit the commercial transport of animals who are blind in both eyes.

As seen above, the Regulation lacks clear definitions of conditions when animals are to be considered unfit for transport. One specific case is the transport of blind animals.

The OIE Chapter on transport of animals by land considers animals who are blind in both eyes as unfit for transport.[235] So do the Australian transport standards.[236]

The European Regulation lacks behind by not classifying blindness in both eyes as a criterion for 'unfit to transport'.

What can happen to blind animals during transport was documented by Animals' Angels in 2018. A bull, Uguray, blind in both eyes, was loaded in Romania to be transported to Turkey for slaughter. According to information received from the drivers, the veterinarian present at the time of loading in Romania took notice of Uguray, confirmed blindness but nevertheless approved his transportation without special measures such as separation from the other animals. The team of Animals' Angels observed the bull for the first time later in Turkey. On board the vehicle, Uguray showed high respiratory rate, closed eyes, was lying in lateral position and irresponsive to stimuli. At an intermediate unloading stable, Uguray was foaming and salivating at the mouth, was walking into objects, showed neural symptoms such as head tremor, walking in circles and constant eye blinking, and a very high respiratory rate. He was unable to move unguided, appeared completely disoriented and stressed. The whole journey from place of departure to destination lasted for 4 days.[237] Such undue, prolonged, and severe suffering could and should have been avoided from the beginning. A clear prohibition to transport blind animals is needed.

Demand 28

Introduction of the prohibition to transport animals who are blind in both eyes for commercial purposes.

[235] Article 7.3.7. of Chapter 7.3 of Terrestrial Animal Health Code. Link: https://www.oie.int/fileadmin/Home/eng/Health_standards/tahc/2018/en_chapitre_aw_land_transpt.htm (last accessed 05.08.2021).

[236] Australian animal welfare standards and guidelines: Land Transport of Livestock, 2012. Chapter 4 Standard SA4.1 vi), Page 19. Link: http://www.animalwelfare-standards.net.au/files/2015/12/Land-transport-of-livestock-Standards-and-Guidelines-Version-1.-1-21-September-2012.pdf (last accessed 05.08.2021).

[237] Animals' Angels report on four transports of bulls from Romania to Turkey, 2018, Pages 5-6.

Reason 29

The Regulation does not require checks on fitness for transport by competent authorities for short journeys.

In the case of long journeys, the competent authority must perform a check for fitness for transport at the place of departure, as part of an animal health check provided by the veterinary Community legislation.[238] For short journeys, there is no such requirement. This means that the animals are not inspected by veterinary professionals before transport.

Consequently, loading of unfit animals is probably more likely during short journeys, for the absence of veterinary inspection at the place of departure: *'By far the most checks are at the slaughterhouses and these are mostly short distance transport. Most infringements related to fitness are detected at the abattoir. (…) Although to some extent the fitness problems may have occurred during transport, other cases clearly point out that fitness checks before departure were not adequate.'*[239]

An example for inadequate checks at the place of departure was observed by Animals' Angels in Italy, concerning a national transport of pigs. During unloading at the slaughterhouse, several compromised and unfit animals were observed: at least four pigs had big umbilical hernias of roughly 40 cm in diameter; at least two pigs were lame and showed signs of pain, one of them showing swellings at the forelegs and trying to avoid putting weight on them, the other non-weight bearing on a hind leg; one pig, Carlo, was non-weight bearing on one foreleg, with a large swelling at the shoulder, the leg swollen to double-size, and showed signs of pain, such as reluctance to move. The post-mortem inspection at the slaughterhouse revealed a fracture. These conditions, especially the large hernias and swellings at legs, were most likely pre-existing and did not happen during transport.[240]

Obviously, in this case, the checks for fitness at the place(s) of departure by the farmer(s)/keeper(s) and by the driver(s) were completely inadequate. Unfit animals like Carlo who was incapable to move without pain should not have been loaded but released from the suffering at the farm. Compromised animals like the pigs with hernias should at least have been assessed by a veterinarian and in case of transport be transported under special conditions, such as separation from the others. Otherwise, in crowded transport conditions, there is a high risk that other animals trample or bump onto injured, protruding, and vulnerable body parts of compromised animals and thus cause them additional pain, stress, and suffering.

In many other cases and in different Member States, Animals' Angels has observed transports of 'spent' cows to local slaughterhous-

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238 Article 15 (2) of the Regulation.

239 European Parliament (2018): European Implementation Assessment of the Regulation (EC) No 1/2005 on the protection of animals during transport and related operations. EPRS Study. Pages 91, 103. See footnote 61.

240 Animals' Angels report on a national transport of pigs in Italy, 2017, Pages 2-3.

es. These animals are usually sent to slaughterhouses when they are no more 'productive' for the industry, thus when they are showing signs of exhaustion, weakness, injury, or illness. This renders them a very vulnerable category of animals, and so transport is a high threat to their welfare. Even more, many of these cows become so-called 'downer' cows, e.g., they are non-ambulatory, unable to rise or stand on their own muscle-power. Downer animals should under no instances be transported, as this inevitably exposes them to severe pain and suffering. Yet, the transport of downer cows is a significant problem in many Member States. It appears that they are often transported on national routes, e.g., on short journeys. Animals' Angels observed cows being dragged from and onto vehicles by ropes, chains, tractors, front-end loaders, or pullies, at farms, markets, and slaughterhouses. The teams were informed by Italian farmers in 2005/2006 and again, but by fewer, in 2019, that downer cows are not usually killed at the farm but transported to the slaughterhouses.[241]

The transport of birds such as 'spent' laying hens is of particular concern. These animals are physically vulnerable at the time of loading. Egg laying hens at the end of their 'career' have fragile bones, resulting from altered calcium metabolism, so handling during loading easily leads to extensive skeletal trauma and fractures. 'Pre-transport injury, fractures and dislocations will result in painful conditions and the effects will be exacerbated by transportation.'[242] Pre-transport health and fitness checks by officials of these animals hardly take place, as they are often transported on 'short' journeys. In practice, this means that countless birds are transported with broken bones or other severe injuries, subjected to excruciating suffering.

Such practices are ethically more than questionable and not in line with the basic principle of the Regulation: to protect animals during transport. A pre-transport health and fitness assessment by a trained veterinarian is needed for all animals who are subjected to transport for commercial purposes.

Demand 29

Requirement for animal health and fitness checks at the place of origin/loading by competent authorities for every commercial transport of live animals, no matter the duration.

[241] Animals' Angels investigations in Italy, the Netherlands, Portugal, Spain, Germany, Belgium, and Bulgaria. Representative reports: The transport of downer bovines in Italy, 2005-2006 / Report on Serious Animal Welfare Problems at Bulgarian Animal Markets, 2017 / See also: EU Commission (2016): Overview report on systems to prevent the transport of unfit animals in the European Union. Pages 1, 2, 4, 5. Link: https://op.europa.eu/en/publication-detail/-/publication/2bdfe42c-e33f-409e-8f02-4f0308205ede/language-en# (last accessed 05.08.2021).

[242] EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. Page 47. See footnote 41.

Reason 30

The Regulation does not specify the actions to be taken if an animal is considered unfit for transport at the place of loading.

The Regulation states that if animals fall ill or are injured during transport, they must be given appropriate veterinary treatment and if necessary, undergo emergency slaughter or killing in a way which does not cause them any unnecessary suffering.[243] There is no such provision for animals who are considered unfit at the place of loading.

The logical procedure should be the same: *'(...) when health or fitness for transport is compromised, animals should be slaughtered or killed on farm.'*[244] Animals are sentient beings[245], so transportation when they are unfit, ill, weak, or otherwise compromised, will inevitably expose them to suffering and stress. This must be prevented by ending their suffering on the farm.

In practice, however, animals are not always put out of their misery when there is no prospect of cure through veterinary treatment. The reasons are manifold, but economic considerations are, as seen above, an important aspect. Medical euthanasia of an animal renders the carcass unsuitable for human consumption. It consequently implies high costs for a farmer who must pay for the veterinary visit and the disposal of the carcass and the missed revenue of the meat.

Emergency slaughter on the farm, on the other hand, would allow the carcass to be transported to a slaughterhouse and consequently enable returns from the meat. However, the emergency slaughter outside slaughterhouses is complicated by European hygiene legislation[246]. Only animals that suffered an accident meet these requirements. Animals who cannot be transported for welfare reasons, for example due to severe lameness or poor physical condition, do not meet these requirements. Hence, *'(...) there may be an incentive to salvage the meat value of the animal by transporting the animal alive for slaughter.'*[247]

For what concerns transporters, they operate in a very competitive business. Compliance with the Regulation is combined with higher

[243] Annex I Chapter I point 4 of the Regulation.
[244] EU Commission (2016): Overview report on systems to prevent the transport of unfit animals in the European Union. Page 1. Link: https://op.europa.eu/en/publication-detail/-/publication/2bdfe42c-e33f-409e-8f02-4f0308205ede/language-en# (last accessed 05.08.2021).
[245] Consolidated version of the Treaty of on the Functioning of the European Union. Article 13. Link: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX-%3A12016E013 (last accessed 05.08.2021).
[246] Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin.
[247] EU Commission (2016): Overview report on systems to prevent the transport of unfit animals in the European Union. Page 3. See footnote 244.

costs. *'This means that veterinarians and transporters are under a lot of pressure to accept unfit animals.'*[248]
Therefore, a common procedure for on-farm killing of unfit animals is needed in all Member States to prevent their transportation. Economic incentives to transport unfit animals should be reduced. A report of the European Commission about systems to prevent the transport of unfit animals outlined different measures taken by Member States to tackle this issue.[249] *'Sanitary legislation should be reformed to make it legally possible for slaughterhouses to accept carcasses of emergency slaughtered animals, killed on-farm.'*[250]

As regards the Regulation, a provision should be introduced, stating that animals who are deemed unfit for transport must be humanely killed on-site, without delay and without causing them any additional suffering. This applies to all cases where there is no prospect of cure through veterinary treatment of the unfit animal. This would not only assist involved stakeholders in decision making, but also present a basis to address infringements of this pro vision.

To kill or euthanise animals needs specific knowledge and training. To avoid further undue suffering, it should only ever be carried out by professionals. Various studies and audits have investigated the practices of killing animals on the farms. The results are shocking. Stunning equipment was not always available or used, which resulted in serious welfare problems.[251] Alarmingly, proper emergency killing without causing the animals additional suffering could be observed only in a small number of animals examined at Austrian rendering plants. The animals were not killed correctly in almost two-thirds of cattle and one-third of pigs. This means that many animals undergo additional and avoidable suffering when they are put down to actually be spared any further pain or suffering. Emergency killing should only ever be carried out by experienced persons with theoretical knowledge and practical skills.[252]

Demand 30

Requirement that animals who are unfit for transport must be killed on-site by professionals, without delay and without causing additional suffering to the animals in all cases where there is no prospect of cure through veterinary treatment.

[248] European Parliament (2018): European Implementation Assessment of the Regulation (EC) No 1/2005 on the protection of animals during transport and related operations. EPRS Study. Page 100. See footnote 61.
[249] EU Commission (2016): Overview report on systems to prevent the transport of unfit animals in the European Union. See footnote 244.
[250] European Parliament (2018): European Implementation Assessment of the Regulation (EC) No 1/2005 on the protection of animals during transport and related operations. EPRS Study. Page 101. See footnote 61.
[251] EU Commission (2016): Overview report on systems to prevent the transport of unfit animals in the European Union. Page 8. See footnote 244.
[252] Baumgartner, J. et al. (2015): The emergency killing of livestock at farming facilities. Page 20. Link: https://www.researchgate.net/publication/302905398_The_emergency_killing_of_livestock_at_farming_facilities (last accessed 05.08.2021).

Reason 31

The Regulation does not prohibit the transport of animals with light symptoms of infectious diseases or when there is the possibility of a latent infection.

The possibility of disease spread by animal transportation is detained in the Regulation itself. Recital 6 of the Regulation reads as follows: *'The Council invited the Commission on 19 June 2001 to submit proposals for ensuring effective implementation and strict enforcement of existing Community legislation, (…) preventing the occurrence and spread of infectious animal diseases (…).'* Recital 13 states that *'the unloading and subsequent reloading of animals (…) and contact at control posts (…) could in certain conditions lead to the spread of infectious diseases (…).'*

However, the Regulation does not prohibit the transportation of animals who are carrying or likely carrying communicable diseases if they do not show clinical signs. If they show clinical signs, they may and should be considered unfit for transport. Yet, point 3 (a) of Chapter I of Annex I allows the transport of 'slightly ill' animals. This means that the movement of animals with light symptoms of infectious diseases is not generally prohibited by the Regulation.

Some animals who carry infectious diseases do not show clinical symptoms, they have so-called latent infections. But the stress that is associated with transport and handling may compromise the immune system of the animals and cause the outbreak of latent infections.[253]

The high risk of diseases to spread through animal movements is detained in literature. EFSA stated in 2011 that *'the risks for global spread of infectious diseases and the associated consequences for animal welfare by transport of animals remains, as well as infectious disease pandemics.'*

In the same report, EFSA suggested: *'An overall strategy is also, when possible, to avoid transport of live animals. Breeding animals may be replaced with the less risky use of semen or embryos and long-distance transport of animals for finishing or slaughter may be replaced by the transport of carcasses and food products.'*[254]

Demand 31

If animals show the slightest symptoms of infectious diseases, or if there is a possibility that they carry latent infections, veterinary advice must be sought, and the animals shall not be moved unless to the nearest slaughterhouse.

[253] Santman-Berends, I.M.G.A. et al. (2018): Quantification of the probability of reintroduction of IBR in the Netherlands through cattle imports. Preventive Veterinary Medicine, Volume 150. Pages 168-175. Link: https://www.sciencedirect.com/science/article/abs/pii/S0167587717300508?via%3Dihub (last accessed 24.07.2021).

[254] EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. Page 59. See footnote 41.

Reason 32

The Regulation does not prevent the transport of highly pregnant animals.

The Regulation allows pregnant females to be transported up until 90% of their gestation period, according to Annex I Chapter I point 2 (c). This means that animals who are shortly before parturition can still be transported, even on very long journeys over thousands of kilometres. This is not only ethically questionable; pregnancy is a physiological demand for any animal and entails specific needs on the environment and nutrient supply – whereas transport is known to be a stressor for animals and entails food and water deprivation.

'The result is that pregnant animal subjected to transport stress simply needs more energy to maintain two body systems (one's and the fetus), to accumulate some for calving, and simultaneously to adapt to new conditions associated with transportation and new environment.'[255]

Pregnant females are thus at an elevated risk to undergo an energy deficit during transport. An increased energy and water demand can hardly be met appropriately on board a road vehicle. *Please see Chapter VII: Water supply and Chapter VIII: Food supply.*

Moreover, these animals are at a higher risk of welfare and health problems during or following transport related stresses. They *'(…) have a restricted capacity to adapt to demands placed on them by transport.'*[256] and are *'(…) more adversely affected by confined conditions and poor ventilation (…).'*[257] In late pregnancy, they are more susceptible to abortion, dehydration, heat stress or metabolic diseases.[258]

The resulting health and welfare consequences are manifold. Long-term transportation stress may lead to abortions, stillbirths, weaker calves, or disease and death of the mother, shortly or even weeks after arrival at the place of destination.[259]

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[255] Kukharenko, N. and Fedorova, A. (2018): The Effect of Long Transportation Stress on Young Calves Born from Cows and Animal Ecology. Ekoloji 27 (106). Pages 293-299. Link: http://ekolojidergisi.com/download/the-effect-of-long-transportation-stress-on-young-calves-born-from-cows-and-animal-ecology-5358.pdf (last accessed 05.08.2021).

[256] Adams, D.B. (1994): Transportation of animals and welfare. Revue scientifique et technique (International Office of Epizootics) 13 (1). Page 161. Link: https://www.oie.int/doc/ged/D8878.PDF (last accessed 24.07.2021).

[257] EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 101. See footnote 28.

[258] E.g.: Health and Welfare of Cattle Transported in Late Pregnancy, 15 November 2010. Link: https://www.thecattlesite.com/articles/2580/health-and-welfare-of-cattle-transported-in-late-pregnancy (last accessed 05.08.2021) / Risks of transporting cattle in late stage of pregnancy: Government of Western Australia. Link: https://agric.wa.gov.au/n/7846 (last accessed 05.08.2021).

[259] Kukharenko, N. and Fedorova, A. (2018): The Effect of Long Transportation Stress on Young Calves Born from Cows and Animal Ecology. Abstract and Page 294-298. See footnote 255 / See also: Health and Welfare of Cattle Transported in Late Pregnancy, 15 November 2010. See footnote 158.

Also, transport-related stress may lead to premature birthing during transport.[260] Time and time again, Animals' Angels observed new-born animals on board transport vehicles.

The reasons for this prevalence are often unknown to Animals' Angels but are likely varied. For one thing, the exact stage of pregnancy may have been unknown to the farmer/keeper at the place of loading. This can be either due to poor record keeping on insemination dates, loss of latter data, absence of pregnancy tests, wrong pregnancy test results, or due to unknown mating dates in the case of animals kept extensively, for example, sheep herds where rams run with ewes and lambs. Then again, animals can be transported at a very late stage of pregnancy with 90% gestation period, so the transport related stressors may induce premature parturition.

Furthermore, the Regulation does neither require pregnancy examinations to be carried out by professionals before loading, nor a verification of the latter to be provided by the keeper at the place of loading and to be carried by the driver. This means that no control mechanisms are in place to prevent the transport of too highly pregnant animals. Only a trained veterinarian can carry out a complete gestation examination. Stakeholders such as drivers cannot visually determine a stage of pregnancy.

In practice, all the above leads to immense suffering of the mother animals and their offspring. For example, in a transport of highly pregnant heifers from Estonia to Turkey, four heifers gave birth during transport, two or three calves died after birth or were born dead, three heifers died, and three heifers were unfit for transport and had to be left at control posts in Romania. Obviously, these heifers were too far advanced in their stages of pregnancy and/or the transport related stresses were too severe.[261]

Transport of highly pregnant heifers from Estonia to Turkey, July 2016.

[260] For example in the case of mares: Nagel C. et al. (2019): Stress effects on the regulation of parturition in different domestic animals species. Abstract. Link: https://www.sciencedirect.com/science/article/abs/pii/S0378432019302076 (last accessed 05.08.2021).

[261] Animals' Angels report on a transport of pregnant heifers from Estonia to Turkey, 2016, Pages 2-7.

Yet again, in April 2021, a calf named Lena was born during a long journey of over 5,000 km of pregnant heifers from Denmark to Uzbekistan.[262] Apparently, the pregnancy status of Lena's mother was only insufficiently checked before transport, although she had been inseminated twice according to information received. With this background, a thorough examination by a trained veterinarian would have been appropriate to prevent a possible parturition during transport.

On the example of sheep, Animals' Angels witnessed hundreds of new-born lambs on board vehicles over the years. In one particularly extreme case, about 250 heavily pregnant sheep were loaded in Bulgaria. Likely more of the 90% gestation period of most sheep had passed, and more than 100 lambs were born during transport. Several new-born lambs and at least one ewe died.[263] Again in 2018, new-born lambs were found at the Bulgarian-Turkish border. In four different transports, six, three, one and five new-born lambs were detected, respectively.[264] The European Commission's own auditing service held during an audit at the Bulgarian-Turkish border, stated that *'the authorities at the exit point do not report consignments with cases of abortions or new-born animals.'*[265]

If animals give birth during transport, this is not only extremely stressful for the mother, but also life-threatening for the offspring. According to our experience, they are easily trampled to death in the crowd, as the other adult animals can hardly avoid stepping on or over them, due to the lack of space. As regards the mothers, it is totally unnatural and an unreasonable imposition to be forced giving birth inside a moving vehicle. Natural instincts such as segregation from the herd and protection of the offspring are completely impossible to carry out.

Finally, when pregnant animals are transported to slaughter, an additional welfare issue arises. Foetuses in the last third of gestation are most likely capable to experience pain or discomfort. Even though there seems no scientific consensus about their perception of pain or other negative effects, this matter must be taken seriously. When pregnant animals are slaughtered with foetuses in the last third of gestation, there are potential welfare risks for the foetuses. Therefore, EFSA suggests not to send animals for slaughter in the last third of gestation.[266]

To give special consideration to the health of pregnant animals and their unborn offspring, animals should not be transported if more than 40% of their gestation period has passed.[267] In addition, the often un-

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[262] Animals' Angels report on transports of pregnant heifers from Denmark to Uzbekistan, April 2021.
[263] Animals' Angels report on a transport of heavily pregnant ewes and new-born lambs from Bulgaria to Turkey, 2012, Pages 2-5.
[264] Observed during Animals' Angels investigation. No. CH.01.01.2018, 07.-16.01.2018.
[265] DG(SANTE) 2017-6109, Page 8. Link: https://ec.europa.eu/food/audits-analysis/audit_reports/details.cfm?rep_id=3880 (last accessed 05.08.2021).
[266] EFSA (2017): Scientific Opinion on the animal welfare aspects in respect of the slaughter or killing of pregnant livestock animals (cattle, pigs, sheep, goats, horses). Abstract and Pages 55, 57. Link: https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2017.4782 (last accessed 05.08.2021).
[267] Eurogroup for Animals (2021): Live animal transport: Time to change the rules. Page 18. Link: https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2017.4782 (last accessed 05.08.2021).

certain date of insemination makes a time buffer necessary to ensure that animals are not transported in an advanced state of pregnancy. The pregnancy status of all animals should be established before they are prepared or loaded for transport, and corresponding documentation should accompany animals at the time of sale.

Highly pregnant ewes and newborn lambs transported from Hungary to Turkey, 2018.

Demand 32

- Prohibition to transport animals when 40% of the expected gestation period has passed.[268]
- Requirement that information on insemination and/or pregnancy diagnosis accompanies animals throughout their entire journey.
- Limitation of the transport time to maximum 4 hours for pregnant animals transported for commercial purposes.
- Provision of significantly more space, adequate ceiling height, extra bedding, increased feeding and watering for pregnant animals.
- Science-based specification of the temperature range in which pregnant animals may be transported.

[268] Exemptions for transports for veterinary treatment.

CHAPTER VI:

Temperature limits

Reason 33

The Regulation lacks science-based, species-specific temperature limits during transport.

At current, the sole temperature limit the Regulation lays down applies to long journeys only and reads as follows: *'Ventilation systems on means of transport by road shall be designed, constructed and maintained in such a way that, at any time during the journey, whether the means of transport is stationary or moving, they are capable of maintaining a range of temperatures from 5°C to 30°C within the means of transport, for all animals, with a +/– 5°C tolerance, depending on the outside temperature.'*[269]

This provision completely ignores the vast range of animals transported and their largely differing needs. Already back in 1999, the Scientific Committee of the European Commission concluded: *'Common ventilation rules for all animals are difficult to establish because of the very different temperature requirements of the various animal species.'*[270]

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[269] Annex I Chapter VI point 3.1 of the Regulation.

[270] EU Commission (1999): Standards for the Microclimate inside Animal Transport Road Vehicles. Report of the Scientific Committee on Animal Health and Animal Welfare. Page 7. Link: https://ec.europa.eu/food/system/files/2020-12/sci-com_scah_out35_en.pdf (last accessed 05.08.2021).

The thermoneutral zones of animals vary greatly, not only between the species but also between the different categories and ages of animals within one species. The thermoneutral zone is the range of environmental temperatures in which a warm-blooded animal (mammals and birds) does not have to generate extra heat to keep warm nor to expend metabolic energy to cool down.[271] Thus, if ambient temperatures are lower or higher than the thermoneutral zone, animals need to spend energy expenditure to maintain their body temperature - so-called thermoregulation. E.g., there are energy costs for thermoregulation. The more the ambient temperatures are outside the thermoneutral zone, the more efforts are needed to thermoregulate, and the higher the risk of thermal induced welfare and health issues. When the body can no longer keep up with thermoregulation, hypothermia or hyperthermia follows, both significant stressors for the organism and thus the wellbeing of any animal. Hypo- and hyperthermia can lead to death if the outer circumstances are not altered.[272]

To illustrate some of the vast differences in the animals' thermoneutral zones: scientific research identified the thermal 'comfort' zone in passively ventilated open vehicles to be 10 – 15°C for well-feathered birds such as broilers or pullets, and much higher at 22 – 28°C for poorly feathered 'spent' laying hens. For rabbits, the optimal climatic conditions are temperatures between 13 – 20°C with a relative humidity of 55 to 65%.[273] The thermoneutral zone of horses is estimated between 5 – 25°C.[274]

According to the University of Bern, the thermoneutral zone of cattle, for example, depends on the age. Younger animals have a larger body surface compared to their body mass, which means that energy is lost in the form of warmth. As a result, younger animals freeze faster. The thermoneutral zone of new-born calves is between 10°C and 26°C, and between 0°C and 23°C for calves of the age of one month. For adult 'dairy' cows, it lies between – 5°C and + 15°C.[275]

In pigs, the thermoneutral zones also vary greatly. Young piglets need a distinctly higher ambient temperature than their elder conspecifics. Grown pigs on the other hand do not well tolerate heat. Pigs have only a few functional sweat glands and therefore limited abilities to thermoregulate during high temperatures. Their thick subcutaneous layer of adipose tissue makes it difficult for them to release body heat. Under natural conditions they would, inter alia, wallow to cool down, which is not possible during transport. Contrarily, the crowd inside transport vehicles often even hinders them from changing position in search of cooler or moist surfaces. They thus rely on latent heat loss,

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271 Definition of 'thermoneutral zone' according to: https://www.oxfordreference.com/view/10.1093/oi/authority.20110803103910224 (last accessed 04.08.2021).

272 Terrien, J. et al. (2011): Behavioural thermoregulation in mammals: a review. Frontiers in Bioscience 16, Page 1428. Link: https://www.fbscience.com/Landmark/articles/pdf/Landmark3797.pdf (last accessed 04.08.2021).

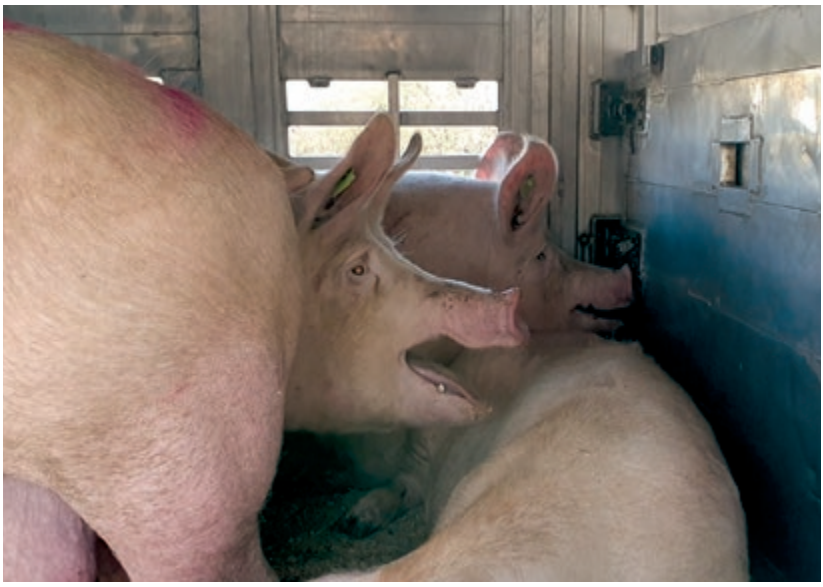
273 EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. Pages 45, 47. See footnote 41.

274 Morgan, K. (1998): Thermoneutral zone and critical temperatures of horses. Journal of Thermal Biology, Volume 23, Issue 1. Pages 59-61. Link: https://doi.org/10.1016/S0306-4565(97)00047-8 (last accessed 04.08.2021).

275 University of Bern, University of Zurich: Gesunde Rinder: Stallklima: Temperatur. Link: https://www.gesunderinder.unibe.ch/allgemeines/stallklima/temperatur/ (last accessed 04.08.2021).

e.g., evaporative cooling *(for details on evaporative cooling see next Reason 34).*[276]

In practice, this means that grown pigs are very susceptible to high temperatures. For example, sows showed thermal overload and severe heat stress at outside temperatures of 26°C. They showed increased respiratory rates and panting with open mouth.[277]



Germany, March 2021 – Transport of 'spent' sows to a slaughterhouse. They show severe heat stress signs like panting with open mouth at outside temperatures of 26°C.

Thermal conditions are a major risk to animal welfare during transport, this has been confirmed by various studies and scientific opinions.[278] High temperatures are even identified as the main cause of animal welfare problems during export transports.[279]

It is therefore crucial to consider the respective needs of the animals when laying down upper and lower temperature limits within the means of transport, for journeys of any duration. Only then thermal overload, subsequent thermal stress, and animal suffering can be properly addressed. To lay down specific thermal limits for at least some animals has been recommended in scientific opinions already

[276] Mayorga, E.J. et al. (2019): Heat stress adaptions in pigs. Page 55. Link: https://lib.dr.iastate.edu/cgi/viewcontent.cgi?article=2330&context=abe_eng_pubs (last accessed 05.08.2021) / Rioja-Lang, F.C. et al. (2019): A Review of Swine Transportation Research on Priority Welfare Issues: A Canadian Perspective. Page 5. Link: https://www.readcube.com/articles/10.3389/fvets.2019.00036 (last accessed 05.08.2021).

[277] Animals' Angels report on a transport of sows, Germany, March 2021, Page 2.

[278] For example: EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Pages 21, 23, 29, 46, 47, 49, 51, 69, 70, 71, 72, 76, 80. See footnote 41 / Broom, D.M. (2008): The welfare of livestock during road transport. Page 171. Link: https://www.researchgate.net/publication/285665282_The_welfare_of_livestock_during_road_transport (last accessed 05.08.2021).

[279] EU Commission (2019): Overview Report Welfare of Animals Exported by Road. DG(SANTE) 2019-6834. Page 16. Link: https://ec.europa.eu/food/audits-analysis/overview_reports/details.cfm?rep_id=136 (last accessed 05.08.2021).

in 1999[280] and 2004[281], and in 2011[282] by the European Food and Safety Authority EFSA.

In 2006, the Commission submitted a draft regulation on specific temperature standards at the Standing Committee on the Food Chain and Animal Health. Yet, most Member States did not support the proposed figures. It is time that the overwhelming scientific evidence is applied, and specific temperature limits are adopted for the different species and categories of animals.

EFSA stated in 2011 that on-board systems which monitor the temperatures against different thresholds exist already.[283] It is thus feasible to install on-board systems which cater various settings adapted to different species/categories of animals.

Demand 33

Introduction of science-based temperature limits, adapted to and based on the thermoneutral zones of the different animal species and categories.

Reason 34

The Regulation does not consider relative humidity when laying down temperature limits.

There is scientific consensus that in order to establish acceptable microclimate ranges on board a vehicle, the relative humidity needs to be considered, besides the ambient temperature (and other factors, such as air velocity).[284] The relative humidity is a key factor determining the microclimate.

Relative humidity plays a vital role in the ability of animals to regulate their body temperature both during high and low temperatures.

During cold temperatures, high humidity may enhance heat dissipation, i.e., the animals lose heat and are more likely to suffer from cold. During high temperatures, as humidity increases the effectiveness of evaporative cooling decreases. Evaporation is one of the mechanics

[280] EU Commission (1999): Standards for the Microclimate inside Animal Transport Road Vehicles. Report of the Scientific Committee on Animal Health and Animal Welfare. Pages 24, 25. See footnote 270.
[281] EFSA (2004): Opinion of the Scientific Panel on Animal Health and Welfare on a request from the Commission related to Standards for the microclimate inside animal road transport vehicles 1 (Question N° EFSA-Q-2003-085). The EFSA Journal 122, 1-25. Pages 2, 18, 19. Link: https://efsa.onlinelibrary.wiley.com/doi/pdf/10.2903/j.efsa.2004.122 (last accessed 05.08.2021).
[282] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Page 71. See footnote 41.
[283] Ibid. Page 63.
[284] EU Commission (1999): Standards for the Microclimate inside Animal Transport Road Vehicles. Report of the Scientific Committee on Animal Health and Animal Welfare. Pages 7, 10-12. See footnote 270.

animals use to lose heat. Evaporative cooling is achieved by sweating or panting, as heat is lost within the liquids that evaporate during these processes. High humidity directly affects this process; if humidity is high and the air thus saturated, the release of heat is hindered.[285]

It is therefore common practice to use the Temperature-Humidity Index (THI) to define thermal comfort and risk zones for 'farmed' animals. In 2011, EFSA recommended to lay down temperature limits for poultry in regards of relative humidity, and to equip poultry vehicles with mechanical ventilation which can regulate the temperature and the humidity. Further, the monitoring of parameters such as relative humidity was recommended, to provide additional information for assessing welfare during transport.[286]

Such unanimous scientific evidence must be considered. Species-specific temperature limits must be introduced in combination with humidity.

Demand 34

Introduction of species-specific temperature limits in combination with humidity.

Reason 35

The Regulation lacks clear legal provisions that animal transports are not allowed under and above certain outside temperatures, respectively.

As seen above, the Regulation states that the temperatures within the vehicle must be kept within a range from 5 – 30°C during long journeys.[287] However, it does not lay down any outside temperature limits during which transports of live animals should not take place.

This is problematic. It results in transports commonly taking place also during extreme temperatures, as the Regulation does not prohibit it in general. The requirement to maintain the internal temperatures within the specified range does not constitute a clear legal transport limit. It is merely a requirement, compliance with which can only be verified during or even after transport.

Vehicles used for the transport of 'farmed' animals are generally not climatised, means they are not equipped with air conditioning systems. The commonly installed mechanical air ventilation systems move the air (to a greater or lesser extent depending on the inside space availability), but they cannot lower or increase the inside temperature.

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[285] Ibid. Page 10.
[286] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Pages 71, 88. See footnote 41.
[287] Annex I Chapter VI point 3.1 of the Regulation.

The inside temperature follows the external temperature. Consequently, these ventilation systems cannot maintain the inside temperature within the legally required limits, especially if outside temperatures are high.[288] In addition, mammals release body heat in the form of radiation and convection, which contributes to an increase of internal temperatures.[289]

Hence, in practice, the temperature limits stipulated by the Regulation are often violated. Numerous examples of ventilation systems being incapable to maintain the temperatures within the legal limits were observed by Animals' Angels over the years. For example, temperatures inside a truck with cattle rose to 41°C whilst it was parked in direct sun, despite the ventilation system was turned on. Outside temperatures were between 35 – 38°C in the shade.[290] In another case, the inside temperatures of four trucks with cattle were measured. The trucks were parked in the sun at ambient temperatures of ~ 33 – 35°C. The inside temperatures were between 34°C and 36.6°C in all trucks, in varying compartments of the 1st decks, despite the ventilation systems were turned on.[291]

NGO complaints[292] and audit reports[293] of the European Commission have identified exceeded temperatures as a main violation of the Regulation. Most reports seem to concern exceedance of the upper temperature limit. However, also transports under very low temperatures are of concern. In the JRC study of 2009, 26% of the observed journeys were below the limits proposed by EFSA.[294] In winters 2019 and 2020, Animals' Angels observed six transports of pregnant heifers to Central Asia and recorded extremely low outside temperatures in all of them. Temperatures within the vehicles were as low as –7.2% with 90% humidity in one case, or –14°C during more than 21 hours in another case.[295]

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288 DG(SANTE) 2019-6834. Pages 8, 9. See footnote 279.

289 Mortola, J.P. (2013): Thermographic analysis of body surface temperature of mammals. Zoological Science, Vol. 30 (2). Page 118. Link: https://bioone.org/journals/zoological-science/volume-30/issue-2/zsj.30.118/Thermographic-Analysis-of-Body-Surface-Temperature-of-Mammals/10.2108/zsj.30.118.full (last accessed 27.07.2021).

290 Animals' Angels report on a transport of cattle from Hungary to the Greek isle Kos, Greece, 2020, Pages 2+3.

291 Animals' Angels report on four transports of cattle from Romania to Turkey, 2018, Pages 1+3.

292 E.g.: AWF/TSB: The doomed journey: EU live exports to Turkey. Link: www.animal-welfare-foundation.org/service/dossiers/the-doomed-journey-eu-live-exports-to-turkey/ (last accessed 05.08.2021) / Animals' Angels (2016): The Myth of Enforcement. Page 17. Link: www.animals-angels.de/fileadmin/user_upload/03_Publikationen/Dokumentationen/Animals_Angels_Myth_of_Enforcement.pdf (last accessed 05.08.2021).

293 E.g.: DG(SANTE) 2017-6217/ DG(SANTE) 2018-6447/ DG(SANTE) 2017-6099, available under https://ec.europa.eu/food/audits-analysis/audit_reports/index.cfm (last accessed 05.08.2021).

294 JRC Scientific and Technical Reports, 2009; Study on temperatures during animal transport, Document reference: G07-TRiVA/(2009). Page 20. Link: https://ketlib.lib.unipi.gr/xmlui/bitstream/handle/ket/1050/study%20on%20temperatures_animal%20transport.pdf?sequence=2&isAllowed=y (last accessed 05.08.2021).

295 Animals' Angels report on two transports of heifers from Germany to Uzbekistan, 2019, Page 5 / Animals' Angels report on two transports of heifers from the Netherlands to Uzbekistan, 2020, Page 3 / Animals' Angels report on two transports of heifers from Germany to Turkmenistan, 2020, Page 9.

It is therefore inevitable to lay down outside temperature limits, during which animal transports shall not take place. Without such a limit, transports will continue to take place during extreme temperatures, as it may easily be claimed by interested parties that the vehicle will be capable to maintain the temperatures within the legal limits.

Demand 35

Introduction of legally prescribed outside temperatures for commercial animal transports considering the species- and category-specific needs of the animals, whereas in general no animal shall be transported under 0°C or above 25°C outside temperature.[296]

Reason 36

The Regulation does not foresee temperature limits for short journeys.

All the above explanations on implications of extreme temperatures on the animals also apply to so-called short journeys, that can last 8 or even 12 hours (according to Article 18 (4) of the Regulation). *'Extremes of temperatures can cause very poor welfare in transported animals.'*[297] This is true for all journeys no matter their duration.

However, for short journeys the Regulation provides no temperature limits. The foreseen temperature range of 5 – 30°C inside the vehicle is stipulated for long journeys only.[298] What is more, vehicles used for short journeys do not need to be equipped with mechanical ventilation systems. Generally, they solely provide passive ventilation whilst driving, achieved by airflow through the side openings. Passive ventilation is not capable to regulate the inside temperature at all, especially not during standstill.

This legal loophole exposes the animals to a high and unnecessary risk of suffering.

For example, in summer 2020, Animals' Angels observed so-called 'short' journeys taking place during extreme temperatures. In one case, pigs were transported to a slaughterhouse in the hottest daytime hours of 32°C and more. The pigs obviously suffered from the heat: they showed high respiratory rates, panting with open mouths, foaming at mouth. This short national transport was additionally delayed for unknown reasons and parked at noon for two hours on the transporters' business premise, under the scorching sun.[299] In another case, broiler

[296] Exemptions may be granted for veterinary treatment and for air-conditioned vehicles.
[297] Broom, D.M. (2008): The welfare of livestock during road transport. Page 171. Link: https://www.researchgate.net/publication/285665282_The_welfare_of_livestock_during_road_transport (last accessed 05.08.2021).
[298] Annex I Chapter VI point 3.1 of the Regulation.
[299] Animals' Angels email complaint on a transport of pigs to a Vion slaughterhouse, Germany, 17.08.2020.

chickens were transported during temperatures of up to 34°C. These birds are very susceptible to heat, and ventilation was hindered by the crates being stacked on top of and behind each other. The thermal comfort zone of the birds was certainly massively exceeded.[300]

Therefore, species-specific temperature and humidity limits are needed for all lengths of journeys, to avoid unnecessary thermal stress. Thermal stress does not only affect long journeys but begins much sooner, depending on the circumstances. For poultry for example, EFSA stated that *'(...) journeys over 4 hours for broiler chickens and end of lay hens constitute a greater risk to welfare from thermal stress (heat or cold) than shorter journeys, particularly in more severe weather conditions.'*[301]

Demand 36

Introduction of science-based, species-specific temperature and humidity limits for all journeys, no matter their duration.

Reason 37

The Regulation does not require means of transport to measure and record the humidity in combination with the temperature.

[300] Observed during Animals' Angels investigation in Germany, HB.008.2020, 02.-07.08.2020.
[301] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Page 80. See footnote 41.

The Regulation requires vehicles used for long journeys to be equipped with a system monitoring and recording the temperature. These temperature sensors must be placed inside the loading area. A warning system must alert the driver when the temperatures inside the animal compartments reach certain limits. The temperature recordings can be requested by competent authorities to retrospectively verify compliance with stipulated temperature limits.[302] From all this it can be concluded that animals should be prevented from exposure to exceeded temperatures and hence thermal stress.

However, as discussed above, the exposure of animals to thermal stress is also largely influenced by humidity. In order to monitor the thermal conditions on board and thus draw conclusions about the welfare of the animals, humidity must be considered in combination with the temperatures. This accounts for all journeys, no matter their duration.

Consequently, all means of transport by road should be fitted with systems capable to monitor temperature and humidity and which can be set for different thresholds in relation to the different species/categories of animals. To monitor the humidity on board is also recommended in the factsheets on extreme temperatures, created by the subgroup on animal transport in the framework of the EU Animal Welfare Platform.[303]

In a study of the European Commission Joint Research Centre in 2009, data loggers with integrated temperature and humidity sensors were used. It was noted that *'the temperature and humidity recording devices functioned over the period of the study largely satisfactory.'*[304]

Demand 37

Requirement for all road vehicles to be equipped with on-board systems that measure temperature and humidity and can be set for different thresholds.

[302] Annex I Chapter VI point 3.3 of the Regulation.
[303] Factsheet transport extreme temperatures. For example, on Page 2 of the factsheet for cattle. Link: https://ec.europa.eu/food/animals/welfare/eu-platform-animal-welfare/platform_conclusions_en (last accessed 05.08.2021).
[304] JRC Scientific and Technical Reports, 2009; Study on temperatures during animal transport. Page 26. See footnote 294.

CHAPTER VII:

Water supply

Reason 38

The Regulation leaves too much leeway as to how and how much water the animals shall receive during transport.

Animals need to receive water during transport, at intervals specified in Chapter V of Annex I of the Regulation. This is the case for journeys longer than 8 hours of domestic equidae, bovine, ovine, caprine, and porcine, and for journeys longer than 12 hours of poultry, domestic birds and domestic rabbits. Chicks of all species may go up to 24 hours without water, provided that the journey is completed within 72 hours after hatching. Unweaned calves, lambs, kids, foals, and piglets must be given liquid after 9 hours of travel. Pigs must have continuous access to water.[305] Domestic equidae must be given liquid every 8 hours. Domestic bovine, caprine and ovine must be given liquid after 14 hours of travel. Article 3 (a) requires that all necessary arrangements have been made in advance to meet the needs of the animals during the journey.

[305] In the case of journeys lasting maximally 12 hours, Member States may grant derogations from the provision to water porcine animals constantly during transport (Article 18 (4) of the Regulation).

Consequently, the Regulation requires vehicles used for long journeys to be equipped with a watering system. The Regulation sets certain requirements on these systems. *'The means of transport and sea containers shall be equipped with a water supply that makes it possible for the attendant to provide water instantly whenever it is necessary during the journey, so that each animal has access to water. The watering devices shall be in good working order and be appropriately designed and positioned for the categories of animals to be watered on board the vehicle'*[306]. Further, *'due regard shall be paid to the need of animals to become accustomed to the mode of feeding and watering'*[307], and compartments must be created in a way *'(...) providing all the animals with free access to water'*[308].

In practice, due to various reasons, animals cannot be adequately provided with water from the on-board watering systems. This means that the majority of the animals remain thirsty during long journeys: because they have no access to the drinkers, they are unfamiliar with the type of drinker, the drinker is not appropriate for their needs, the drinker does not allow them to drink in adequate quantities, the drinkers are broken/contaminated, the water system is frozen, or because the water from the tank is warm or hot and therefore unpalatable.

a) Types of drinkers for the different types of animals

The type of drinkers installed in the vehicles and used for the different animals is a major issue. The Regulation lacks specifications in this regard. *'Appropriately designed and positioned for the categories of animals to be watered on board the vehicle'*[309] leaves a lot of room for interpretation on which devices are appropriate for which type of animal. In practice, this results in animals being unable to drink (sufficiently) during long journeys, because they cannot or do not know how to use the installed water system.

The German and Austrian Handbooks on Animal Transport give specifications in this matter. For example, the Austrian Handbook states: *'For cattle, sheep, goats, and horses, only drinkers with a visibly open water surface (...) are suitable. Nipple drinkers with bite nipples (or lever drinkers) are in principle suitable for pigs, as long as they can take the drinker completely into their mouth and operate the nipple / lever'*[310].

Nipple drinkers are not suitable for goats and sheep. These ruminants are 'suckling-drinkers', meaning, they dip their mouths shallowly into water and suck it up in small gulps. Nipple drinkers do not offer the animals an open-water surface to do so. These drinkers much more require a 'licking-slurping' water intake. According to the experience of Animals' Angels, ovine and caprine animals are mostly unfamiliar with nipple drinkers. According to Animals' Angels observations, those individual animals that recognise the nipple drinkers as a source of water cannot use them appropriately. They may grab the drinkers with their

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306 Annex I Chapter VI points 2.1 and 2.2 of the Regulation.
307 Annex I Chapter III point 2.7 of the Regulation.
308 Annex I Chapter VI point 1.7 of the Regulation.
309 Annex I Chapter VI point 2.2. of the Regulation
310 Austrian ministry on Social Affairs, Health, Care and Consumer Protection (2020): Handbuch Tiertransporte Langstrecke, Zusatz lange Beförderung. Pages 29f. Link: https://www.tierschutzkonform.at/wp-content/uploads/2018/12/Handbuch-Tiertransporte-Langstrecke-3Auflage.pdf (last accessed 09.08.2021).

teeth, apply pressure on the drinker itself and/or the nipple/lever, and then try to lick and swallow the dripping water. This does not allow them to take in a sufficient amount of liquids, and most of the water is spilled. The Austrian Handbook on Animal Transport reads: *'This type of water intake [by nipple drinkers] is not considered species- and behaviour appropriate for the "suckling-drinker" sheep and should therefore be rejected'*[311]. The Austrian Handbooks for Goats and Sheep Housing state that *'the exclusive offer of nipple drinkers is to be regarded as impermissible'*[312].

Nevertheless, most of the vehicles transporting ovine or caprine are equipped with nipple drinkers which are usually positioned between the side bars. Apparently, they are commonly accepted as an adequate watering system for these animals by transporters, drivers and even competent authorities. This is an erroneous 'common acceptance' of far-reaching consequences. It exposes thousands of animals to thirst with the associated potential health and welfare hazards of dehydration, as they can neither drink species-appropriately nor in sufficient quantities. For example, all 11 observed transports of lambs in March 2021 were equipped with nipple drinkers, inadequate for the lambs on board[313].

Animals' Angels commonly observes signs of thirst or negative feelings in transported lambs. Vocalization[314], bar biting and licking the

Italy, 2020 – Protruding nipple drinker, positioned between the side bars, inadequate for ovine and caprine animals.

311 Ibid. Page 30.

312 For example: Fachstelle für tiergerechte Tierhaltung und Tierschutz (2020): Handbuch Schafe, Selbstevaluierung Tierschutz. Page 27. Link: https://www.tierschutzkonform.at/wp-content/uploads/2020/10/www.tierschutzkonform.at-handbuch-schafe-handbuch-schafe-3auflage-1.pdf (last accessed 09.08.2021).

313 Observed during Animals' Angels investigation no. SM.002.2021, Italy, 25.-31.03.2021.

314 Richmond, S.E. et al. (2017): Evaluation of Animal-Based Indicators to Be Used in a Welfare Assessment Protocol for Sheep. Frontiers in Veterinary Science 4:210. Page 8. Link: https://www.readcube.com/articles/10.3389/fvets.2017.00210 (last accessed 09.08.2021).

ceiling or side walls[315] are amongst the most common behaviours observed. Even lambs sticking out their muzzles through the bars in attempts to get some raindrops were observed.

The requirement of the Regulation that the animals should be accustomed to the mode of watering is both unfeasible and uncontrollable in practice. Nipple drinkers are not commonly used in ovine and caprine housing systems. These animals need to drink from open water surfaces like troughs or bowls. The Austrian Handbook on Animal Transport recommends swimmer drinking troughs, as sheep do not like to activate or push items to operate the water flow.[316] A precondition for the use of the throughs/bowls is the height at which they are placed, i.e., they must be installed at a height adapted to the size of small ruminants.

For pigs, the positioning of nipple drinkers is of utmost importance. Inadequate positioning often impedes a proper water intake. The problem is twofold: firstly, the position of the drinker between the side bars, and secondly, the orientation of the nipple/lever.

Embedded nipple drinkers positioned between the side bars: the space above and below the drinkers is insufficient for the grown pigs. The orientation of the opening is inwards, they can neither open their mouths to fully enclose the drinkers, nor activate the nipple/lever with their palate.

To allow pigs an adequate water intake, they must be able to open their mouths and fully enclose nipple drinkers of any design, so that they can open the water valve by applying pressure on the nipple / lever with the palate.[317] The drinking water is then applied directly into the mouth. This implies the fundamental precondition of enough space around the drinker to open the mouth. Guideline values of the needed space around the nipples are detailed in the German Handbook on Animal Transport: free space of 6 cm above and 4 cm below the drinker, es-

[315] OIE Training: The Trainer's Workshop. Animal Welfare conditions during long distance transport by land. Session I. 6. Unloading and resting of animals. Page 14. Link: https://rpawe.oie.int/fileadmin/upload-activities/upload-transport/tot_ldt/training_materials/6.tot_ldt_unloading_and_resting.pdf (last accessed 09.08.2021).
[316] Austrian ministry on Social Affairs, Health, Care and Consumer Protection (2020): Handbuch Tiertransporte. Page 29. See footnote 310.
[317] DLG Fachzentrum Land- und Ernährungswirtschaft (2008): DLG-Merkblatt 351 Tränketechnik für Schweine. Page 11. Link: http://media.repro-mayr.de/89/93489.pdf (last accessed 09.08.2021).

pecially between bars.[318] This is often not given. According to the experience of Animals' Angels, the lack of space between the bars where the nipple drinkers are installed often does not allow grown pigs to open their mouths and enclose the nipples.

Secondly, in a very common type of nipple drinkers, the nipple/lever can be pushed from one side only. For example, the nipple/lever is halfway embedded in a steel mantle which is open to one side only. Hence, for a standing pig to be able to operate the nipple/lever with his palate, the opening must be directed upwards. Again, this is mostly not given. According to the experience of Animals' Angels, these drinkers are often installed between the sidebars with the opening oriented inwards to the compartment, not upwards. In practice this means that the pigs can only apply pressure on the nipple/lever with their snout. An adequate water intake is consequently not given at all. They may at most be able to lick the dripping water. This does not constitute an appropriate water intake and contributes to water spillage.

The space above and below the drinker remains essential for any type of nipple drinker used. Only with sufficient space the pigs can enclose the drinkers with their mouths.

Spraybutton nipples (© Dr. Alexander Rabitsch)

Sometimes, spray nipples or button nipples are installed in vehicles and considered as a 'water system'. This is fatal, as they cannot be considered as a single water system for any species. They are intended to be installed above or inside water/feeding troughs. By applying pressure on the buttons or nipples water sprays into the trough. This system is used in pig housing systems, so the pigs can moisten their feed themselves or drink out of the trough. For its use as a water system on vehicles, the German Handbook is very clear: *'So-called spray nipples or button nipples of any design do not constitute drinking systems and are not suitable as the sole water supply for pigs'*[319].

'Cattle are mostly used to troughs or bowls'[320]. According to the experience of Animals' Angels, there are different types and systems of troughs and bowls installed in transport vehicles. In all observed systems, a kind of lever or button must be pushed to open the

[318] Marschner, U. et al. (2020): Handbuch Tiertransporte. Page 16. Link: https://www.openagrar.de/servlets/MCRFileNodeServlet/openagrar_derivate_00035389/Handbuch-Tiertransporte-inkl-Anlagen-2020.pdf (last accessed 09.08.2021).
[319] Ibid. Page 104.
[320] EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 78. See footnote 28.

Greece, 2020 – Button drinkers, inadequate for cattle.

Turkey, 2018 – Flap covering the trough.

water valve. In some cases, flaps cover the troughs to prevent contamination with excrements. Yet, these flaps are not always easy to open, and cattle not being used to them may not understand the concept at all. Some of the observed buttons inside the troughs are inadequate for cattle. They were not always easy to push or appeared too small for cattle' muzzle. The waterflow rate is another issue. Watering systems in transport vehicles generally operate with low pressure.[321] Optimal for a species-appropriate water intake is a water flow rate that more or less corresponds to the animals' natural drinking rate. For cattle, this would be 10-20 litres per minute[322]. With low pressure systems installed on road vehicles, such a water flow is at least questionable.

Furthermore, the depth of the troughs often appears insufficient for cattle to drink appropriately, e.g., insufficient to dip the muzzle deep enough into the water. The Austrian Handbook on the Housing of Cattle recommends a depth of at least 5 cm while the OIE recommends a minimum of 3 cm water depth and a minimum flow rate of 3 litres per minute[323]. The latter is much lower than the drinking speed of cattle and highlights that it is impossible to enable the animals a species-appropriate access to water during transport.

The European Transport Guides state: *'The provision of liquid feed to calves in transit is considered impractical with the current truck design. (…) Feeding and watering in compliance with the Regulation is often impossible as calves will not use the equipment provided'*[324] and *'They [unweaned lambs] need hands-on assistance of each individual animals (no metal nipples or troughs) and the liquid feeding should have the correct temperature and solution strength, to avoid digestive problems'*[325].

Watering devices for young animals that are still on a liquid diet do not exist in common livestock vehicles. The needs of unweaned

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321 Austrian ministry on Social Affairs, Health, Care and Consumer Protection (2020): Handbuch Tiertransporte. Page 29. See footnote 310.

322 Fachstelle für tiergerechte Tierhaltung und Tierschutz, 2018: Handbuch Rinder, Selbstevaluierung Tierschutz. Pages 74f. See footnote 312.

323 Ibid. Page 75. / OIE Training: The Trainer's Workshop. Animal Welfare conditions during long distance transport by land. Session I. 6. Unloading and resting of animals, page 10. See footnote 315.

324 Consortium of the Animal Transport Guides Project (2017-rev1). Revision May 2018. Guide to good practices for the transport of cattle. Pages 49-51. Link: http://www.animaltransportguides.eu/wp-content/uploads/2016/05/D3-Cattle-Revised-Final-2018.pdf

325 Factsheet Sheep on long journeys, 2017. Page 1. Link: http://animaltransportguides.eu/wp-content/uploads/2016/05/Sheep-Long-Journey-FINAL.pdf (last accessed 09.08.2021).

animals cannot be met with commonly installed watering devices in trucks such as metal nipple drinkers or troughs. These animals need to suckle on (rubber) teats and require warm milk, milk replacer or electrolyte solutions. Common vehicles are not equipped with such advanced technology. In practice, this leads to immense suffering as these young animals are very vulnerable at this age and become thirsty, hungry, and exhausted quickly.[326]

b) Access to the drinkers

This is the next major issue. Access to the drinkers is often not given for all animals due to various reasons.

Nipple drinkers are usually installed on one or both sides of the vehicle, mostly between the side bars. Small ruminants and pigs are generally loaded in groups in several compartments. There may be, for example, 50 lambs or 200 piglets in one compartment. The minimum space allowance provided by the Regulation does not allow the animals to easily change position inside the compartments.[327] In practice, this means that the animals cannot just simply cross the compartment to reach the drinkers. It requires physical effort to cross a compartment and fight one's way through the crowd. Especially for low-ranking animals, this is impossible. The problem is worsened if the drinkers are installed on only one side of the vehicle, as it is the case often. An animal that is on the left side of the compartment can hardly cross the whole width of the compartment to reach the drinker that is located on the right side of the compartment.

For cattle, the scenario is similar. They often face difficulties to change location inside the vehicles, again, due to a legally permitted high density. According to Animals' Angels observations, there are usually no more than two water troughs per compartment. These are generally placed in the corners, for example, in the left and right corner of a rear compartment. In practice, this means that not all animals can access the troughs. In one case of young calves transported for fattening, approximately 15 animals (per compartment) had to share two troughs. The high density in the compartments did not allow them to move, they were all squeezed together. It was very unlikely that all of them could reach the troughs in the corners.[328] The same applied to 7 out of 8 transports observed in France, also transporting calves for fattening. The high density in all 7 cases made it very difficult for the animals to change location and reach drinkers located in corners.[329]

High-ranking animals of any species easily guard a drinker and thereby prevent other animals from accessing it. For example, in a transport of young heifers, two of them were guarding a trough placed in a corner of the front compartment. Other heifers could not approach

[326] Rabitsch, A. and Marahrens, M. (2020): Anmerkungen zum Transport nicht-entwöhnter Kälber (EN: Remarks on the Transport of Unweaned Calves). Amtstierärztlicher Dienst und Lebensmittelkontrolle 27. Jahrgang – 4/2020. Pages 185 – 195. Link: https://www.europarl.europa.eu/cmsdata/227426/A.%20Rabitsch_transport%20unweaned%20calves.pdf (last accessed 09.08.2021).

[327] Please refer to Chapter III: Space allowance (floor space).

[328] Animals' Angels report on a transport of bull calves from Hungary to Turkey, 10.-11.03.2020, page 3.

[329] Animals' Angels report on transports of cattle from France to Italy via tunnel of Fréjus, 20.-23.11.2019, pages 2-5.

the trough, but all heifers were extremely thirsty, showing tongue rolling and licking of the side walls. The other heifers desperately licked the nipple drinkers, but this did not constitute a water intake.[330]

The access to the drinkers as described above is also highly dependent on the number of installed drinkers. The fewer the number of drinkers installed, the less possibility there is for all animals to reach the drinkers. However, it must be noted that even with relatively many installed drinkers per compartment, animals transported in crowds struggle to access them, for the abovedescribed difficulty to change location. For example, in a recently observed case, 545 lambs of averagely 32 kg were loaded on four decks, so 136 animals per deck. Drinkers were installed on only the right side of the vehicle, 20 drinkers on each deck. Thus, in theory, there was roughly one drinker per 6 or 7 animals, depending on how many animals were distributed in the different compartments. What may appear sufficient on a first glimpse proofed to be insufficient in practice. All lambs were thirsty but only those lambs standing near the drinkers could try to use them and were able to lick some of the dripping water. The lambs in the middle and on the left side of the compartments obviously remained thirsty. They were biting the bars and licking the ceiling. It became evident that not all the lambs could reach the drinkers. They would have had to cross the compartments to reach the right side. Yet, this was difficult, given the crowded conditions inside the compartments.[331]

This was a 'better' example regarding the number of installed drinkers. Animals' Angels observed cases where, for example, ~ 45 lambs in one compartment had access to only 2 drinkers. In such a crowd, it is impossible for all of them to reach the drinkers.[332] The same applies to cattle. As seen above, troughs are usually placed in the corners. Mostly, they are embedded in the wall, so that they are not protruding into the compartments, which could present a potential risk of injury. Two

Italy, 2019 – Fourth top deck, lifted roof: access to the drinking nipples impossible due to mispositioning of the floor and obstructing metal bars.

[330] Animals' Angels report: Monitoring live transports at the Bulgarian-Turkish border. 11.-18.08.2018, page 24.
[331] Animals' Angels report on a long transport of lambs from Romania to Italy, GAGEA, 18.-19.12.2020, pages 2f.
[332] For example, transport of lambs from Romania to Greece, observed during Animals' Angels investigation no. SM.008.2019, Greece, 30.07.2019.

troughs for 10 – 15 heavy calves are not sufficient, as the animals can hardly move to reach them. Two troughs for, for example, 6 heavy bulls per compartment are insufficient too, as fights quickly develop over the drinkers. The latter was confirmed by a driver transporting 41 bulls of averagely 400 kg. He refused to turn on the water system despite the bulls suffering severe heat stress, as then the animals would start to fight, according to him.[333]

Additionally, access to the drinkers is sometimes obstructed due to inadequate operation of the vehicle. Many road vehicles have hydraulic loading floors, so that animals can be loaded on one, two, three, four or even five decks. The floors can consequently be placed at different heights inside the vehicle to adapt the internal height of each deck to the size of the animals loaded. The drinkers on the other hand are usually fixed in the corners or between the side bars. They can then not be moved and adjusted to the corresponding height of the deck. So it happens that due to a mispositioning of the floors, the drinkers are not accessible for the animals. Either because the drinkers are too high or too low in comparison to the head height of the animals, or because the drinkers are blocked behind the floor or other vehicle components, such as metal bars. Animals' Angels observed that when animals are loaded on four decks, access to nipple drinkers (placed between the side bars) on the top deck is in some cases obstructed by metal bars. These metal bars are apparently components of the roof. The roofs can usually be lifted to allow for more ventilation above the animals. Yet, road codes in the Member States pretend certain maximum vehicle heights, so in many countries the roofs must be kept lowered to comply with these requirements.[334]

A vehicle observed twice by Animals' Angels could not provide the animals on the third top deck with access to the drinking nipples. Yet, both times, pigs were loaded on three decks. At the time of the first observation, also the pigs on the second decks could not access the drinkers either, due to mispositioning of the floors. A subsequent police check of the transport revealed that access to the drinkers for pigs on the third deck is impossible, on the second deck it was possible after repositioning the floor. Yet again, three months later, Animals' Angels observed the same vehicle, and again the pigs on the second and third deck had no access to the drinkers.[335]

Many observed American aluminium style road vehicles present oval openings on the sides *(see picture, page 106)* instead of the common lateral openings. In these vehicles, access to the drinkers is also regularly not given, according to the experience of Animals' Angels. Most commonly, Animals' Angles observed that the nipple drinkers were connected to pipes which were installed in horizontal and/or vertical lines on the outside of the vehicles. The drinkers should then be in correspondence to the oval openings and directed inwards for the

[333] Information received during Animals' Angels investigation no. SM.004.2020, Piraeus, Greece, 31.08.2020.
[334] Animals' Angels report 'Transports of live animals by land during high temperatures from Romania to Greece and Albania, Part 2, 27.-31.08.2019', pages 6f.
[335] ' Angels report on a transport of pigs from Spain to Italy, 17.-18.07.2019, pages 1-6. and Observations made during Animals' Angels investigation no. JH.022.2019, Italy, 23.10.2019.

Greece, 2020 – Inadequate position of a drinker in an American style truck. Opening too small for the lamb to open the mouth; drinker not pointing inwards.

animals to be accessible. Yet in many cases, Animals' Angels observed how the drinkers were not pointing inwards, how the openings were too small for the lambs to open the mouth and grab the drinkers, or how lateral bars inside the opening obstructed access to the drinkers.[336]

As seen, access to the drinkers for all animals is nearly impossible to guarantee.

c) Automatic drinkers vs. manual watering

Besides the different types of drinkers that are fixed inside the compartments, some vehicles additionally carry mobile troughs, for example, long metal troughs or tall plastic buckets. These mobile troughs are to be placed inside the compartment, be filled with water via a hose, and so present an additional possibility to provide water to the animals during transport. Thanks to their open water surfaces and depths to dip in the muzzle/nose, they likely enable horses and ruminants to follow their natural drinking behaviour.

However, they are an accessory and should never be considered or approved as part of a valid water system. The supply with water using mobile troughs can neither be supervised nor ensured and is solely dependent on the will of the drivers. Economically more viable animals such as breeding heifers are more likely to be manually watered compared to animals destined for slaughter.

According to the observations of Animals' Angels, it requires manpower and time to place and fill a mobile water trough in each single compartment and allow all animals to drink as desired. In one case, it took 2 hours to give water to 64 very thirsty medium calves who were loaded in six compartments. The upper deck was accessed by a rack, intended for truck inspections, which rendered the operation easier.[337] In other observed cases where no racks or similar were present, the drivers had to access the upper decks via a ladder. This operation is dangerous, as the mobile troughs must be carried on the ladder. It takes ca. 1 hour and requires at least two persons. One to climb the ladder and one to hold it and pass the water hose.

Such buckets or troughs must be taken out of the compartment after watering. They present a very risky obstacle over which the

[336] Exemplary case: Animals' Angels report of a long transport of lambs from Romania to Greece, via road, 28.07.2020, pages 3-7.
[337] Animals' Angels report: Monitoring live transports at the Bulgarian-Turkish border. 11.-18.08.2018, page 21.

animals easily stumble, bump into, and may injure themselves. Buckets that are hung onto the sides of a compartment are an equally risky obstacle, especially during driving and in combination with high density. The animals then risk bruises or injuries from bumping into them.

Placing such mobile troughs inside every single compartment, and the time it takes to do so, does obviously not present a method to 'instantly' water all the animals.

Moreover, mobile troughs are unsuitable to water small ruminants or pigs during transport. According to the experience of Animals' Angels, mobile troughs are only used for cattle and horses but are totally impracticable for other animals. In the case of small ruminants or pigs, such an operation is nearly impossible. Firstly, in these transports, animals are loaded on three or even four decks with ~ 3 compartments per level. As discussed in *Chapter XIII: Road vehicle standards and authorisations*, not every single compartment may have an access door. Without access, it is impossible to place a mobile trough inside. Secondly, because of the large number of animals per compartment, not all of them could reach the trough but only the ones standing nearby. Thirdly, with small animals that potentially fit through the access doors, there is a high risk that they fall or jump out during such operations.

In the case of horses transported in single stalls, Animals' Angels regularly observes that water devices installed in each single stall and connected to the water tank are absent, but few mobile buckets are carried and considered as the water system. This is not in line with the requirement of the Regulation. Point 2.3 of Annex I Chapter VI requires that water tanks *'(…) must be connected to drinking devices within the compartments (…)'*. This was confirmed by the European Commission in a reply letter to Animals' Angels: *'In SANCO's opinion each compartment must be fitted with a drinking device which is connected to the water tank'*[338]. The same letter stated that the Regulation does not require the exclusive use of an automatic water system, but that *'(…) the devices used must allow the driver to offer water to the animals in sufficient quantity during a sufficiently short period of time (…)'*. In practice, the efforts to place mobile buckets in each individual stall and move them from one stall to another, and giving each animal time to drink, pause, and drink again – can this be considered a water supply in a 'sufficiently short period of time', and 'instantly', as required by Point 2.1 of Annex I Chapter VI of the Regulation?

For example, out of four observed transports of horses in October 2020, none of them was equipped with an automatic water system. The drivers only carried few mobile buckets: three buckets for 18 respectively 20 horses in two cases, six or seven buckets for 22 horses in one case, and an unknown number of buckets in the fourth case. So, to give water to the horses every 8 hours, as required by the Regulation, the drivers needed to put the buckets in one stall, wait until the horse has drunk, take it out, place and fill it in the next stall, wait until the horse has drunk, and so on. It is thus dependent on the avail-

[338] European Commission, Directorate A – General Affairs, SANCO/A2/MG/arD(2008)121096.

able time and patience of a driver, if and for how long each horse can drink, and does not provide all the animals instantly with water.

If there were an automatic water system and drinkers in each stall connected to the water tank, the latter just needed to be turned on and all horses could drink instantly and at the same time.

From the above it becomes clear that mobile buckets or troughs cannot be accepted as a sole watering system. They are beneficial accessories, to provide animals with additional access to water, but their use is arbitrary and uncontrollable.

d) Water tank's capacity

As seen above, the Regulation requires that animals must be given liquid at specified intervals. The amount of liquids that need to be given to the animals are not specified for road transports. It is only required that *'the water tanks' capacity for each means of transport shall be at least equal to 1.5% of its maximum payload'*[339]. A semitrailers' payload is around 20 tonnes. According to this calculation, a truck with a payload of 20 tonnes needs to have a water tank capacity of 300 litres only. This does in no aspect meet the animals needs during transport.

This deficiency becomes evident when considering for example the daily water needs of cattle. The European Transport Guides consider it *'55 litres per day for a weaner calf to over 100 litres per day for an adult animal'*[340]. During transport, 10-50 litres/day/animal are recommended.[341] A recently observed transport carried 63 cattle of 300 kg averagely: if they were given as little as 20 litres a day, 1,260 litres of water would have been needed for a 24-hour journey. Even if the water tanks' capacity was around 600/700 litres, as in Pezzaioli manufactured vehicles, the amount carried was still insufficient to meet the animal's needs. What is more, the journey time was longer, as cattle can be transported for 29 hours.

Other calculations result in similar scenarios. According to the experience of Animals' Angels, around 600 lambs of roughly 25 kg are commonly loaded on a semitrailer. With a daily consumption of 2.5 litres of water per day[342], a total of at least 1,500 litres would be needed for a long journey. The European Commission's factsheet on horse transport recommends 45 litres/horse/24 hours[343]. On average, 20 horses are loaded, thus at least 900 litres of water would have to be carried.

Most of the water tanks installed on livestock vehicles have a capacity of around 600-700 litres, according to the experience of Animals' Angels. Obviously, this capacity is insufficient to meet the

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339 Annex I Chapter VI point 2.3 of the Regulation.

340 Consortium of the Animal Transport Guides Project (2017-rev1). Revision May 2018. Guide to good practices for the transport of cattle. Page 32. See footnote 324.

341 Factsheet Cattle on long journeys, 2017. Page 1. Link: http://animaltransportguides.eu/wp-content/uploads/2016/05/Cattle-Long-distance-FINAL.pdf (last accessed 09.08.2021).

342 Calculated with a water supply of 10% of the live weight of the animal, acc. to indications of the Regulation for transport via sea, in Annex I Chapter IV Section 2 Table 1.

343 Factsheet Feeding and watering of horses, 2017. Page 2. Link: http://animaltransportguides.eu/wp-content/uploads/2016/05/Horses-Feeding-Watering-FINAL.pdf (last accessed 09.08.2021).

daily water needs of the transported animals. Moreover, no reliance should be placed on the possibility of refilling the tank en route. In practice, many obstacles delay or render this impossible. For example, not fitting connectors/plugs for the hose to fill the tank; non-permitted refilling at many petrol stations[344]; frozen water taps; etc. All too often, Animals' Angels witnessed empty water tanks whilst animals were on board and part of the journey was still ahead.

For journeys of less than 8 hours, the Regulation does not require road vehicles to be equipped with a watering system. However, the lack of water supply in unpredictable situations such as traffic jams, especially during high outside temperatures, can lead to an additional significant health and welfare risk for the animals. Animals' Angels has documented such cases several times. For example, in March 2021, a transport of sows got stuck in a traffic jam at outside temperatures of up to 28°C[345]. The sows subsequently suffered severe heat stress. They were panting with open mouth and showed accelerated breathing rates of over 100 breaths/minute. In worst case scenarios, water is essential to combat heat stress and prevent detrimental health and welfare consequences.

For water provision to animals transported in containers, *please refer to Chapter XIV: Containers and crates.*

The conclusion of all the above is inevitably a reduction of the journey time to the extent that the animals do not need to be supplied with water during transport. The animals cannot be watered during transport in adequate quantities and appropriately to their needs. Yet in case of delays or emergencies, it must be possible to supply the animals with water on board. All vehicles transporting live animals should therefore be equipped with a watering system adequate for the type of animals loaded. Meaning, the drinking devices must be suitable and accessible for all the animals on board, and the water tank's capacity must allow to cover the daily need of all animals on board. Upon this, the requirement on the water tank's capacity must accordingly be adjusted in the Regulation.

Demand 38

- Reduction of the journey time to 4, respectively 8 hours[346].
- The Regulation must require all commercial road vehicles[347] to be equipped with a water system for unforeseen delays and emergencies, and lay down specifications on
  - Types of drinkers, which must be species- and category-appropriate
  - Position and number of drinkers in relation to the animals
  - The amount of water storage to carry, which must be sufficient to cover the daily water need of all loaded animals.

344 As repeatedly confirmed to Animals' Angels by drivers.
345 Animals' Angels report on a transport of sows and piglets, 30.03.2021.
346 Please refer to Chapter II: Journey times.
347 Used for transports longer than 65 km.

CHAPTER VIII:

Food supply

Reason 39

The Regulation leaves too much leeway as to when, how, in which quantities and in what form the animals shall receive food during transport.

Poultry, domestic birds, and rabbits must be provided with suitable feed during journeys lasting longer than 12 hours. For the other species, the Regulation only stipulates that they must receive rest periods to be given liquid and, if necessary, fed (the latter is not required for pigs). It is not specified when it is necessary to feed these animals.

This leaves a lot of room for interpretation. Whether the animals receive food during transport or not is thus up to the transporter/driver, and the feasibility of doing so. The latter is often not given, for example, in the case of lamb transports with around 500-800 animals on board a vehicle. Feeding so many animals on a vehicle is unfeasible. As described in *Chapter VII: Water supply*, there may be no access to every single compartment to place feed inside, and the crowding would not allow all animals to access the feed. It is further not in line with scientific evidence which concludes that at least 8 hours of lairage with feed and water are needed for sheep to gain a real benefit. This problem can only be counteracted by limiting the journey time so far that feeding is not required. Sheep become very eager to eat after 12 hours of deprivation.[348]

[348] EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 72. See footnote 28.

According to the experience of Animals' Angels, feeding cattle loaded on a semitrailer with hay requires at least one hour and at least the manpower of two persons. It was always observed that the hay is put on the floor of the compartments. The upper levels were reached with a ladder. As with water, high density and high-ranking animals easily prevent access to the feed for all animals. What is more, the hay quickly becomes contaminated with excrements and thus unpalatable. This is the case when the flooring or bedding is not dry and clean but dirty and wet. Whilst eating, the animals move the hay and so spread it over the (eventually dirty) floor in the compartment. Animals' Angels only ever observed heifers exported for breeding being fed on board the vehicles by drivers. Apparently, it is not considered 'necessary' to feed cattle transported for slaughter. This discloses the arbitrariness with which the current provisions are applied, all to the detriment of the animals.

Further, it is not specified what type of feed and which quantity is appropriate for which kind of species. For example, in the case of horses, the European Transport Guides recommend good quality forage rather than concentrated feed. *'Feeding large amounts of concentrate feed can cause serious health problems and should thus be avoided'*[349].

Feeding animals on board, especially those transported in large groups and in containers[350], is impractical. The journey time should therefore be reduced so that animals do not need to be fed on board.

Demand 39

Limitation of the journey time to 4, respectively 8 hours[351], so that it is not necessary to feed animals during transport.

[349] Consortium of the Animal Transport Guides Project (2017): Guide to good practices for the transport of horses destined for slaughter. Page 36. See footnote 97.
[350] For more details, please refer to Chapter XIV: Container and crates.
[351] Please refer to Chapter II: Journey times.

CHAPTER IX:

Bedding material

Reason 40

The Regulation does not require bedding material for short journeys.

Bedding material is required for long journeys of equidae, bovine, ovine, caprine, and porcine. It is further required for journeys of any duration of young calves (< 6 months of age), piglets (< 10 kg), lambs (< 20 kg), and foals (< 4 months of age).[352]

Bedding, if properly used, fulfils different functions. First and foremost, it absorbs excrements and liquids. Thereby it renders the underlying flooring less slippery, provides the animals with grip, and so helps them to better withstand the vehicle motions. It enables the animals to comfortably lie and rest on a dry surface and prevents them from becoming wet or soiled with excrements. It dampens road shocks and protects them from injuries when they fall. It provides them with better grip when rising from lying to standing position. Due to its absorbing properties, it reduces the development and distribution of noxious gases such as ammonia. This directly benefits the animals' wellbeing as ammonia is highly irritating to the eyes and the respiratory tract.[353]

[352] Annex I Chapter II point 1.5 and Chapter VI point 1.2 of the Regulation.
[353] Bracke, M.B.M. et al. (2020): Review of climate control and space allowance during transport of pigs. Page 12. See footnote 154.

It further has crucial isolating functions, especially when the underlying flooring is made of metal. Metal is a good thermal conductor, meaning it easily transfers heat to colder objects and absorbs heat from warmer objects. In the case of living animals, this can be dangerous. An insufficiently isolated metal floor can cause the animals to lose body heat and contribute to cold stress or frost bite. During high outside temperatures, the metal floor can become hot very quickly. This can in turn contribute to heat stress. Appropriate bedding is therefore key in preventing both scenarios and contributes to protect the animals from thermal stress. Attention should be paid to the different properties of the various types of bedding material. Some are beneficial in winter but adverse in summer. They should be adjusted according to the climatic conditions.[354] *For details of the latter please see next Reason 41.*

Most of these functions are just as important on short journeys. For example, during a national short transport of pigs, Animals' Angels observed several pigs with reddish hind quarters. The outside temperature was 0°C and snow was entering the compartments. Yet, no bedding material was provided. Thus, the metal flooring was covered with liquids. Some animals were nevertheless lying down on this cold and wet surface. Very likely, the reddish patches on some of the pigs' skin were caused by the absence of bedding, and thus insufficient protection of the pigs from the metal flooring.[355]

As seen, bedding material fulfils a broad scope of essential duties. It is not 'only' meant to provide a comfortable lying area for the animals. It assists them to maintain their stability, absorbs noxious gases and so improves air quality. It reduces impacts of extreme thermal conditions, dampens road shocks, and protects the animals from injuries and soiling. Finally, it gives the animals the opportunity to lie down and rest when they feel the need.

Pigs for example may choose to remain standing if bedding is inadequate, despite the motivation or even the need to lie down.[356] If given the opportunity, sheep, cattle, and pigs will try to find a suitable place to lie down, rather soon after the journey commences.[357] This will also depend on several circumstances such as density and driving behaviour.

It becomes evident that bedding material directly affects the well-being and health of the transported animals. This is the case for all journeys, no matter their duration. Even the European Transport Guide for cattle recommend the use of sufficient bedding material for short journeys.[358]

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354 Rioja-Lang, F. C. et al. (2019): A Review of Swine Transportation Research on Priority Welfare Issues: A Canadian Perspective. Page 6. Link: https://www.readcube.com/articles/10.3389/fvets.2019.00036 (last accessed 07.05.2021).

355 Observed during Animals' Angels Investigation No. SM.08.11.2018, Romania, 17.12.2018.

356 Bracke, M.B.M. et al. (2020): Review of climate control and space allowance during transport of pigs. Page 8. See footnote 154.

357 Broom, D.M. (2008): The welfare of livestock during road transport. Page 164. See footnote 297 / EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 43. See footnote 28.

358 Consortium of the Animal Transport Guides Project (2017-rev1). Revision May 2018. Guide to good practices for the transport of cattle. Page 30. See footnote 324.

Demand 40

Requirement to provide bedding material in all commercial journeys of ruminants, porcine and equidae, no matter the transport duration.[359]

Reason 41

The Regulation does not offer detailed indications on type and quantity of bedding material to be used on long journeys.

As seen above, the Regulation requires that equidae, bovine, ovine, caprine, and porcine, and certain young animals shall be provided with appropriate bedding during long journeys. The *'animals shall be provided with appropriate bedding or equivalent material which guarantees their comfort appropriate to the species, the number of animals transported, the journey time, and the weather. This material has to ensure adequate absorption of urine and faeces.'*[360]

The amount and type of bedding that shall be used is not specified. Yet, both is extremely relevant. The different types of materials have different properties and are varyingly absorbent or isolating. The same applies to the quantity of the used material.

For example, the European Transport Guides recommend for sheep the use of wet sand, wet shavings, sawdust, or rice husk during hot weather.[361] Similar are the recommendation for cattle: straw should be used for young cattle and for adult cattle in winter. In summer, sawdust or crushed straw pellets are recommended.[362]

Unfortunately, Animals' Angels regularly observes that the used bedding material is insufficient or inadequate. The most common problem appears to be an insufficient quantity in relation to the length of the journey. Even if the used material has high abilities to soak up fluids: once it is soaked up, it cannot absorb anything more. It is therefore essential that the quantity corresponds to the number of animals and the length of the journey. Only if enough material is used, it can fulfil its crucial function of soaking up fluids and so maintain a dry surface.

For example, in three out of seven observed transports of lambs in December 2020, the bedding material was not adequate on at least one of the observed decks. In all three cases, it did not entirely cover

[359] Exceptions may be granted for transports carried out for veterinary treatment.
[360] Annex I Chapter II point 1.5 and Chapter VI point 1.2 of the Regulation.
[361] Consortium of the Animal Transport Guides Project (2017-rev1). Revision May 2018. Guide to good practices for the transport of sheep. Page 28. Link: http://animaltransportguides.eu/wp-content/uploads/2017/03/D3-Sheep-Revised-Final.pdf (last accessed 10.05.2021).
[362] Consortium of the Animal Transport Guides Project (2017-rev1). Revision May 2018. Guide to good practices for the transport of cattle. Page 30. See footnote 324.

the metal floor and was wet, soaked with liquids/excrements.[363] In August 2020, bedding material was inadequate in five out of seven observed transports of cattle and lambs. It either left parts of the metal floor uncovered and/or was wet and dirty with excrements/liquids. In three cases, there was additionally a strong smell of ammonia.[364] According to the experience of Animals' Angels, the development of ammonia gases is even greater in times of high temperatures and high humidity. Under these circumstances, the ammonia is irritating to the eyes and respiratory tract even when standing outside the compartments. Thus, it must be unbearable for the animals inside the compartments. E.g., in one transport of lambs, the aggressive smell of ammonia and the air which was very humid made it literally difficult to breath and irritated the eyes even whilst looking from the outside into the compartment. Outside temperatures at this point were above 30°C. The amount of sawdust bedding was entirely insufficient, and it was dirty and wet.[365]

In another case, the need for the insulating properties of bedding material became evident. A transport of lambs was observed during high outside temperatures of 34°C. Sawdust was used as bedding material, but the quantity was totally insufficient to absorb liquids or cover the metal floor. The metal floor in turn became extremely hot. It nearly caused mild burns to the hand when touching it. An unfit lamb who was unable to stand was lying on this hot floor: his body temperature on the bottom side was much higher than on the upper side. Due to the absence of adequate bedding, he was exposed to severe overheating.[366]

It becomes clear that the quantity and type of bedding material used is of utmost importance. The European Transport Guides for the different animal species offer guidance on this.[367]

Demand 41

Introduction of specific indications about the type and quantity of suitable bedding material to be used for the different species of animals.

[363] Observed during Animals' Angels Investigation No. SM.006.2020, Italy, 14.-20.12.2020.
[364] Observed during Animals' Angels Investigation No. SM.003.2020, Greece, 26.07.-04.08.2020.
[365] Animals' Angels report on a transport of lambs from Romania to Greece, 28.07.2020. Pages 2+4.
[366] Animals' Angels report on a transport of lambs from Romania to Greece during extremely high temperatures, Greece, 30.07.2019. Page 2.
[367] Animal Transport Guides, available under http://www.animaltransportguides.eu/

CHAPTER X:

Animal markets[368]

Reason 42

The Regulation does not sufficiently protect the animals at markets.

Markets are inherently stressful for the animals. The reason is that markets involve new surroundings[369,370], handling and marshalling, penning with or close to unfamiliar animals, limited access to water and food, as well as unknown noises and smells. In market operations, the stress-factors loading, transport and unloading are at least duplicated[371], as the animals are transported to and from the markets. The stress does not only affect the welfare of the animals. The stress responses in the animals include, among others, changes in their immune function, increased susceptibility to disease, decreased feed intake and rumination.[372] Accordingly, to preserve the animals' health and welfare, the stress caused when commercialising animals via

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[368] Even where not mentioned expressively the following explanations and demands include animal fairs and auctions.

[369] Warriss, P.D. (Ed.): The effects of live animal handling on carcass and meat quality. In Meat Science; CABI: Wallingford, UK, 2000; pages 131–154.

[370] Temple, G. (1997): Assessment of Stress During Handling and Transport, Journal of Animal Science, Volume 75: 249-257. Link: https://www.grandin.com/references/handle.stress.html (last accessed 09.08.2021).

[371] Bravo, V.M. et al. (2020): Transport Associated Handling Procedures and Behavior of Calves Marketed through Chilean Auction Markets, Animals 2020, 10(11), 2170, Abstract. Link: https://doi.org/10.3390/ani10112170 (last accessed 09.08.2021).

[372] Manteca, X. et al. (2013): Stress on farm animals: Concept and effect on performance. The Farm Animal Welfare Fact Sheet No. 6, FAWEC. Link: https://www.fawec.org/en/technical-documents-general-concepts/107-stress-in-farm-animals (last accessed 09.08.2021).

markets must be reduced as far as possible. However, currently, the Regulation does not provide all necessary measures to protect the animals at the markets sufficiently.

The Regulation defines markets as 'assembly centres' in its Article 2 (b), i.e., as *'places (…), at which domestic Equidae or domestic animals of bovine, ovine, caprine or porcine species originating from different holdings are grouped together to form consignments'*. Article 9 of the Regulation lays down specific requirements for assembly centres aiming to protect the animals traded via these facilities. From Article 2 (b) results that, e.g., birds and rabbits commonly traded via markets in many EU-countries do not fall under the protection of Article 9.

The Regulation imposes a guarantor position on the market operator as according to Article 9 point 1, market operators shall ensure that the animals are treated in accordance with the technical rules set out in Chapters I and III section 1 of Annex I of the Regulation. The market operator must guarantee that the traded animals are fit for transport as well as the compliance with the Regulation's rules concerning loading and unloading, loading facilities, handling, and separation. Article 9 point 2 lays down further obligations for the market operator concerning training of staff handling the animals, information to market users about their obligations under the Regulation and possible sanctions for infringements, information about the competent authorities, measures to be taken in case of non-compliance and internal market rules. However, the Regulation does not lay down specific requirements for the market facilities including the use of bedding material, it does not lay down space allowances for pens at markets, it does not foresee any requirements for the animals staying at markets overnight and it does not prohibit the commercialization of so-called 'spent' animals. Furthermore, the Regulation does not foresee emergency preparedness, incident reporting, the appointment of an animal welfare officer, or video surveillance.

Beyond that, the first sentence of Article 9 (2) reads: *'Operators of assembly centres that are approved in accordance with Community veterinary legislation shall in addition: (…)'*. The Regulation thus leaves the door open for the existence of markets not approved by Community legislation and does not clearly state that all animal markets must take place under official veterinary surveillance, approved by EU or national legislation.

Demand 42

Introduction of detailed, specific rules for animal markets, concerning facilities and provisions (water, food, bedding), space allowances, monitoring, as well safety and emergency provisions including all species commonly traded at markets.

Introduction of clear rules stipulating that all markets shall be authorised in accordance with the relevant EU or national legislation and shall be under official veterinary supervision.

Reason 43

The Regulation does not lay down specific requirements for market facilities.

As mentioned above *(see Reason 42)*, the Regulation does not lay down any specific requirements for market facilities. This is except the following indications: a) Annex I Chapter III point 1.10 requires that markets shall provide equipment for tethering animals when necessary and b) that animals shall have access to water; c) Article 3 (d) and Annex I Chapter III points 1.3. and 1.4. lay down requirements concerning unloading and loading facilities.

The lack of more precise indications results in huge differences in the market facilities throughout the EU. Installations range from well thought-through facilities to no facilities at all. This does not only cause a market distortion, but the lack of facilities or poor facilities has a direct negative effect on the health and welfare of the animals and on the market operations. Additionally, the lack of adequate infrastructures can put at risk the safety of the market users and the staff working at the market. Already back in 1932, the UK-based 'Human Slaughter Association' (HSA) concluded: *'a well-designed and properly equipped market saves time, money and food, reduces the risk of injury to the animal, and prevents bruised carcases in the case of fat stock. Sales are speeded up, the animals are shown to greater advantage and the work of the drovers rendered easier'*[373]. In 2014, the European Association of Livestock Markets (AEMB) revised their market guidelines stating that *'markets shall be designed and maintained so that it can offer the optimal market conditions, achieve maximum efficiency of animal throughput with the best possible animal welfare and provide maximum health and safety for all personnel using the market'*[374].

For more than 20 years, Animals' Angels has been monitoring animal markets in Europe and across the globe. Numerous market reports show that poor or poorly maintained infrastructures often lead to animal welfare and health problems and hinder smooth operations.

In addition to the tethering equipment and loading facilities (currently required by the Regulation), markets should at least offer the following equipment:

- **Shelter from inclement weather conditions:**

When markets are not fully roofed or not roofed at all, respectively roofed areas are insufficient, animals are not sufficiently protected from inclement weather conditions such as sun, rain, snow, or strong winds. Being exposed unprotected to the sun causes additional stress

[373] https://www.hsa.org.uk/welfare-in-markets/welfare-in-markets (last accessed 16.07.2021).
[374] AEMB (2014): Animal Welfare at Livestock Markets, Guide to best practice. Slide 7. Link: http://aemb.eu/cgi?lg=en&pag=2086&rec=0&frm=0&par=aybabtu (last accessed 16.07.2021).

to animals and the heat stress is likely to negatively effect on the animals' health[375]. When suffering from acute heat stress, the animals will not be fit for further transport from the market to the final destination. Depending on the species, breed and origin of the animals, being exposed to rain, snow or heavy winds during a longer period can cause stress to the animals as low temperatures demand higher energy consumption to maintain a constant body temperature[376]. Again, depending on the species, animals often arrive sweated or overheated from the transport and a moderate and controlled environment helps them to regulate their body temperature.

Additionally, in case of rain or snow, the flooring usually becomes slippery and, if not paved, even muddy and thus unsafe for humans and animals. Exposed to inclement weather conditions, animal inspection is more difficult, as well smooth and calm handling. Also, emergency treatment, in case needed, is more difficult when the animals, veterinarians and handlers are exposed to the weather conditions.

Drawing up a list of minimum requirements for animal markets in 1932, HSA catalogued that *'shelter, i.e. roofing, for all stock if possible, but certainly for dairy stock, calves and pigs'* should be provided[377]. More currently, AEMB recommends that markets should take place in covered areas recommending the existence of installations to moderate extreme temperatures and humidity and of well-ventilated closed areas for very young animals[378].

Nevertheless, in the EU it is still common that animals are not granted any shelter from inclement weather conditions at markets. In Romania, most animal markets do not offer any shelter for the animals[379]. Also, in Poland, many markets do not offer any shelter at all, while others do so, but the roofed areas are not adequate to protect the animals properly from sun, rain and wind and the capacities of the protected areas are too reduced to give shelter to all animals[380]. In Bulgaria, at least one market taking place on a weekly basis does not offer any infrastructure[381] at all and in others the roofed areas are insufficient, not offering space for all animals[382]. In Spain, annual fairs often do not

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375 E.g.: Bernabucci, U., Mele, M. (2014): Effect of heat stress on animal production and welfare: the case of dairy cow; in Agrochimica, Pisa, 2014. Link: https://www.researchgate.net/publication/293172884_Effect_of_heat_stress_on_animal_production_and_welfare_the_case_of_dairy_cow (last accessed 19.07.2021).

376 Sanin, Y.L. et al. (2016): Adaptive Responses to Thermal Stress in Mammals. Rev. Med. Vet. ISSN 0122-9354 Bogotá (Colombia) N° 31: 121-135, enero-junio del 2016. Link: https://pdfs.semanticscholar.org/d303/f7ce31086b4d2957be5145f5774ac-76cfb2d.pdf?_ga=2.255082368.92974435.1626687807-36222936.1626687807 (last accessed 19.07.2021).

377 https://www.hsa.org.uk/welfare-in-markets/welfare-in-markets (last accessed 16.07.2021).

378 http://aemb.eu/cgi?lg=en&pag=2086&rec=0&frm=0&par=aybabtu (last accessed 16.07.2021).

379 E.g. Animals' Angels report about animal market at Calugareni, district of Giurgiu, Romania, 09.04.2017 / Animals' Angels report about animal market at Câmpia Turzii, county Cluj, Romania, 17.04.2017.

380 https://www.animals-angels.de/projekte/tiermaerkte/polen.html (last accessed 16.07.2021).

381 Weekly animal market at Pazardjik. See: Animals' Angels report on serious animal welfare problems at Bulgarian animal markets, observed by Animals' Angels in March 2018 (fourth report).

382 Ibid.

offer any or not sufficient shelter for the animals[383]. At the equine fair in Maurs, France, which is attended by traders of different Member States, only parts of the pens are roofed. The unroofed area is foreseen for around 1.000 animals.[384]

Romania, 2016 – Pigs brutally tethered to carts under the snow, market Tibana.

- ***Safe pens for proper animal accommodation***

The existence of pens to house the animals during their stay at the market is essential. Where the market does not offer adequate and sufficient pens to accommodate the animals, their welfare and safety, as well as the operators and user's safety is easily compromised. At markets that do not offer any facilities to house the animals, Animals' Angels observes that animals are tied to vehicles, lamp posts or others[385]. Also, animals not used to be tied, such as young animals or unbroken horses, must be tied in these cases due to the lack of facilities, causing them severe stress and anxiety. Animals' Angels also observes that animals are sold from vehicles, are accommodated in provisional unsafe enclosures and in the worst cases are tied by their legs in order to restrain them[386]. While, even though common, the latter is an illegal practice[387], also the other described methods are not acceptable as the proper inspection of the animals is substantially more difficult and the safety and minimum comfort of the animals is not guaranteed. Already in their 1932-recommendations, HSA advised that market should have

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[383] Animals' Angels report about Equine fair at Puigcerda, Catalonia, Spain, 05.-06.11.2011 / Anda and Animals' Angels report about livestock fair at Reinosa 'Feria de San Mateo', Cantabria, Spain, 20-21.09.2011.

[384] Animals' Angels report on investigation into the Equine market at Maurs, France, 6th of May 2021.

[385] Animals' Angels report on systematic breaches of EU animal welfare rules and serious animal welfare concerns at the animal market at Rakovski, Bulgaria, observed by Animals' Angels in September 2020 / Animals' Angels report on serious animal welfare problems at Bulgarian animal markets, observed by Animals' Angels in March 2018 (fourth report) /r Animals' Angels report on systematic breaches of EU animal welfare rules and serious animal welfare concerns at the animal market at Haskovo, Bulgaria, observed by Animals' Angels in September 2020.

[386] Animals' Angels report about animal market at Câmpia Turzii, county Cluj, Romania, 17.04.2017.

[387] Annex I Chapter III point 1.11 of the Regulation.

'closed pens, preferably of the 'walk-through' type for all stock'[388]. AEMB provides that at markets, the animals should be accommodated comfortably and securely. Thus, the markets should offer sufficient pens or bars to tie the animals suitable to the species, age and height[389]. Only animals used to be tied may be tied for short periods. In these cases, the bars or other facilities to tie animals must be safe and guarantee a maximum possible comfort.

Bulgaria, 2017 – Markets without facilities to keep the animals: goats lying on the ground with three legs tied together, market at Pazardjik.

Romania, 2016 – Left: Pig tethered to the car of the seller. Right: pig displayed for sale holding his leg for absence of pens, market at Tecuci.

Romania, 2018 – Left: piglets displayed for sale in a car trunk. Right: lambs displayed on the ground with their legs tied, market at Campia Turzii.

388 https://www.hsa.org.uk/welfare-in-markets/welfare-in-markets (last accessed 16.07.2021).
389 AEMB (2014): Animal Welfare at Livestock Markets, Guide to best practice. Slide 15. See footnote 374.

- **Slip-resistant flooring**

Safe flooring at the markets is a basic prerequisite for safe and animal welfare compatible operations. When animals slip or fall it poses a risk of injury for animals or humans. When the floor is slippery, animals may have severe difficulties to get up after laying down or falling. With slippery floorings, safe leading or driving of the animals is not possible. The 1932-HSA-recommendations include that *'adequate drainage requirements and well-cut flooring to prevent slipping'* is necessary. The AEMB underlines in their 2014 guidelines that the floor should ensure that the animals do no slip to ensure their safe movement and the safety of the personnel.[390] Nevertheless, slippery flooring is still a problem at animal markets in Europe[391] as the Regulation does not expressively stipulate non-slip flooring for markets.

Spain, 2021 – Cow falling on slippery floor at market at Santiago de Compostela.

- **Use of bedding material**

The use of bedding material at markets is highly recommended. As bedding absorbs excrement, it helps to keep the flooring dry and non-slippery (even slip-resistant flooring is likely to become slippery when wet from urine and faeces). It is more likely that animals lay down during the stay, and rest properly at the market if provided with soft and comfortable underground. Animals able to rest during their stay at the market will more likely be able to withstand stress of further transport. When straw is used as bedding, e.g., equines tend to be calmer. For young animals, the use of bedding material at markets should be mandatory[392]. Despite the advantages of using bedding material, at the many markets in the EU, no bedding at all or insufficient bedding is used as its use is not foreseen in the Regulation.

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[390] Ibid. Slide 11.

[391] E.g. Anda and Animals' Angels report about animal market at Santiago de Compostela 18.04.2018 / Anda and Animals' Angels report on investigation into the animal market of Santiago de Compostela, Galicia, Spain, Date of visit: 19.05.2021.

[392] cf Annex I Chapter II point 1.5 of the Regulation.

Spain, 2019 – Ponies exhausted and wet from transport accommodated in a pen without any bedding material, market in Léon.

- **Passageways**

Passageways to lead the animals from the loading bays to the pens and vice-versa are essential. They facilitate the animal handling, prevent illegal and abusive conducts, and make the operations easier and safer for humans and animals. AEMB emphasises that passageways should be used to avoid unnecessary stress for the animals and for safety reasons[393]. The passageways should be appropriate for the height and the width of the species traded at the market. They should be well maintained and well-drained with non-slip flooring. There should be no bruising points, no right-angle bends, no dead-ends, no shadows, or objects that may cause bulking.[394]

Romania, 2018 – Sheep Tina, dragged from the truck of the seller to the car of the buyers, due to lack of passageways and pens, market at Calugareni.

Romania, 2017 – Lamb Florin carried like a potato bag from his tied legs, due to lack of pens and passageways, market at Campia Turzii.

[393] AEMB (2014): Animal Welfare at Livestock Markets, Guide to best practice. Slide 14. See footnote 374.
[394] Humane Slaughter Association (2019): Livestock markets 200 years on. Page 8. Link: https://www.laa.co.uk/workspace/pdfs/2017-market-survey-report-final-002-.pdf (last accessed 19.07.2021).

Nevertheless, in the EU, still many animal markets are not equipped with passageways. Animals' Angels observed the lack of passageways, for example, at markets in Bulgaria, Romania, Poland, and at fairs in Germany and Spain[395]. The marshalling of animals at these markets means additional stress for animals and a risk of injuries for animals and market users and staff.

- **Lighting**

AEMB recommends uniform and consistent lighting for all animal areas to avoid additional stress to the animals, for personnel safety, to allow easy movement of the animals and to ease inspection of animals[396].

- **Hospital pens**

Annex I Chapter I point 4 of the Regulation reads: *'when animals fall ill or are injured during transport, they shall be separated from the others and receive first-aid treatment as soon as possible. They shall be given appropriate veterinary treatment and if necessary undergo emergency slaughter or killing in a way which does not cause them any unnecessary suffering'.* Even though Article 9 of the Regulation requires that markets operators shall ensure that animals are treated in accordance with the technical rules set out in Chapter I of Annex I, the Regulation does not foresee that markets should be equipped with hospital pens to separate and treat compromised animals.

The AEMB recommends that hospital pens to attend sick or injured animals should be provided and placed in quiet areas. These pens should be fitted with suitable bedding material.[397]

At many markets in the EU, compromised animals are neither separated nor receive any adequate treatment. This is because hospital pens do not exist or are not used as such.[398]

- **Watering facilities**

According to Annex I Chapter III point 1.10 of the Regulation, at markets, animals shall have access to water. However, the Regulation does not specify details regarding the access to water. This leads to the fact that in the EU there are markets that do not offer any watering facilities at all for the animals[399] but leave the water provision to the discretion of the market users. Hereby, the market operator does not fulfil his guarantor obligations[400]. Other markets are only partly equipped with watering devices[401] or the watering facilities are in strate-

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[395] E.g. Animals' Angels report about animal market at Câmpia Turzii, county Cluj, Romania, 17.04.2017 / Animals' Angels report on horse market at Havelberg, Germany, 07.09.2019.

[396] AEMB (2014): Animal Welfare at Livestock Markets, Guide to best practice. Slide 10. See footnote 374.

[397] Ibid. Slide 17.

[398] E.g. Animals' Angels report on systematic breaches of EU animal welfare rules and serious animal welfare concerns at the animal market at Rakovski, Bulgaria, observed by Animals' Angels in September 2020.

[399] E.g. Animals' Angels report on livestock market at Pancota, district of Arad, Romania, 08.04.2017.

[400] Article 9 of the Regulation.

[401] See letter by Anda and Animals' Angels to the veterinary service of León, Spain concerning an equine fair at León on 30.11.2019.

gically clumsy places, such as the loading bays, in a way that de facto the animals have no access to water[402]. As a result, at many markets in the EU the animals are not or not sufficiently provided with water. According to the AEMB, automatic water release devices are considered best practice to ensure that the animals have access to water ad libitum.[403] Where the installation of automatic watering devices is not possible, as for example at annual fairs taking place on multi-purpose grounds, the operator must ensure that the animals are watered to saturation at least three times a day.[404]

France, May 2021 – Horse fair at Maurs, one of two central water points. The water has a pink colour and is thus not usable for the animals. The animals have no access to water ad libitum.

Spain, 2019 – Condition of automatic drinker during horse fair at market in Léon. The drinker is dirty with bird droppings, the water is brownish. The drinker is not usable for the animals.

Spain, May 2021 – Central water point located in the loading bay at the market of Pola de Siero. The drinker is dirty with verdigris and remains unused.

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402 Anda and Animals' Angels report on animal market at Santiago de Compostela, Galicia, Spain, 18.04.2018 / Anda and Animals' Angels report about animal market at Pola de Siero, Asturias, Spain, 17.05.2021.

403 AEMB (2014): Animal Welfare at Livestock Markets, Guide to best practice. Slide 16. See footnote 374.

404 Cf. Veterinärbehördliche Auflagen für den Hunteburger Ponymarkt mit Viehmarkt am 13.Oktober 2012 und Kleintiermarkt am 13. und 14. Oktober 2012 (Stand 18.09.2012). Point 3. Link: https://docplayer.org/183196646-Hunteburger-ponymarkt-11-tierschg-al-hiermit-erteile-ich-ihnen-gemaess-11-abs-1-nr-8-d-tierschg-die-erlaubnis.html (last accessed 19.07.2021).

- **Fencing**

The Regulation does not require that market grounds are fenced. Accordingly, many market grounds in the EU are not fenced.[405]

The AEMB provides in their 2014-guidelines that markets should be securely fenced to ensure animals cannot escape.[406]

- **Provision of equipment for animals with special needs**

According to Annex I Chapter I point 6 of the Regulation, lactating cows, sheep, and goats (not accompanied by their calves, lambs, or kids) must milked at least every 12 hours. While Article 9 paragraph 1 of the Regulation stipulates that the market operator must ensure compliance with its Annex I Chapter I, the Regulation does not require that markets selling cows, sheep or goats in milk are equipped with milking devices or have at disposal staff able to hand-milk, ensuring animal health and welfare requirements as well as the correct management of the milk. In the absence of a clear legal regulation for markets, at markets in the EU, animals often remain un-milked during their stay and are reloaded for further transport without being milked.[407]

Demand 43

The amendment of the Regulation should consider specific requirements for market facilities: in particular, the presence of shelter, safe animal accommodation (pens), slip-resistant flooring, bedding materials, passageways, lighting, hospital pens, watering facilities, fencing and equipment for animals with special needs should be legally required.

Reason 44

The Regulation does not lay down space allowances for markets.

In its general conditions for animal transport (Article 3), the Regulation requires that sufficient floor area and height is provided for the animals. However, different to when animals are on board of vehicles, the Regulation does not lay down specific space requirements when animals are kept at markets. This leads to the fact that animals are often

[405] Animals' Angels report on serious animal welfare problems at Bulgarian animal markets, observed by Animals' Angels in March 2018 (fourth report).
[406] AEMB (2014): Animal Welfare at Livestock Markets, Guide to best practice. Slide 9. See footnote 374.
[407] E.g. Animals' Angels report on systematic breaches of EU animal welfare rules and serious animal welfare concerns at the animal market at Haskovo, Bulgaria, observed by Animals' Angels in September 2020 / Anda and Animals' Angels report on investigation into the animal market of Santiago de Compostela, Galicia, Spain. Date of visit: 19.05.2021.

kept in crowded situations at markets[408], unable to rest properly, to move freely, to reach the watering devices, and to avoid ranking fights with elevated risk of bruising and injuries. When the densities are too high, also the identification and inspection of the animals by the market staff and the veterinary services is extremely difficult. Sick and injured animals are easily overlooked as well as not properly identified individuals. In contrast to the EU legislation, the Government Department for Environment, Food & Rural Affairs of the United Kingdom offers further indications for the space allowances at markets: *'Pens and cages must be large enough for pigs and calves to lie down in them and where there are several animals sharing a pen, they must have sufficient space to be able to lie down at the same time. Cages and pens must never be overstocked.'*[409]

Spain, May 2021 – Calves accommodated in exceeded density. There is not enough space for all calves to lay down, market in Torrelavega.

Demand 44

To avoid animal suffering and the risk of injuries, and to ensure proper animal identification and inspection at markets, the Regulation should foresee minimum space allowances when animals are kept at markets, ensuring that all animals can lay down comfortably at once avoiding body contact, rest and reach food and watering devices easily and facilitating the inspection of the animals.

[408] E.g. Animals' Angels report about animal market SA des Grivelles at Sancions, France, 24.10.2018 / Anda and Animals' Angels report on animal market at Pola de Siero, Asturias, Spain, 27.11.2017.

[409] https://www.gov.uk/guidance/farmed-animal-welfare-at-shows-and-markets#animal-protection-at-markets (last accessed 16.07.2021).

Reason 45

The Regulation does not lay down requirements for markets when animals stay longer than 8 hours or overnight at the market.

Often markets are organised in such a way that the animals remain at the facilities longer than 8 hours and even spend the night at the market. The Regulation does not foresee any requirements to protect the animals in these occasions. This leads to the fact that animals are not properly accommodated and supplied during long stays at markets.[410] After a prolonged stay at the market, it is likely that the stress the animals experience converts into suffering and exhaustion. Further loading and transport of the animals without first guaranteeing them adequate rest and care is not justifiable in these cases. Accordingly, the AEMB recommends that special procedures should be implemented if the animals need to stay overnight within the market.[411]

Demand 45

The Regulation should lay down specifications to protect animals staying at the market longer than 8 hours, ensuring that they are properly accommodated in a calm environment and provided with water, food, and bedding material.

Reason 46

The Regulation does not foresee any requirements for trading birds and small mammals at markets.

At many markets in the EU, birds and small mammals such as rabbits are sold on a weekly basis. Often, they form the majority of the animals sold at a market.[412] Nevertheless, the Regulation does not offer any protection to birds or small mammals at markets. The lack of specific rules for birds and small mammals traded at markets leads to immense animal suffering. Still today, birds are exposed at EU markets lying on the floor with their legs tied together, and sometimes additionally

[410] E.g. Anda and Animals' Angels report on Equine Fair at Puigcerdá, Catalonia, Spain, 05.-06.11.2011.
[411] AEMB (2014): Animal Welfare at Livestock Markets, Guide to best practice. Slide 31. See footnote 374.
[412] Animals' Angels report on animal market at Calugareni, district of Giurgiu, Romania, 09.04.2017 / Report on systematic breaches of EU animal welfare rules and serious animal welfare concerns at the animal market at Rakovski, Bulgaria, observed by Animals' Angels in September 2020.

exposed to direct sun.[413] The animals are sold from overcrowded cages[414], they are tied by one leg[415], and most of the times, they are not provided with water or food during their stay at the markets and the transports to and from it.

To avoid such stressful and unhealthy situations, e.g., German veterinary services give clear instruction on how to keep birds and small mammals at markets. The most important rules are the following: The animals must be taken off the transport boxes while being at the market. When the animals are kept in cages or other containers, those must be fitted with suitable bedding material and may not pose a risk of injury to the animals. The animals must have sufficient space inside the cages or containers, meaning not touching sides or top cover with the head, ears, back or tail while standing in a natural position. For rabbits it is specified that one edge length of the cage must be at least 1.5 times the body length of the animal, the other must be equal to single body length. The cage must be high enough to allow the animals to sit upright in a natural position. For animals lying in a relaxed position, one third of the floor area must remain free. For turkeys, geese and ducks a minimum cage size of 100 x 100 x 100 cm is required, for dwarf chickens 50 x 50 x 50 cm, for small chicken breeds 60 x 60 x 60 cm, for medium sized chickens 70 x 70 x 70 cm and for pigeons depending on their size 35 x 35 x 35 cm to 50 x 50 x 50 cm.[416]

Romania, 2015 – Poultry displayed on the ground with their legs tied together, market at Campia Turzii.

[413] Report on systematic breaches of EU animal welfare rules and serious animal welfare concerns at the animal market at Haskovo, Bulgaria, observed by Animals' Angels in September 2020.
[414] Animals' Angels report on serious animal welfare problems at Bulgarian animal markets, observed by Animals' Angels in March 2018 (fourth report).
[415] Animals' Angels report on animal market at Calugareni, district of Giurgiu, Romania, 09.04.2017.
[416] Veterinärbehördliche Auflagen für den Hunteburger Ponymarkt mit Viehmarkt am 13.Oktober 2012 und Kleintiermarkt am 13. und 14. Oktober 2012 (Stand 18.09.2012). See footnote 404.

Bulgaria, September 2020 – Ducks sitting on the asphalt, exposed to the sun with their legs tied together. Animal market at Haskovo.

> Animals shall have continuous access to fresh water. Where several animals are kept together in one cage, they must be compatible with each other and be of the same size. The cages or containers must be protected from wind, sun or rain, and should be kept at a height of 80 cm approximately (expect for ratite and waterfowl). Cages or containers should be covered, e.g., by wire-net to avoid market users touching the animals. On two consecutive days, the animals may not be exposed more than 10 hours to the public.[417]

Demand 46

Introduce specific requirements for keeping birds and small mammals at markets, requiring specific container (cage) sizes depending on the animals' size, ensuring that the animals can stand, sit, and lie down comfortably in their natural position without touching the sides or top cover. Requiring that the containers in which the animals are kept in are protected from wind, sun, or precipitation and (except in case of ratite and waterfowls) are kept in table height. Ensuring that the animals are protected from instant access by market users, that only animals of the same size and compatible to each other are kept together, and that the animals always have access to fresh water.

[417] Ibid.

Reason 47

The Regulation does not require markets to set up contingency plans nor any type of anomaly reporting.

According to Article 9 paragraph 1 in connection with Annex I Chapter I point 4 of the Regulation, when animals fall ill or are injured at a market, they shall be separated from the others and receive first aid treatment as soon as possible. If necessary, they must undergo emergency slaughter or killing in a way which does not cause them any unnecessary suffering.

However, different from the requirements for transporters carrying out long journeys[418], for markets the Regulation does not require market operators to submit an emergency plan to the competent authorities. Also, for long journeys between Member States and to non-EU countries, the Regulation requires the drivers or animal attendants to fill in an anomaly report for all incidents that may occur during the journey.[419] For markets, no such requirement exists. Accordingly, many markets, fairs and auctions take place without having established procedures in the event of emergencies and do not report incidents that occur.

However, incidents and even emergency situations occur regularly at markets.[420] Preparedness for emergency situations is important to facilitate fast and adequate response. For example, at all markets, a veterinary practitioner should be present, or the market should have a contract with a veterinary practitioner who is reachable for emergencies and immediately available. Reporting incidents is essential since it raises awareness about the things that can go wrong so that corrective and preventative actions can be taken promptly.

Demand 47

The Regulation should require the existence of emergency response plans for markets as well as incident reporting.

[418] See Article 11 of the Regulation.
[419] See Article 5 point 4 in connection with Annex II of the Regulation.
[420] E.g. Eyes on Animals report on horse market in Hedel, Netherlands: Link: https://www.eyesonanimals.com/legal-action-against-horse-market-hedel-for-massive-eu-law-violations/ (last accessed 16.07.2021).

Reason 48

The Regulation does not ban the commercialization of 'spent' animals such as 'dairy cull' cows via markets.

Animals kept for milk production are regularly sold for slaughter once they are not sufficiently productive anymore. Usually, these animals are weak, as the years of (intensive) production leave marks. The transport and related operations plus the stay at the market are extremely stressful for these weak animals that often suffer from compromised health. Nevertheless, those animals, especially 'cull dairy' cows but also 'cull' sheep are regularly sold at markets. There are even markets in the EU with a focus on selling these animals.[421]

Scientific studies indicate that 'cull' cows are more likely to be lame at loading and when arriving at markets, compared with 'feeder'/'fat' cattle. They also indicate that when transported for more than 400 km, 'cull' cattle were more likely to become lame or non-ambulatory, or to die during the journey, compared with other categories of cattle. Higher mortality rates in 'cull dairy' cattle during transport are reported in European studies.[422] 'Cull' cattle and sheep should be spared the additional hardship of a market. Instead, they should be slaughtered on-farm, or taken on the direct way to the nearest slaughterhouse. The transport of 'cull' cows or sheep to markets for the slight increase of financial gaining respectively for the economic interest of intermediaries who collect the animals from the farmers is not justifiable. Considering that these animals hardly withstand the constraints of

Bulgaria, April 2017 – Non-ambulant 'cull dairy' cow at market in Rakovski.

[421] E.g. Santiago de Compostela (Spain), Silleda (Spain), Medina del Campo (Spain), Leicar, S.Pedro de Rates (Portugal), Leeuwarden (Netherlands), Ennis Mart, County Clare (Ireland).

[422] Stojkov, G. et al. (2018): Hot topic: Management of cull dairy cows—Consensus of an expert consultation in Canada. See footnote 107.

transport and market, it is irresponsible and not in line with primary EU-law[423] to permit trading them via markets. The transport of 'spent' animals should be avoided as far as possible. If transported, their transport should be restricted for local slaughter and not exceed 4 hours in total.

Spain, Santiago de Compostela, 19.05.2021 – The cow Paloma (ES 00 11 1124 7018) suffers from severe lameness, locomotion score 4-5[424]. She is highly emaciated (BCS < 1), but her udder is filled with milk. She is obviously in pain.

Demand 48

'Dairy cull' cows and other 'spent' animals should be banned from the commercialization at markets.

Reason 49

The Regulation does not foresee the appointment of an animal welfare officer at markets.

As mentioned above, markets are inherently stressful for the animals.[425] Apart from the well-known stress factors the animals encounter at markets[426], also for the operators, staff, and veterinarians, markets usually are busy and stressful events. Unloading and loading operations must be coordinated and supervised. Animals must be marshalled and properly supplied, vehicles washed and disinfected, documents requested, submitted and issued, animals and operations inspected, etc. All this on top of the business operations and a competitive

[423] Article 13 TFEU.
[424] https://www.zinpro.com/wp-content/uploads/2020/12/LocomotionScoring-Poster_EN_ES_D-4120.pdf (last accessed 20.07.2021).
[425] See above Reason 42.
[426] See above Reasons 42 - 48.

situation. In these situations where humans are under stress and pressure, there is a high risk that animal welfare concerns are neglected.

EU Regulation 1099/2009 applicable to slaughterhouses requires that slaughterhouse operators appoint a qualified person, the animal welfare officer, to ensure that standard operating procedures are implemented, aiming that animal welfare rules are properly understood and applied.[427] For markets, such a figure is not foreseen, yet. In its Article 9, the Regulation imposes a guarantor status to the market operator to ensure that the animals are treated in accordance to certain requirements of the Regulation but does not specify how to implement that task. In contrary to that, in the UK, the role of the animal welfare officer is foreseen for markets.[428]

Demand 49

The Regulation should foresee the mandatory appointment of animal welfare officers at markets.

Reason 50

The Regulation does not foresee any camera surveillance at animal markets..

Especially at markets, taking into consideration that they usually are hectic and stressful events for the stakeholders involved, often bad practices and non-compliance in relation to animal welfare continue to be detected.[429] For the operator as well as for the official veterinarians at the market it is hardly possible to monitor all operations all together. The mandatory installation of surveillance cameras at markets would therefore help to detect and reduce cases of animal abuse and help to ensure compliance with animal welfare rules.

Demand 50

The Regulation should foresee the mandatory installation of surveillance cameras in the areas where animals are kept and traded and especially in loading and unloading bays of animal markets.

[427] Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing, Article 17.

[428] https://www.gov.uk/guidance/farmed-animal-welfare-at-shows-and-markets#animal-protection-at-markets (last accessed 16.07.2021).

[429] E.g. Eyes on Animals report on horse market at Hedel, Netherlands, Link: https://www.eyesonanimals.com/legal-action-against-horse-market-hedel-for-massive-eu-law-violations/ (last accessed 16.07.2021) / Report on systematic breaches of EU animal welfare rules and serious animal welfare concerns at the animal market at Haskovo, Bulgaria, observed by Animals' Angels in September 2020.

Reason 51

The Regulation grants the possibility to consider markets as places of departure even though the animals had not been accommodated there during 48 hours prior to the time of departure.

According to Article 2 (r) of the Regulation, place of departure *'means the place at which the animal is first loaded on to a means of transport provided that it had been accommodated there for at least 48 hours prior to the time of departure.'* However, in accordance with Article 2 (r) sentence 2, approved markets may also be considered as places of departure, if the distance between the place of first loading and the market is less than 100 km, or, if before being further transported from the market, the animals have been unloaded and accommodated at the market for at least 6 hours, with sufficient bedding, water and if possible, without being tied.

In practice, this leads to the fact that animals are transported from market to market and only after two or even more market days to the final destination.[430,431] It also means that animals can:

1) undergo a transport to the market, that according to the current legal situation can be a long journey of up to 29 hours,
2) then be exposed to the stressful market situation, sometimes for many hours,
3) then be further transported including on another long journey,
4) undergo all above points 1 to 3 without being granted in between at least a 24-hours rest in a calm environment.

It further means that according to the current legal wording, after the first transport to the market and the stay at the market, the animals can be transported up to 8 hours in vehicles authorised for short journeys only not offering the possibility to water the animals on board, without fan ventilation and not offering bedding material nor food. This is, as the stay at the market of at least 6 hours nullifies the previous transport to the market, and a new journey begins when leaving the market.

The exceptions of Article 2 (r) sentence 2 do not appear to be compatible with Article 3 sentence 2 (a) of the Regulation, according to which the duration of the transport must be kept as short as possible and the needs of the animals during the transport must be taken into account. This is because even transports of less than 100 km can be considerably stressful and because a period of only six hours is clearly not sufficient for an animal to recover from the stress of a previous transport as completely as it would be necessary for the start of a new transport.[432]

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[430] Anda and Animals' Angels Report Transport of unweaned calves from Galicia via Asturias to Catalonia, Spain, May 2021.
[431] E.g. Report by ANDA and Animals' Angels on Calves market at Pola de Siero, Asturias, Spain, 31.03.-01.04.2010 / Report by ANDA and Animals' Angels on Livestock market at Santiago de Compostela, Galicia, Spain, 20.02.2008.
[432] Hirt, A. et al. (2016) Tierschutzgesetz – Kommentar. EU-Tierschutztransport-VO Art 2, marginal note 8.

In a joint declaration dated 14.12.2014, requesting the revision of the Regulation to the EU Commission, the governments of Germany, Netherlands and Denmark are assuming that in relation to Article 2 (r), there is a clerical error in the legislative text. The countries assume that the correct text would have been the following: assembly centres (markets) (…) may be considered as place of departure provided that: (i) the distance travelled between the first place of loading and the assembly centre (market) is less than 100 km; and (ii) the animals have been accommodated with sufficient bedding, untied, if possible, and watered for at least six hours prior to the time of departure from the assembly centre (market).[433]

Indeed, there is no justification for the exception as currently expressed in the Regulation.[434]

Demand 51

The Regulation should only permit markets to be considered as places of departure if the animals had been properly accommodated, rested and supplied there with food and water for at least 48 hours prior to reloading, or if the distance travelled between the first place of loading and the market is less than 2 hours[435] and the animals have been accommodated with sufficient bedding, untied, if possible, and watered for at least 6 hours prior to the time of departure from market, the journey to the final destination does not exceed 8 hours[436] and the final destination[437] is a holding where the animals are accommodated, rested and supplied for at least 48 hours or a slaughterhouse where the animals are killed.

[433] Gemeinsame Erklärung zum Tierschutz Dänemark, Deutschland und die Niederlande, 14.12.2014. https://www.bmel.de/SharedDocs/Downloads/DE/_Tiere/Tierschutz/GemeinsameErklaerungTransportverordnung.pdf?__blob=publicationFile&v=2 (last accessed 30.08.2021).

[434] For further details, see also Reason 10 of Chapter II: Journey Times.

[435] Including loading and unloading operations.

[436] Ibid.

[437] From the market.

CHAPTER XI:

Transporters' authorisation

Reason 52

The Regulation does not require all applicants of a transporter authorisation to submit the certificate(s) of competence of their driver(s)/ attendant(s) to the competent authority.

All drivers and attendants of road vehicles transporting equidae, bovine, ovine, caprine, porcine or poultry must hold a certificate in competence (*see also Chapter XII on drivers and attendants*).[438]

Article 10 of the Regulation lays down the requirements for receiving a transporter authorisation. If a transporter wishes to carry out long journeys, Article 11 outlines additional requirements. Competent authorities shall only grant transporter authorisations provided that the applicants comply with the provisions laid down in Article 10 or, for long journeys, in Articles 10 and 11.

Only applicants of long journey's transporter authorisations must submit certificates of competence of their drivers and attendants to the competent authority.[439] It is not required for applicants of transporter authorisations for transports under 8 hours. This is illogical. As all drivers and attendants of the species mentioned above need to

[438] Articles 6(5) and 17(2) of the Regulation.
[439] Article 11 (1)(b)(i) of the Regulation.

be in possession of a certificate of competence, it is incomprehensible why not all applicants of a transporter authorisation are required to submit these documents.

The Regulation should be clear in this regard. All transporter applicants should be required to submit the certificates of competence of all their drivers and attendants to the competent authority.

Demand 52

Article 10 must require all transporter applicants to submit the valid certificate(s) of competence of all their driver(s) and attendant(s) to the competent authority.

Reason 53

The Regulation does not require all transporters to develop contingency plans.

As described above, Articles 10 and 11 of the Regulation lay down the requirements for transporter authorisations.

Article 11 (1)(b)(iv) requires applicants for long journeys transporter authorisations to submit to the competent authority a contingency plan for the event of emergencies. In Article 10, such a contingency plan is not requested. This means that transporters carrying out only journeys under 8 hours, do not need to develop contingency plans.

This is a major deficiency of the Regulation. Emergencies such as animals getting injured, road accidents or vehicle breakdowns can happen anytime, regardless of the journey time. Hence, it is incomprehensible why no instructions and emergency measures should be in place during transports of less than 8 hours.

The causes and nature of emergencies during animal transport are manifold. They include, for example, animals falling ill or getting injured during transport, irregularities of the vehicle, vehicle breakdowns, or external circumstances such as road accidents, intense traffic jams and long delays, extreme weather, or road conditions, and more.

A contingency plan assists in such situations. Among other things, it should provide contact information of relevant stakeholders close by, such as veterinarians, unloading stables, road assistance, places for water and feed acquisition, etc.

The Regulation requires that animals who get injured or fall ill during transport must receive immediate first aid.[440] This provision applies to all transports, regardless of the journey time. To provide immediate care and first aid, contact numbers of local veterinarians must be placed at disposal of the driver/attendant; data which would be con-

[440] Annex I Chapter I point 4 of the Regulation.

tained in a contingency plan. Hence, it is even more unintelligible why contingency plans are not required for all transports.

Vehicle breakdowns, for example, are not uncommon and often lead to long delays. Delays can quickly have dramatic consequences for the animals on board of the truck, especially in extreme weather conditions. In one incident observed by Animals' Angels, a vehicle transporting sheep on a short journey in Greece had two flat tyres. The transport was consequently forced to stop along the highway and wait for a truck service assistance to mount a spare tyre. This caused a delay of at least one hour during which the transport was parked in direct sun under high temperatures of 36°C. The unshorn sheep on board the vehicle subsequently suffered severe heat stress. Once the spare tyre was mounted, the truck still could not directly proceed to its destination. The vehicle had to be driven to a garage to mount two new tyres, as it could neither drive fast (~ 30 km/h only) nor far with the spare tyre. In such a case, the unloading of the animals or transfer onto another vehicle should have been arranged.[441]

Above all, it is well-known that heat stress is an enormous burden for the animals' physical and mental wellbeing which deteriorates quickly *(please refer to Chapter VI: Temperature limits)*. In the worst case, it leads to the death of an animal.

In June 2021, this worst-case scenario happened during a vehicle breakdown in Germany. The piglets on board the vehicle were intended to be transported on a domestic short journey to a fattening farm. Due to hydraulic problems of the vehicle, the animals got locked inside the compartments. Even though the breakdown happened in the morning, the fire brigade was not called before late afternoon. By then, after hours of exposure to severe heat, 130 piglets were dead. The prolonged suffering and agony they were exposed to must have been unimaginable. Apparently, the involved stakeholders tried unsuccessfully all day long to solve the problem themselves instead of immediately calling the fire brigade, as the ones specialised and equipped for such emergencies.[442]

Obviously, no adequate measures and instructions were in place on how to act in case of such an emergency. This case sadly illustrates the importance of contingency plans. These preventive measures are especially relevant considering that the 'load' on these transports is sentient beings. It should therefore be self-evident that in case of an emergency a coordinated approach and quick action is required to help the affected animals, prevent prolonged suffering, and to not put their lives at risk.

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441 The outcome of this incident is unknown to Animals' Angels, i.e., how much more the delay and suffering of the sheep was prolonged, and how the animals finally withstood the scenario. Observed during Animals' Angels investigation no. SM.003.2020, on 30.07.2020, in Greece, near Kozani.

442 Incident happened in Kölsa, Germany, on 09.06.2021, acc. to Link: https://www.bauernzeitung.de/news/defekte-hydraulik-am-transporter-mehr-als-hundert-ferkel-tot/(last accessed 24.06.2021). Finally, even more piglets then firstly assumed died, acc. to Link: https://www.lr-online.de/lausitz/herzberg/ferkel-tragoedie-in-koelsa-landkreis-elbe-elster-korrigiert-zahl-der-toten-tiere-nach-oben-57421751.html (last accessed 24.06.2021).

The Regulation fails to request a contingency plan for short journeys, to provide a template for a contingency plan for long journeys, and to require the contingency plans to be adapted to the specific routes. For further discussion on this, please refer to *Chapter XIX: Official controls and accompanying documents.*

Demand 53

Contingency plans must be mandatory for all transporters (Type 1 and Type 2) and should be tailored route-specific.

Reason 54

The Regulation leaves too much leeway as to when transporter authorisations should be refused.

The role of transporters is crucial in the whole transport process. Transporters are the ones responsible for the animals during the journey. They are directly in charge to ensure compliance with the requirements of the Regulation throughout the journey. The conditions for their authorisation are therefore of utmost importance.

As seen above, Articles 10 and 11 lay down the requirements for transporter authorisation. Among other things, applicants applying for a transporter authorisation cannot have a record of serious infringements of legislations on the protection of animals in the three years preceding their application. This follows from Article 10 point 1 (c) and applies also to applications for long journeys transporter authorisations, according to Article 11 point 1 (a).

Precisely, point 1 (c) of Article 10 reads as follows: *'1. The competent authority shall grant authorisations to transporters provided that: (c) the applicants or their representatives have no record of serious infringements of Community legislation and/or national legislation on the protection of animals in the three years preceding the date of the application. This provision shall not apply where the applicant demonstrates to the satisfaction of the Competent Authority that it has taken all necessary measures to avoid further infringements.'*

The apparent aim of this paragraph is undermined by its loose provisions and the difficulties in enforcing them.

I. The wording 'serious' causes problems and should be specified or deleted

The decision whether infringement(s) of legislation(s) on the protection of animals must be regarded as serious or not is subsequently up to the evaluation of official veterinarians confronted with such applicants. This leaves the relevant official veterinarian in a difficult situation. It

also does not lead to uniform enforcement of Article 10 point 1 (c) by the EU Member States or within a Member State.

A legal definition of what constitutes a serious infringement would be needed, but better still, the wording 'serious' in Article 10 point 1 (c) is deleted. An infringement of animal protection should not have to be serious for an applicant to be refused. Any such infringement means a, not merely assumed, but potential risk that the protection of the animals in his/her care may not be fully ensured in the future. Anyone who disregarded animal welfare in recent years should not be given a task that entails such an amount of responsibility as the transportation of animals.

II. 'Three years' should be extended to at least 'five years'

During an application process, infringements of animal protection legislation should also be considered when they have been committed longer back than *'three years preceding the date of application'*. In the Swiss Animal Welfare Act for example, the statute of limitations for violations is five years.[443] In Italy, administrative violations, which entail offences against the Regulation, are considered repeated if committed within five years.[444]

To consider incidents only if committed within the last three years is not ensuring the purpose of the Regulation: to protect animals during transport. Hence, Article 10 (c) should be amended so that at least the preceding five years in the history of an applicant must be considered.

III. The last sentence of Article 10 point 1 (c) should be deleted

The last sentence of Article 10 point 1 (c) should be deleted: *'This provision shall not apply where the applicant demonstrates to the satisfaction of the Competent Authority that it has taken all necessary measures to avoid further infringements'*.

The decision on whether the measures taken by the applicant are satisfactory or not is left to the discretion of the competent veterinary officer. This easily leads to very uneven and arbitral application of the Regulation. Moreover, any promise that future infringements will be avoided can only be verified in retrospect.

Violations are caused by human error. The measures to avoid violations in the future may therefore, for example, contain verbal assurances or the introduction of standard operating procedures (SOPs), credibly presented to the veterinarian. However, it is impossible to guarantee compliance with these SOPs in practice and the actual prevention of further breaches by human error. The measures taken to avoid further infringements may appear adequate to the veterinarian, but the implementation in practice can neither be ensured nor controlled in advance.

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443 See: Artikel 29 Tierschutzgesetz (TSchG) vom 16. Dezember 2005

444 Italian law No. 689/81, Article 8 bis: 'a repetition occurs when, within five years following the commission of an administrative violation, ascertained by an executory measure, the same person commits another violation of the same nature. A repetition occurs also when several violations of the same nature committed within a five-year period are ascertained by a single executory measure. Violations of the same nature shall be considered to be violations of the same provision and violations of different provisions which, owing to the nature of the facts constituting them or the manner of their conduct, are substantially homogeneous or have fundamental characteristics in common'.

As stated above, the given period of three years in which infringements of animal protection/welfare legislation shall be considered at all is extremely short. So, if an applicant violated animal protection rules within the last three years, but credibly demonstrates how he/she intends to avoid such infringements in the future, he/she may be allowed to operate as a transporter, nevertheless. This is even though very recently (within the last three years) he/she still disregarded the protection or welfare of animal(s).

This system does not adequately protect animals, but rather exposes them to a high risk of suffering. Thus, if violations have been committed within (at least) the past five years, for the sake of the animals, a permit should generally not be issued, no matter how credible the assurances to the prevention of further infringements may be.

IV. Applicant must proof and guarantee the absence of any committed violations of animal protection in the last five years

It is unfeasible for a competent authority to verify if an applicant has a history of infringing any community or national legislation on the protection of animals. In Article 10 point 1 (c) the Regulation requires that infringements of any animal protection legislation should be considered, and not exclusively infringements of the Transport Regulation itself. This makes sense and is welcome, as any violation of the integrity of animals is relevant and may hint to future inappropriate handling of animals. But such information may be scattered and difficult to obtain. There is no EU-wide database that records all animal protection violations committed by natural or legal persons. The EU Member State in which the offence had been committed may not be the same as where the application for the transporter authorisation is submitted.

Also, a 'record' of previous infringements can come in different guises. The wording 'record' may be subject to interpretation. One may solely consider juridical decisions or sanctions as a record, but not notifications in TRACES. Hence, rather than the absence of a 'record' of committed infringements, the general absence of committed infringements should be required and guaranteed by the applicant. The wording of the Regulation should be changed accordingly.

In some circumstances, a violation of animal protection or welfare rules may not even have been officially recorded in an available database. There may have been situations where, for example, a verbal warning was issued but no corrective or judicial measures were taken. Verbal warnings are usually not recorded. It is hence very difficult and likely impossible for a competent authority to verify in a comprehensible way whether the applicant has disregarded any animal protection or welfare rules in the past.

Consequently, it should also be the responsibility of the applicant to prove his/her compliant behaviour. When applying for a transporter authorisation, the applicant should be obliged to provide a credible assurance and guarantee about the absence of any committed infringements of animal protection rules in the past[445], whether com-

[445] As for example required in Niedersachsen, Germany. Link: https://service.niedersachsen.de/detail?areaId=&pstId=8669434&ouId=&infotype=0 (last accessed 24.06.2021).

mitted in the country of application or somewhere else. This should be clearly demanded by the Regulation. If after an authorisation the person in question is nevertheless found to have committed animal welfare violations in the past, the transporter authorisation should be withdrawn immediately and permanently.

However, this does not mean that the authority does not also need to investigate within its scope. This scope should certainly entail, among other things, researching the applicants' name in the international database TRACES. The Regulation does not specify what 'record' means. Yet it should be self-explanatory that notifications in TRACES or other databases are 'records' and should therefore be evaluated and considered.

To check TRACES before authorising a transporter is highly important: if an applicant has been registered as a transporter in the past, an examination of his history can give important indications about his performance as a transporter and compliance under the Regulation. It may not be obvious to a competent authority to search an applicant's name in the TRACES database, as the applicant is just applying to become a transporter and would therefore, logically, not yet be registered in TRACES. However, according to the experience of Animals' Angels, it is not unlikely that transporters set up a new transport company after having been registered with another transport company in the past.

For example, a Romanian transport company was observed by Animals' Angels four times in 2017[446] and 2018[447], always transporting lambs for slaughter from Romania to Bulgaria. In each case, multiple violations of the Regulation were blatant and some violations were repeated each time (insufficient space, filthy conditions). In May 2019, Animals' Angels recognised a driver that used to drive for that company. Yet this time, he drove for another Romanian transport company, but again transporting lambs for slaughter to Bulgaria.[448] According to his statement, the first company went bankrupt due to complaints lodged by Animals' Angels; according to the official list of Romanian transporters, all vehicles of the first company were suspended or annulated.[449] The other transport company was newly registered in March 2019 with one vehicle in the same Romanian district[450] as the first one was before. It is beyond the knowledge of Animals' Angels whether there is any link between the two companies. Simply the fact that the previous transport company went bankrupt, a new transport company was established in the same county and its vehicle has the same digits

[446] Animals' Angels report on a transport of sheep from Romania to Bulgaria, 22.12.2017.
[447] Animals' Angels report on three transports of lambs from Romania to Bulgaria, 30.–31.01.2018.
[448] Animals' Angels report on a transport of lambs from Romania to Bulgaria, 19.04.2019.
[449] ANSVSA, list of suspended and annulated commercial transporters for short and long journeys: Mijloace de transport rutier de lungă durată/Mijloace de transport rutier de scurtă durată. Link: http://www.ansvsa.ro/sanatate-bunastare-si-nutritie-animala/transport-animale/transport-comercial-de-animale/(last accessed 22.06.2021)
[450] ANSVSA, list of active commercial transporters for long journeys: Mijloace de transport rutier de lungă durată. Link: https://domino.iqm.ro/ansv/ansvsa.nsf/MTLJ?OpenForm&Seq=1#TOP (last accessed 22.06.2021)

(06)[451] in the licence plate, the same driver was observed transporting the same animal species to the same destination, and that the same violations were observed again (insufficient space, filthy conditions), may highlight the importance to exclude any prior background before authorisation of a transporter, by checking the data in TRACES.

This case is not an allegation. Instead, it serves to illustrate that applicants' backgrounds are to be investigated to prevent potential failures to comply with the Regulation from the beginning. Therefore, it is also essential that any shortcomings are registered in TRACES and that the use and performance of TRACES is improved *(please refer to Chapter XX: Sanctioning system and Enforcement)*.

Demand 54

Clarify and strengthen the reasons upon which the authorisation of a transporter should be refused:

- As part of the application process, the applicant must proof and guarantee the absence of any committed violations of animal protection in the last five years.
- Any infringements of animal protection/welfare legislation(s) within at least five years preceding the application should be considered.
- Delete in Article 10 point 1 (c):
  - 'record'
  - 'serious'
  - 'This provision shall not apply where the applicant demonstrates to the satisfaction of the Competent Authority that it has taken all necessary measures to avoid further infringements.'

[451] Romanian licence plates start with two letters for the county of registration, followed by two or three digits and three letters. The digits and the letters at the end can be customized (Link: https://en.wikipedia.org/wiki/Vehicle_registration_plates_of_Romania, last accessed 22.06.2021). A licence plate of a vehicle of the first company was IL-06-GEL (Link: https://domino.iqm.ro/ansv/ansvsa.nsf/MTDoc?OpenForm&-NUM=7197, last accessed 22.06.2021); the licence plate of the vehicle of the second company is IL-06-KKK (Link: https://domino.iqm.ro/ansv/ansvsa.nsf/MTLJ?OpenForm&Seq=1#TOP, last accessed 22.06.2021).

CHAPTER XII:

Drivers' and attendants' competence

Reason 55

The Regulation does not require all drivers or person acting as attendants on road vehicles to hold a certificate of competence.

Animals must be accompanied by an attendant during transport, save in the case where they are *'transported in containers which are secured, adequately ventilated, and, where necessary, contain enough food and water, in dispenser which cannot be tipped over, for a journey of twice the anticipated journey time'*[452].

An attendant is defined by Article 2 (c) as *'a person directly in charge of the welfare of the animals who accompanies them during a journey'*. The driver can perform this function of an attendant, according to Article 6 (6)(b). This is usually made use of for transports of bovine, caprine, ovine, porcine animals and equidae.

Drivers and attendants, being personnel of transporters who handle animals, must successfully complete a training on the relevant provisions of Annexes I and II of the Regulation, and pass an examination approved by the competent authority[453]. Drivers or attendants of equidae, bovine, ovine, caprine, porcine animals and poultry must additionally hold a certificate of competence[454].

[452] Article 6 (6) of the Regulation.
[453] Articles 6 (4) and 17 (1) in connection with Annex IV point 1 of the Regulation.
[454] Articles 6 (5) and 17 (2) of the Regulation.

This means that drivers or attendees transporting other animals, such as leporidae, fishes or cervidae, do not need to hold a certificate of competence. They must complete the training and pass an examination, but this does not need to be 'proven' in the form of a certificate.

This is an unreasonable loophole. Drivers and attendees are the only ones accompanying the animals during transport. As seen above, they are directly in charge of the welfare of the animals. They must therefore be familiar with the type of animals they are transporting, with their characteristics and needs, with the requirements of the Regulation in relation to these animals and be able to intervene competently in the event of incidents or emergencies. The successful passing of a training and subsequent examination should be detained in a certificate of competence, so that there is proof of their competence. Depending on the training received, this certificate can be limited to specific animals, according to Article 17 (2). This makes sense, as a person trained to transport fishes, for example, needs to possess different skills and knowledge than a person transporting pigs.

Demand 55

The revised Regulation should foresee that all drivers and attendants accompanying animals during transport must hold a certificate of competence, when transporting any kind of live animals for commercial purposes.

Greece, July 2020 – Animals' Angels team talking with a driver during a field investigation.

Reason 56

The Regulation does not lay down uniform rules for the training and education of animal transport drivers and attendants.

As seen above, personnel of transporters who handle animals must be trained. In its Annex IV, the Regulation specifies some topics that must be included in these mandatory training courses. For example, the technical and administrative aspects of the Regulation and items such as animal physiology, practical aspects of handling of animals, driving behaviour and emergency care for animals, shall be included in the training.

The nature of these trainings is not further defined and so leaves too much leeway. It is not clear whether the training must include practical aspects or whether it can be purely theoretical. No minimum duration of the training is defined, so it may be a one-day course or a one-week training.

This leads to differences in the training methods amongst the EU Member States.

In Germany, there are various scenarios. Persons with relevant background can automatically receive the certificate of competence by the competent veterinary authority. The necessary expertise should be proven to the competent authority, yet it is at the discretion of the competent authority, if the applicant must pass a theoretical or practical examination, or if he/she receives the certificate of competence without further efforts. It is also at their discretion if the certificate is restricted to certain animals or not. So, there is a lot of room for variations here. According to the knowledge of Animals' Angels, practical examinations of persons with relevant background are not always taking place. Persons with relevant background are inter alia those who completed degrees in agriculture or veterinary medicine, after 5 January 2007, or passed examinations for certain occupations, such as butcher, farmer, horse groom, animal caretaker, animal farmer, or have other recognised professional qualifications or certificates which require the necessary specialist knowledge.[455] The training courses for persons without relevant background must be completed at approved independent establishments. The training courses offered from one major institution are only theoretical. The duration varies according to focus area: one day for poultry, two days for cattle, sheep, goats, pigs, and horses, and one day for horses only. Finally, a theoretical examination and a practical examination of a loading process must be passed.[456]

In France, the training courses must be completed at training organisations authorized or registered by the Ministry of Agriculture. The

[455] Paragraph 4 of the German Tierschutztransportverordnung – TierSchTrV. Link: https://www.gesetze-im-internet.de/tierschtrv_2009/BJNR037500009.html (last accessed 12.05.2021).

[456] Training courses offered through DEULA. Link: https://www.deula.de/index.php?id=29&lCourseID=3 (last accessed 12.05.2021).

courses are held separately per species/categories of animals, and minimum durations are specified. Again, persons with relevant background are exempted from the training course and may directly receive the certificate of competence. Contrarily to Germany, an order specifies in-depth the educations or completed trainings per each category of animals which can be accepted to obtain the certificate of competence.[457]

In Spain on the other hand, a 20-hours online course can be completed to obtain the certificate of competence. The actual active participation in the compulsory lessons cannot be supervised, the course may as well just run on the laptop. Solely the theoretical test questions have to be actively attended and completed. There is neither a practical training nor a practical examination of the skills of the trainee. Such a training does in no means constitute an educational training in the sense of knowledge transfer, development of practical skills and assessment of both. It cannot be taken seriously.[458]

Transporting animals is a highly versatile and challenging task that requires both theoretical knowledge and practical skills. Especially the latter can in the opinion of Animals' Angels not solely theoretically be taught or examined. The handling of animals requires practical experience, and these practical skills absolutely need to be assessed and examined in real-life situations.

In practice, time and time again, Animals' Angels encountered drivers who showed a lack of knowledge regarding basic principles on the transport of live animals, both in theoretical and practical aspects.

For example, in a national short transport of cattle in France, the driver was not aware of the obligation to carry a transport documentation, a basic requirement of Article 4 of the Regulation. He was in the possession of the certificate of competence.[459]

As for the practical aspects: when animals touch upper structures with their heads or backs, it is regularly considered as normal and acceptable by drivers. One driver stated in December 2020 in Italy that the lambs *'are not forced to kneel down, so the ceiling height is sufficient'*[460]. Even though the Regulation leaves room for interpretation regarding the ceiling height, it is clear in saying that the animals must have enough room for natural movements and be able to stand in a naturally upright position, with ventilation above them *(see Chapter IV: Internal heights (space above the animals*). That is obviously not fulfilled when an animal is forced to keep the head low and is unable to lift the head, because of the low deck height. Drivers must be aware of such basic requirements.

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457 Ministère de l'agriculture et de l'Alimentation. Link: https://www.mesdemarches.agriculture.gouv.fr/demarches/entreprise-agroalimentaire-et/obtenir-un-droit-une-autorisation-71/article/demander-un-certificat-de-599?id_rubrique=71 (last accessed 12.05.2021) and Arrêté du 12 novembre 2015, accessible under https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000031521436 (last accessed 12.05.2021).

458 Formación Agraria. Link: https://agro.iberf.es/curso/bienestar-animal-transporte/metodologia (last accessed 12.05.2021).

459 Information received during Animals' Angels investigation no. SG.007.2019, France, 27.05.2019.

460 Information received during Animals' Angels investigation no. SM.006.2020, Italy, 18.12.2020

Another example is when unfit animals are loaded or when animals fall injured or ill during transport or get trapped. Unfit animals should be detected and not loaded by the drivers in the first place *(please see Chapter V: Fitness for transport)*. Animals that fall injured or ill or get trapped during transport must receive immediate care and first aid. Unfortunately, it is not only common that these animals remain undetected by drivers *(please refer to Chapter XIII: Road vehicle standards and authorisations)* but sometimes first aid is even refused. For example, a driver whom Animals' Angels encountered three times, refused to free a badly trapped lamb saying that *'she will be slaughtered soon anyway'*. Yet, three hours of road transport were still ahead. It must be noted that trapped animals cannot balance the vehicle motion, nor rest and lie down, while the vibrations of the vehicle are likely painful on the trapped body part. Each time the teams of Animals' Angels observed a transport carried out by this particular driver, trapped lambs, lame lambs, extremely filthy conditions, and once a lamb in death throes were detected. This driver showed a blatant lack of knowledge about fitness for transport and first aid for animals in need, and an obvious lack of care/interest.[461]

Yet, he is no isolated case. Negligent behaviour by drivers is commonly observed by Animals' Angels, for example regarding ventilation and watering systems. It is not rare to find parked transports with turned-off ventilation systems, despite high temperatures.[462] Animals suffering heat stress were left to their fate, no extra measures such as parking in shade or manually providing water were taken.[463] Water systems on long transports of pigs were found turned off, even though these animals should have had constant access to water.[464] The protection from inclement weather was not always ensured, even though the lateral side flaps would allow to do so. Animals' Angels witnessed animals wetted from precipitation entering the compartments and subsequently shivering from cold.[465] This is no comprehensive list of circumstances where Animals' Angels witnessed unprofessional behaviour of drivers.

The consequences of the different training systems among the Member States also became evident in several observed transports carried out by drivers from a non-EU country. The drivers received their certificates of competence from the Member State Bulgaria, according to the knowledge of Animals' Angels. Yet, if they actually spoke Bulgarian and could thus actively participate to these training courses, is unknown to Animals' Angels. Blatantly obvious though was their lack of knowledge about basic principles of the transportation and handling of

[461] Animals' Angels report on a transport of lambs from Romania to Bulgaria, 19.04.2019, pages 2-3.
[462] Exemplary case: Animals' Angels report on a transport of lambs from Romania to Greece, 31.07.2020, pages 2-4. Additionally, a trapped lamb remained undetected by the drivers.
[463] Exemplary cases: Animals' Angels report 'Monitoring live transports at the Bulgarian-Turkish border', 11-18.08.2018, pages 31-34.
[464] Exemplary case: Animals' Angels report on a transport of pigs from Spain to Italy,, 17.-18.07.2019, pages 2-4.
[465] Animals' Angels report on a transport of sheep from Romania to Bulgaria, 22.12.2017, pages 1-3.

animals. In one case three drivers were transporting cattle from Bulgaria to Albania, where the transport conditions were appalling: the transport took place during extremely high outside temperatures of more than 35°C, no bedding material was provided, animals touched upper structures with their heads and nearly with their backs, the transport was extremely overcrowded, the animals were lying on top of each other or being trampled, varying sizes of animals were loaded together, dividers were left open and loose, the vehicle was not equipped with a water system for cattle, and so on. The drivers showed a lack of care and only intervened for the sake of the trampled animals upon request of Animals' Angels. They subsequently repeatedly used electric prods on the animals, who had no space to move away, and seemed to be unaware of the pre-conditions for the use of an electric prod[466]. Finally, one of the drivers asked Animals' Angels if there were *'any problems on this transport'*. Apparently, they were not aware of the multiple violations committed whilst transporting and handling animals in the described way.[467]

In other transports carried out by non-EU drivers[468] and observed by Animals' Angels, similar issues such as exceeded temperatures and densities were witnessed.[469] The question about the training that they have received must be raised.

As seen, a lack of care, diligence, or knowledge of drivers, is always to the detriment of the animals. Therefore, and to avoid the different training systems among the Member States, the Regulation must set clearer and more stringent requirements on the education and training of drivers and attendants.

Demand 56

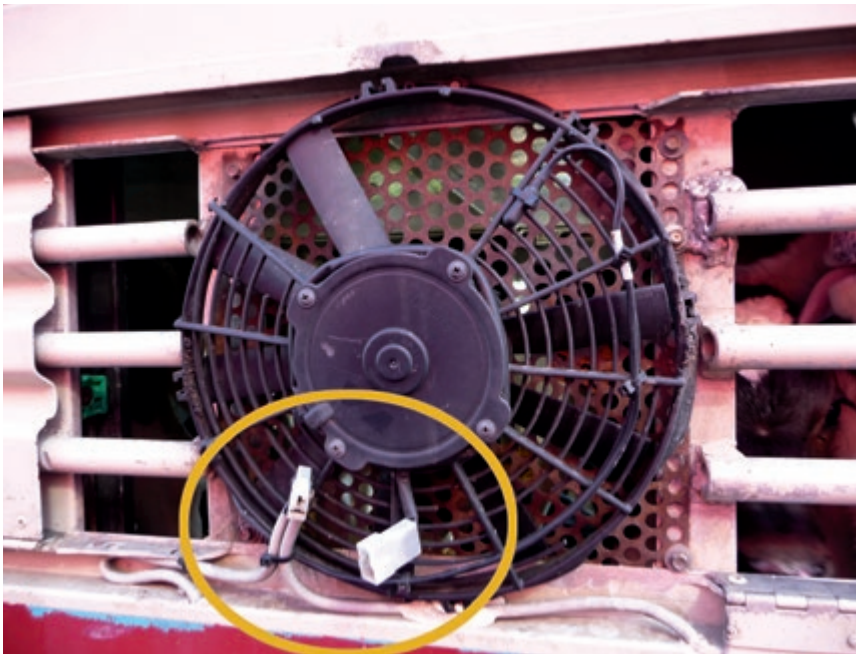
The revised Regulation must foresee:

- Specification on the nature and minimum duration of the training courses for drivers and attendant.
- Compulsory practical exercises during and practical exam after the training course.
- Requirement that persons with relevant background must proof their knowledge in a theoretical and practical exam, in relation to the animals (species) they are applying for.
- Limited duration of validity for certificates of competence, or
- Holders of certificates of competence must exert refresher courses and examinations at defined regular intervals, otherwise the certificate should be suspended.

[466] Annex I Chapter III point 1.9 of the Regulation.
[467] Animals' Angels report on two transports of bovine animals from Romania to Albania via Greece, 05.08.2019 and 30.08.2019, pages 1-3.
[468] I.e. non-EU citizens not living in a EU Member State.
[469] Animals' Angels report on two transports of Bulgarian cattle to Albania via Greece, 30.-31.07.2020 and 01.-02.08.2020, pages 1-6.

CHAPTER XIII:

Road vehicle standards and authorisations



Reason 57

The template for the certificate of approval for road vehicles used for long journeys laid down by the Regulation is not detailed enough.

Road vehicles used for long journeys must be inspected and approved by competent authorities. The competent authority must verify that each vehicle complies with the requirements laid down in Chapters II and Chapter VI of Annex I applicable to the design, the construction, and the maintenance of the vehicle. Vehicles found to be compliant are approved by the competent authority with a certificate of approval. For this, a template is provided in Chapter IV of Annex III.[470]

This template lacks essential details, which in turn may directly lead to welfare hazards for animals during transport. For example, neither the existence nor details about the water and temperature monitoring systems are requested to be specified. The importance of detailed information becomes clear when considering that competent authorities are not always present at the time of loading at the departure places. As a result, they may not be able to visually check the vehicle. They then rely completely on the information provided to them via the certificate of approval. The Regulation foresees that before each long journey, the competent authorities at the place of departure shall carry out checks of specific documents – inter alia, on the certificate of approval for means of transport for long journeys.[471] This is why it so

[470] Article 11 (1)(b)(ii) and Article 18 of the Regulation.
[471] Article 14 (1)(a)(i) of the Regulation.

important which data is included in the certificate of approval of road vehicles.

The 'Network Document' for animals exported by road, hereafter referred to as the Network document, created by national experts and Member States' National Contact Points responsible for the implementation of the Regulation, provides a more comprehensive template for the certificate of approval of road vehicles.[472]

In Box 1 of the template provided by the Regulation, the license plate of the vehicle must be indicated. The Network document also proposes to indicate the chassis number, for example, the vehicle identification number, besides the licence plates.

Also, in Box 1, the presence of a navigation system must be confirmed. Road vehicles used for long journeys need not only be equipped with a navigation system, but also with a ventilation system, a temperature monitoring system, and with a water system.[473] It is rather incomplete that only the presence of a navigation system must be confirmed in the certificate of approval, but not the presence of the other systems, especially of other electronic systems, such as the temperature monitoring system.

The presence and proper functionality of all these mandatory systems are crucial for the animals on board. Regarding the temperature monitoring system, it is essential to monitor the onboard temperatures during the journey, and to verify compliance with the temperature limits during retrospective checks *(please see for details Chapter VI: Temperature limits)*.

The ventilation system must, pursuant to the Regulation, be capable to maintain the specified temperature range of 5–30°C inside the vehicle.[474] As discussed in *Chapter VI: Temperature limits,* commonly used ventilation systems are not capable to fulfil this requirement. They are not to be compared with air-conditioned road vehicles, which are a minority.[475] Air-conditioning systems directly influence the internal temperatures, whilst ventilation systems move the air, but cannot actively lower or increase the inside temperatures. That is a tremendously important and huge difference. As a result, the system used, mechanical ventilation or air condition, must be indicated in the certificate of approval. And most importantly, corresponding minimum and maximum outside temperature restrictions should be set for each vehicle, depending on its capability to maintain the inside temperatures within legally required limits. Such information should absolutely be detained in the certificate of approval. That this is not the case yet, was also observed and pointed out by the European Commission: *'Currently, the authorities do not include any restriction regarding temperature in the approval certificate for vehicles.'*[476]

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[472] EU national contact points for animal welfare during transport (2017): Network Document on Checks Before Journeys when Live Animals are Destined for Export by Road. Page 11. Link: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/704015/ATIC1272-Appendix16.pdf (last accessed 06.08.2021).

[473] Annex I Chapter VI points 2, 3, 4, of the Regulation.

[474] Annex I Chapter VI point 3.1 of the Regulation.

[475] DG(SANTE) 2019-6834. Page 8. See footnote 279.

[476] Ibid. Page 9.

Temperature restrictions for road vehicles are urgently needed to put a halt to transports taking place during extreme temperatures *(see also Chapter VI: Temperature limits)*. Lack of such restrictions so far is, among other things, one of the reasons that transports of animals still take place no matter how extreme the outside temperatures may be. Moreover, as seen above, in case they do not physically check the road vehicle, competent authorities at departure places have no means to know if the road vehicle in question will be able to maintain the inside temperatures within the legally required limits during the journey or not. It is imperative that such a temperature restriction indication in the certificate of approval is made compulsory.

For what concerns the water system, as seen in *Chapter VII: Water supply*, the different animals need different types of watering systems. This must be considered in the certificate of approval. It should be mandatory to specify the type of watering system installed, and most importantly, for which species and categories of animals it is suitable. Again, this is crucial: competent authorities at the departure place may not see the vehicle, so they are neither able to observe the type of watering system installed, nor its suitability for the transported animals. Only when the type of watering system is indicated in the certificate of approval, competent authorities at departure places can evaluate whether and how the animals may be supplied with water during the planned transport.

In Box 2 of the provided template, the 'types of animals allowed to be transported' shall be outlined. The indication of 'types' of animals is not restrictive enough. Animals of the same type but of different age or size have vastly different needs and requirements. For example, a drinking device that is approved for cows is not adequate for unweaned calves. But both categories of animals belong to the type 'cattle'. Or a vehicle approved for sheep can present interstices where small lambs easily get trapped, but not adult sheep. Again, both categories of animals belong to the same type 'ovine'. Both are practical examples observed by Animals' Angels, as is the fact that mostly only the required minimum is entered in Box 2, i.e., the animal species. Animals are hence transported in vehicles not adapted to their needs, or in which they easily get injured, even though the vehicle has been approved for their species. It is therefore inevitable that the category of animals that can be transported in a vehicle must be specified in the certificate of approval, for example by age or weight.

Furthermore, it should be specified on how many decks each category of animals can be loaded. This would considerably reduce systematic problems such as the common practice of transporting lambs on four decks. Transporting lambs on four decks is problematic, as the internal height is most often insufficient according to the experience of Animals' Angels. This means, the animals touch or nearly touch upper structures with their heads or backs. Regarding the resulting welfare consequences, please refer to *Chapter IV: Internal heights (space above the animals))*. The template provided by the Network document recommends indicating in the certificate of approval the number of decks per category of animal. For example, it indicates: *'(…) sheep and goats (max. 3 decks, 4 compartments/deck).'*

In Box 3 of the provided template, the surface of the vehicle shall be outlined. The indication of the surface of a vehicle is indispensable to calculate loading densities. This means, to determine how many animals can be loaded onto one vehicle and how much space each animal is granted.

The current template asks for the 'area in m^2/deck'. Such an indication is insufficient, as it ignores the different types of vehicles. Road vehicles transporting live animals can be so-called semitrailers, e.g., trailers without a front axle, which are pulled by a cabin/tractor unit. Semitrailers may have a gooseneck or not, e.g., a narrower front part of the semitrailer which is laid up on the pulling unit. The presence of a gooseneck is an important factor for density calculations, as depending on the animals' sizes, less decks can be loaded there because of the lower height. The loading surface of semitrailers with gooseneck is, according to the experience of Animals' Angels, usually indicated separately, for example, referring to the surface of the decks in the main body, and to the surface of the decks in the gooseneck. Other road vehicles are single trucks, for example a truck combined with the cabin, which may also pull a trailer.

It becomes clear that detailed indications on the type of vehicle and on the surface of each deck in the main body and in the gooseneck are imperative for accurate density calculations.

However, even with such detailed information provided in the certificates of approval, average density calculations remain problematic. This is because the single compartments can be loaded unevenly. Animals transported in groups are usually separated and distributed into several compartments. These compartments are created with dividers and can be of varying sizes. Means, to accurately understand how much space each animal is granted, the surface of each single compartment should be known. The surface of each compartment can then be divided per animals loaded in the respective compartment. Only then, accurate density calculations for each animal are possible. Otherwise, density calculations are an average and do not necessarily reflect reality.

For example, uneven distribution of cattle between the single compartments was observed by Animals' Angels in many cases. Animals were observed in very close body contact in one compartment, whilst in another compartment of the same vehicle, they had much more room to move and lie down. In certain crowded compartments, the legally required minimum space allowances by the Regulation were exceeded, whilst the average density calculations revealed a compliant minimum density.[477] It becomes clear that the loading surfaces of single compartments should ideally be indicated in the certificate of approval.

In addition, in some vehicles, protrusions for the wheels reduce the available loading surface for the animals on the first deck. These protrusions present uneven obstacles for the animals; hence, these areas cannot be used by the animals for resting or standing.[478]

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[477] Animals' Angels report on transports of cattle from France to Italy via tunnel of Fréjus, 20.-23.11.2019. Pages 3, 4, 7.

[478] For example: Animals' Angels report on a transport of heifers from Denmark to Uzbekistan, April 2021.

Transport of pregnant heifers from Denmark to Uzbekistan. The wheel cases protrude into the animals' compartments, thus reducing the available space for the animals to properly stand or rest.

In vehicles transporting horses in single stalls, the dividers may likely be fixed only at certain points. In such a case, the loading surface of each individual stall should be indicated in the certificate of approval. This would allow to calculate the actual space allowance for each horse, rather than, again, average density calculations.

For example, from the indications in the two certificates of approvals below, the types of vehicles and the actual loading surfaces remain unknown.

In fact, case 1 is a semitrailer with gooseneck, and was observed loaded with animals on four decks in the main body and three decks in the gooseneck. It remains unknown if the 33.306 m^2 is the total available loading surface of this vehicle, or if it refers to one deck only. It is from experience that Animals' Angels concludes that 33.306 m^2 is not the total available loading surface but refers to each single deck. On the other hand, it remains unknown to Animals' Angels if the indicated loading surface of 33.306 m^2 includes the gooseneck or not.

Case 1

2. Κατηγορίες ζώων που επιτρέπει να μεταφέρει
ΒΟΟΕΙΔΗ-ΠΡΟΒΑΤΑ-ΑΙΓΕΣ-ΧΟΙΡΟΙ
Types of the animals allowed to be transported
BOVINE-OVINE-CAPRINE-PORCINE

3. **ΕΜΒΑΔΟΝ ΣΕ Μ² / ΚΑΤΑΣΤΡΩΜΑ** **33,306 m²** **(13,65*2,44)**
AREA IN M² / DECK

4. Η παρούσα άδεια ισχύει μέχρι **29/03/2023**
This authorization is valid until **29/03/2023**

Case 2

2.	Κατηγορίες ζώων που επιτρέπει να μεταφέρει Types of animal allowed to be transported	Αιγοπρόβατα,βοοειδή,χοίρο Goats and sheeps, bovine, porcine
3.	Εμβαδόν σε m^2 / κατάστρωμα Area in m^2 / deck	14,80m^2/κατάστρωμα 14,80m^2/ deck 15,20m^2 /κατάστρωμα 15,20m^2 /deck 15,60m^2 /κατάστρωμα 15,60m ^{2}/deck 17,20m^2 /κατάστρωμα 17,20m^2 /deck
4.	Η παρούσα άδεια ισχύει μέχρι This authorization is valid until	27/02/2024 27/02/2024

Case 2 consists of a two-unit truck and trailer. Only the surface of the loading decks of one vehicle unit are indicated in the vehicle approval, for example, only of the truck or trailer. It remains unknown to the reader that this vehicle consists of a two-unit truck and trailer. According to observations of Animals' Angels, both units have the same licence plate. Thus, this approval is valid for both units, but only indicates the loading surface of one unit.

It is nearly impossible for competent authorities at departure places to carry out a correct and realistic calculation of loading densities based on such incomplete and undetailed indications.

Demand 57

- Obligation to specify the category of animals allowed to be transported (by description, age, or weight) and on how many decks each category can be loaded.
- Obligation to indicate outside temperature restrictions for each vehicle.
- Obligation to indicate the type of watering system installed and for which species and categories of animals it is suitable.
- Obligation to indicate whether mechanical ventilation or air condition system is used.
- Obligation to specify the type of vehicle, e.g., truck and trailer or semitrailer with or without gooseneck and to indicate the surface of each single deck in the main body and in the gooseneck; if applicable, obligation to indicate the surface of compartments with given size, for example if partitions can be fixed only to certain points.

Reason 58

The Regulation does not require a uniform navigation/tracing system for means of transport by road.

The Regulation requires means of transport by road used for long journeys to be equipped with a navigation system. The purpose of such navigation systems is *'(…) recording and providing information equivalent to those mentioned in the journey log as referred to in Annex II, Section 4, and information concerning opening/closing of the loading flap.'*[479] Section 4 of Annex II is the part of the journey log that is filled in by the driver during the journey, for example, where he/she indicates any stops, incidents, resting periods, etc. Records about the opening and closing of a loading flap give hints to whether the animals were unloaded during the journey.

It follows that the navigation systems' main purpose is to provide means for controlling the execution of a transport. In the absence of such a system, information on the executed journey relies solely on statements and recordings of driver(s) according to Section 4 of Annex II.

The itinerary, driving hours, driving speed, duration and location of stops, and openings and closing of the loading flaps can be verified during and after the transport with the help of a navigation system, either by live access on a remote data receiver, or retrospectively, with the help of recordings obtained by the navigation system. To the current knowledge of Animals' Angels, it is the system providers and the transporters who have real-time access to such data. Means, whilst the vehicle is driving, these stakeholders can track the vehicle and see its current position and driving speed. The Regulation does not require competent authorities to have real-time access to this data. They must only be provided with the recordings upon request.[480] A real-time access would have the great advantage that a competent authority could check at desired intervals whether a transport complies with the planned itinerary and resting periods. The recordings obtained from these systems are extremely difficult and time-consuming to check, according to the experience of Animals' Angels. For example, coordinates indicated by these recordings must be inserted into 'Google Maps', one after the other, to draw conclusions about the itinerary of the transport.

EFSA stated in 2011 that *'although it is called "navigation system" in the EC Regulation (…), its primary purpose is to act as a tracing system, monitoring whether the transport was executed to the stipulated requirements. (…) For clarity of its intended use, the navigation systems referred to in Regulation (EC) 1/2005 should be called "tracing systems in long*

[479] Article 6 (9) and Article 11 (2) in connection with Annex I Chapter VI point 4.1 of the Regulation.
[480] Article 6 (9) of the Regulation.

animal journeys", and incorporate a temperature monitoring and warning system"[481]. Therefore, hereafter, the wording 'tracing system' will be used when referring to the navigation system required for by the Regulation.

The Regulation does not lay down any specifications or minimum standards for the tracing system. This means that transporters can choose freely between available systems of different service providers. Road vehicles are consequently equipped with very different tracing systems.

The above-described aim of tracing systems is undermined by the fact that there is no harmonised EU-wide tracing system for live animal transports. Joint Research Center of the European Commission (JRC) stated in a study conducted in 2011, that *'(…) the differences in the technical solutions regarding e.g. the on-board architecture, system architecture and functionalities render the tracing system not useful in the official controls as the data could not be easily made available*' [482].

Also, EFSA concluded in 2011 that regarding navigation and temperature monitoring systems, *'(…) there is widespread uncertainty regarding both the specifications and their implementation for official animal welfare controls (…). Tracing systems for long journeys are not yet sufficiently used for a better traceability of transport operations and for the enforcement of welfare requirements, although a number of suitable systems are commercially available. The use of such systems is hindered by uncertainties as to what they should and could achieve, and differences regarding availability of the monitored data."*[483]

These problems persist since a long time and yet have not been remedied to date. Points 4.2 and 4.3 of Chapter VI of Annex I require inter alia that the Commission should propose and define specifications for the navigation systems to be used for all means of transport to the Council. Hence, the JRC has drawn up Technical Specifications for a harmonised EU-wide tracing system in long animal journeys. Unfortunately, an agreement on common minimum requirements could not be achieved yet, due to disagreement amongst the Member States.[484] Such barriers must be eliminated by laying down clear requirements for the tracing systems and their performance, and by giving competent authorities mandatory and real-time access to relevant data obtained.

Laying down uniform requirements on the tracing systems is even more important as the position and time in standard GPS positioning services can be falsified.[485] For example, in two transports visually observed and documented by Animals' Angels, striking discrepancies between the GPS recordings and the visual observations became evident. For a time period of 5 hours, where the transports were visually observed parked along the road, the retrospectively requested GPS data of one transport showed a driving mode of ~34 km/h. In the recordings

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[481] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Pages 60, 88. See footnote 41.

[482] JRC Scientific and Technical Reports: Feasibility study on a decentralised system architecture for animal transport tracing systems (DEAR-TRACE), 2011. Page 5. Link: https://publications.jrc.ec.europa.eu/repository/handle/JRC64890 (last accessed 14.05.2021).

[483] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Pages 60, 88. See footnote 41.

of one transport, there were gaps without showing the position of the truck for consecutive time-periods of up to 19 hours. Another visually observed 45 min stop was not evident in none of the recordings of neither transport.[486]

As seen in *Chapter VI: Temperature limits*, also temperatures must be recorded. According to the knowledge of Animals' Angels, often combined tracing systems are used. E.g., one system is used to measure different elements, such as positioning and temperatures.[487] According to the experience of Animals' Angels, as with the position and time, also the temperature recordings can be manipulated. In one case documented by Animals' Angels, the printout of the temperature monitoring system on the spot showed inside temperatures of up to 39.8°C. The temperature recordings retrospectively requested by the competent authority however showed inside temperatures of maximum 31°C.[488]

In view of the above, the need for a harmonised tracing system that ensures data integrity for official purposes becomes evident.

More comprehensive tracing systems are available and could address animal welfare. Further parameters such as relative humidity, vibration and total loaded weight should be measured, and real-time access to the recorded data should be granted to competent authorities.[489]

Demand 58

Introduction of a uniform and harmonised tracing (navigation and temperature monitoring) system to be used in all road vehicles, with defined minimum standards, indications where temperature sensors must be placed, and incorporating further parameters such as humidity and total loaded weight. Competent authorities must be granted mandatory real-time access to relevant data.

[484] JRC Scientific and Technical Reports: Feasibility study on a decentralised system architecture for animal transport tracing systems (DEAR-TRACE), 2011. Page 5. See footnote 482.

[485] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Page 62. See footnote 41.

[486] Animals' Angels report on two transports of heifers from the Netherlands to Uzbekistan, 07.-16.02.2020. Pages 2-5.

[487] See also: EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Pages 61-66, 88. See footnote 41.

[488] Animals' Angels report on a transport of lambs from Romania to Greece, 30.07.2019. Page 2 and information received subsequently from a Greek competent authority.

[489] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Pages 61-66. See footnote 41.

Reason 59

The Regulation does neither lay down uniform construction standards for road vehicles nor instructions for the approval of vehicles used for long journeys.

Articles 7 and 18 of the Regulation require that road vehicles used for long journeys of bovine, ovine, caprine, porcine and equidae are inspected before approval. As seen above, these vehicles must receive a certificate of approval. The Regulation does neither specify specific standards for the construction of these vehicles, nor provide instructions or checklists for their approval, to ensure uniform inspections of the vehicles. This is despite the fact that the construction and approval of a means of transport has far-reaching consequences for the transported animals.

For example, there are no instructions on how to verify the suitability and performance of ventilation, temperature monitoring or navigation systems[490]. All systems are of a rather mechanical, technical, and even electronical structure and therefore not necessarily the area of expertise of veterinarians. All systems are very important for the welfare of the animals during transport, and for retrospective controls to verify compliance with the Regulation, as seen above. For example, the number and location of the temperature sensors inside the compartments is key to monitor the microclimate the animals are/were exposed to. The German Handbook on animal transport, for example, specifies the number of sensors to be installed, and that *'all temperature sensors must be placed in such a way that a direct (e.g. by air flow) or indirect (e.g. by heat transfer through components) influence of the external conditions is excluded. It is necessary that the sensor is thermally insulated from its base. The sensors must not be located in the area of ventilation openings or in the air flow of fans.'*[491] The data recorded by the navigation system must be accurate, easily readable and accessible, to provide competent authorities with reasonable information about the journey. For ventilation systems, the Regulation requires *'(…) a minimum airflow of normal capacity of 60 m^3/h/KN of payload.'*[492] This should be assessed and confirmed by independent experts. Such an expert opinion should be requested by veterinarians and form part of the approval process.[493]

Due to the plenty of rope given to manufacturers of road vehicles, there are also vast differences between the types of flooring, presences of interstices, allocation of access doors, angle of ramps, etc. In practice, this lack of construction standards and the lack of instructions on how to properly verify the suitability of a vehicle leads to welfare hazards, which are discussed in detail in the following *Reasons 60 to 64.*

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490 As required in points 2, 3, 4 of Chapter VI of Annex I of the Regulation.
491 Marschner, U. et al. (2020): Handbuch Tiertransporte. Page 11. See footnote 318.
492 Annex I Chapter VI point 3.2 of the Regulation.
493 Marschner, U. et al. (2020): Handbuch Tiertransporte. Page 10. See footnote 318.

The complexity of approving a vehicle that transports different types of live animals is not to be underestimated. Given instructions on minimum standards and requirements are therefore inevitable. The Network Document[494] and the German and Austrian Handbooks on Animal Transport[495] contain very detailed information and checklists for the approval of road transport vehicles. Still, being only recommendations, this will not lead to a uniformity of the road vehicles circulating within Europe, given the large leeway granted to vehicle manufacturers.

Therefore, general standards on basic constructions of road vehicles should be laid down by the Regulation. Alternatively, the Regulation could refer to a norm that provides such basic standards. Basic construction standards mean, for example, specifications on the material of flooring, the angle of ramps, the capacity of water tanks, the insulation material for roofs, etc.

Demand 59

Introduction of general construction standards for all road vehicles; mandatory detailed inspection report template for the approval of road vehicles used for long journeys.

Reason 60

The Regulation does not require means of transport by road used for short journeys to be inspected or approved by competent authorities.

All means of transport by road, used for short and long journeys, must comply with the technical rules set out in Chapter II of Annex I, according to Article 6 (3). Yet only the road vehicles used for long journeys must be inspected and approved by competent authorities. This means that road vehicles used for short journeys do neither need to be inspected nor approved.

The problem is twofold: firstly, the Regulation does not sufficiently specify certain provisions in Chapter II of Annex I. For example, how the animals shall be protected from extreme temperatures. The vague provisions leave a lot of room for interpretation to the vehicle manufacturer and the client, for example, the transporter. Vehicles can thus be manufactured as desired, there are no general construction standards for road vehicles *(please see Reason 59 above)*. For details about the lack of specifications and its consequences for the animals, please *see* the following *Reasons 61 to 64*.

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494 NCP Network Document on Checks Before Journeys when Live Animals are Destined for Export by Road. Annex I. See footnote 472.

495 Marschner, U. et al. (2020): Handbuch Tiertransporte. Pages 92-100. See footnote 318/see also: Austrian ministry on Social Affairs, Health, Care and Consumer Protection (2020): Handbuch Tiertransporte. Pages 26-31. See footnote 310.

Secondly, the adequacy and safety of the road vehicles' construction does not need to be checked and confirmed by competent authorities. Without a physical check of the road vehicle, potential deficiencies or welfare hazards easily remain undetected.

It is therefore inevitable that all means of transport by road need to be inspected and approved by competent authorities or independent stakeholders, in a uniform manner. A separate inspection report template is needed for vehicles used for short journeys, where compliance with Chapter II of Annex I is verified. Once confirmed, also these vehicles should be approved with a certificate of approval.

Demand 60

Introduction of general construction standards for all road vehicles and mandatory detailed inspection report template for the approval of road vehicles used for short journeys. Extension of the certificate of approval template for road vehicles used for long journeys to all road vehicles, according to the more detailed specifications outlined in *Reason 59* above.

Reason 61

The Regulation does not specify that road vehicles may not present any interstices where animals can get trapped.

Point 1.1 (a) of Chapter II of Annex I requires that means of transport are constructed in a way to avoid injury and suffering and to ensure the safety of the animals.

Interstices where animals get trapped are a very widespread problem where neither of these three prerequisites (avoiding suffering and injury and ensuring safety) are fulfilled. Time and time again, Animals' Angels observes animals that are trapped with body parts. Such interstices are mostly present underneath and above dividers, between dividers and side walls, and between floors and side walls. Also, containers present many interstices where especially birds get trapped *(please refer to Chapter XIV: Containers and crates for more details)*.

For example, the interstices between floors and side walls are particularly dangerous for animals with small limbs, such as lambs and goat kids. Floors of road vehicles used for long journeys are often movable. This allows to adjust the number of decks to the animals intended to be loaded. Means, on the same vehicle, either for example two floors can be placed to load bovine animals, or three floors to load ovine animals. Obviously, movable floors cannot be fixed to the side walls of the vehicle otherwise they would not be movable. This however creates interstices, which are usually just wide enough for the size of a leg of small animals to pass. It is from the experience of Animals' Angels that

lambs continuously get trapped in these interstices. In one recently observed case, two lambs were detected trapped during a road-side check. They were trapped between the floor of the second deck and the vehicles' front side and tail gate, respectively. The drivers were asked to free those lambs by the present official veterinarian. The latter confirmed the construction of the vehicle to be inadequate for lambs for this reason.[496] Such interstices could easily be avoided, by either bending the floor upwards on the sides, or by installing hard rubber on the sides of the floor. The floors are then still movable, but the interstices would be closed.

Dividers present the other dangerous construction where animals often get trapped. On a very regular basis, Animals' Angels observes animals that are trapped with their heads between the dividers and the side walls, mostly ovine and caprine animals. In many cases they are not capable to free themselves anymore but remain in this position, according to the experience of Animals' Angels. If they were to free themselves, they would have to strongly pull back with their heads and thus could easily injure themselves. These interstices can even be large enough for a small lamb or goat kid to try to pass by, as it has been observed.[497] Again, they then may easily get stuck and injure themselves in this undertaking.

The danger of these interstices becomes evident in this example: two lambs were trapped with their heads between two different dividers and the side walls. The drivers were asked to free the lambs by the present official veterinarian. One lamb was additionally entangled in an elastic wire that connected the divider to the side wall. The driver forcefully had to free her. Once the lamb was free, she was wobbly on her hind legs and collapsed repeatedly. Apparently, her rear part was partly numb, indicating that she has been trapped for a long time. Five minutes later, another lamb got stuck at the very same place and had

Italy, 2019 – Lamb Sabika trapped with her head between the divider and the sidewall of the truck.

[496] Observed during Animals' Angels Investigation No. SM.006.2020, Italy, 16.12.2020.
[497] Animals' Angels report on two transports of lambs from Hungary and Romania to Italy, 08.+10.04.2019. Page 8.

to be freed again by the drivers.[498] Within just a few minutes of observation, three lambs were affected. On this basis, it can be assumed that significantly more lambs are trapped during transport and remain undetected.

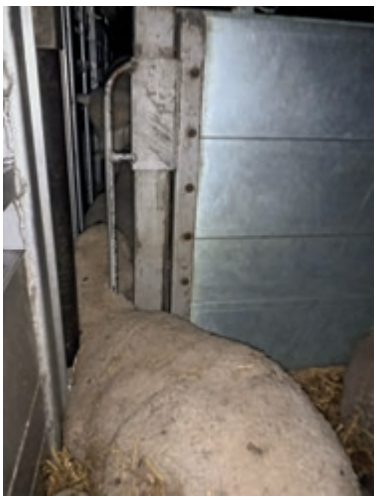
Interstices below the dividers are also very common. As seen above, floors of road vehicles used for long journeys are mostly movable. Thus, the internal height of a deck differs depending on the number of floors that are in use. Now with changing internal heights of the decks, one would think that also dividers would need to be height adjustable. Yet, it appears that the dividers used are often the same, no matter how many decks are loaded, according to the experience of Animals' Angels. This leads to gaps, above or below the dividers.

In some cases, these gaps under a divider are large enough that lying animals can slip underneath. For example, in a transport of calves, there was a gap of approximately half a meter below the divider. Many calves were partly lying underneath the divider.[499] If the animals were to rise, there is a high risk of injury when they forcefully hit the dividers. In other cases, the gaps are just large enough for limbs to pass underneath.

The potential consequences on the welfare of the animals were well demonstrated in an observed transport of horses: the horses were individually stalled and some of them were lying down. Legs of at least four of the lying horses passed under the dividers and into the neighbouring compartments. Generally, horses rising from lying to standing position firstly lift the head and straighten the forelegs in front of them, before pushing up on the hindlegs and lifting the hindquarters. When now due to the narrowness of the stalls the horses don't manage to pull-back their hindlegs into their own compartments, and the hindlegs remain blocked underneath the dividers, rising becomes nearly impossible. The horses in this case were seen to be able to straighten the

Italy, July 2019 – Leg of a horse trapped underneath a divider.

[498] Animals' Angels report on a long transport of lambs from Romania to Italy, 08.04.2019. Page 3.
[499] Animals' Angels report on two long transports of cattle from Bulgaria to Albania, via Greece, 30.-31.07.2020 and 01.-02.08.2020. Pages 3+8.



Italy, April 2019 – Lamb trapped with the head between a divider and the sidewall.

Italy, December 2020 – Leg of a lamb trapped between the floor of the second deck and the front side of the vehicle.

Greece, July 2020 – Calves lying underneath the divider.

forelegs, but then remained in 'sitting' position: they could not rise the hindquarters, because the hindlegs remained blocked underneath the dividers. This caused them severe stress, seen by repetitive attempts to raise and 'freaking out', because they were unable to stand up. Some horses subsequently had slight skin abrasions and minor injuries on their legs. Only once the dividers were manually opened by the drivers and the horses had enough space to pull back the legs and rise.[500]

In practice, trapped animals often remain undetected by drivers, according to the experience of Animals' Angels. This means that they may be forced to travel in such uncomfortable, blocked, and probably painful conditions for hours on end. They risk injuring themselves, when trying to free themselves from the confinement, and they cannot lie down and rest, or

[500] Animals' Angels report on a long transport of unbroken horses from Spain to Italy, 17.07.2019. Pages 1-4.

reach watering devices. Whenever teams of Animals' Angels detected trapped animals, they were indicated to the drivers. In most cases, the drivers claimed not to have seen the trapped animal(s) previously and subsequently freed the animals.

Demand 61

Introduction of general requirement for all road vehicles that no interstices shall be present where animals or parts of their bodies could get trapped.

Reason 62

The Regulation does not specify how means of transport by road shall protect animals from extreme weather conditions.

In point 1.1 (b) of Chapter II of Annex I, the Regulation requires that means of transport shall protect the animals from inclement weather, extreme temperatures, and adverse changes in climatic conditions. It is not specified how such a protection shall be achieved. Chapter II applies to all road vehicles, used for short and long journeys. In Chapter VI of Annex I, additional requirements for road vehicles used for long journeys are laid down.

For example, the need for a roof to protect the animals from sun and precipitation is evident. This is specifically required for in point 1.1 (b) of Annex II of the German version of the Regulation, but not for example in the English or French versions. For road vehicles used for long journeys, a roof is specifically asked for, and certain requirements are set regarding the roof: it must be of a light-colour and properly insulated. The same should apply to road vehicles used for short journeys, as a protection of the vehicle from overheating is always important, no matter the duration of a transport. Vehicles used for short journeys are just as likely to get stuck in traffic jams, for example, and so risk to expose the animals to an extreme increase in temperatures. The best possible protection against extreme temperatures should therefore always be guaranteed.

But more than a roof is needed to protect the animals for extreme temperatures or inclement weather. Shutters on the side openings, bedding material and a ventilation system are important in this regard, but not specifically required for road vehicles used for short journeys

Only young porcine, bovine, ovine, or foals as defined in Point 1.5 of Chapter II of Annex I, must be provided with bedding material also during short journeys.

Precipitation entering the compartments is detrimental for the animals especially during cold temperatures. Wet fleece or skin combined with the airflow can easily expose the animals to cold stress. The only way to hinder precipitation from entering the compartments, is by shutters or a tarpaulin that can close or protect the side openings. Bedding on the other hand helps to absorb liquids, e.g., precipitation, and fulfils isolating functions, as seen in *Chapter IX: Bedding material*. Thus, bedding is an important factor that helps to keep the animals dry and insulated from cold or cold surfaces.

For example, during an observed short transport of sheep in winter, many of them suffered from severe cold stress. They were shivering from the cold, and sheep Ezdan was down, with uncontrolled convulsions and non-stop shivering. The temperatures were 0°C and below: the side openings of this vehicle were unprotected, and bedding material was nearly absent, the floor and rests of old straw were soaking wet and filthy.[501] To fulfil the requirements of the Regulation to protect the animals from inclement weather and extreme temperatures, a dry bedded area should have been provided to insulate the animals from the cold surface, and the side openings should have been partly closed to prevent cold draught. If the floor was wet because of previous precipitation entering the compartments, this could equally have been prevented by shutters.

Ventilators on the other hand can be beneficial especially during high temperatures. Even though they are not capable to directly change the inside temperatures, as discussed in *Chapter VI: Temperature limits*, they can nevertheless provide a little airflow if the space inside the vehicle allows for it. If so, and especially during standstill in high temperatures, ventilators can help to create a little breeze, at least to the animals standing directly in front of them.

Vehicles used for short journeys only are often not equipped with shutters or side covers or ventilators, and bedding material is nearly never provided on short journeys, according to the experience of Animals' Angels. This illustrates well how only minimum standards are applied and how broadly vague requirements of the Regulation are interpreted. Apparently, a roof and lateral openings are considered sufficient by transporters *'to protect the animals from inclement weather, extreme temperatures and adverse changes in the climatic conditions'*. However, this is not sufficient. Therefore, the Regulation must set more detailed specifications on how to protect the animals from weather and temperatures.

Demand 62

Specification on how animals shall be protected from inclement weather, extreme temperatures, and adverse changes in climatic conditions: all road vehicles should be equipped with side protections and ventilators, insulated roofs, and bedding.

[501] Animals' Angels report on a transport of sheep from Romania to Bulgaria, 22.12.2017. Pages 2f.

Reason 63

The Regulation does not specify how access to the animals during transport shall be achieved.

Access to the animals to inspect and care for them is required in Point 1.1 (f) of Chapter II of Annex I of the Regulation, which applies to all road vehicles. How this access shall be guaranteed is not specified.

Access to all animals during transport is crucial. If not given, prolonged and potentially severe suffering and even death of concerned animals cannot be prevented. New-born animals, animals that are trapped, got trampled, became injured, or fell ill, need assistance. Trapped animals need to be freed, injured or ill animals need to be examined and treated by a veterinarian. In extreme cases, they need to be released from their suffering. There may be no nearby possibilities to quickly unload the animals, but a quick intervention is necessary to prevent additional suffering.

For animals that were born during transport, which happens time and time again, access to take them out of the compartment decides over life and death. New-born animals are extremely vulnerable and if they have to remain inside the compartments with other adult animals, it is only a question of time when they will be trampled to death in the crowd.

Access is also needed to supply the animals with water and feed during transport if the need arises, for example, if the vehicle is detained for whatever reason. During high temperatures, to reduce heat stress which can easily lead to death, it is crucial whether the animals can be provided with sufficient water or not. As discussed in *Chapter VII: Water supply*, drinking devices installed in the vehicle cannot be considered as a sufficient water supply for all animals during transport.. In critical circumstances, the animals must be watered manually with buckets or other containers. This is the only way to ensure that all animals get access to water and can drink sufficient amounts. In practice, access to all the animals is often not given.

Access doors or windows[502] are not always in correspondence to each single compartment. Yet, most animals are loaded in groups and divided into different compartments. This means that to reach an animal in need in a compartment without direct access, one would have to cross other compartments with animals inside. This is often impossible. To walk through, for example, ten young bulls to reach another compartment is dangerous for the driver, as the animals can kick or head-knock. In the case of transports of small ruminants or pigs, the internal height does not allow the driver to stand, as usually at least three decks are loaded. Thus, one must crawl through the compartments. This puts the driver in a very vulnerable position, is dangerous

[502] Both terms refer to any kind of door which can be opened. The term 'window' is used for very small opening 'doors', through which a person may slip, but not walk upright.

and very uncomfortable for him/her. Either scenario additionally causes a lot of stress or even panic to the animals, as there is no room for them to escape from the driver. Besides this, the dividers sometimes present an unsurmountable obstacle which prevents access to the next compartment. If the divider fits into the height of the compartment (as it should) and does not leave gaps below or above, the driver cannot overcome it. To open the divider without moving the decks can be impossible, depending on the design and construction. Moreover, in that case, the movement of animals from one compartment to the other could not be prevented.

Access to the animals via the rear tail gate cannot be considered as a sole access to all animals. It may be impossible to open the tail gate, for example in a traffic jam or on a ferry. It is also too dangerous to open the tail gate when the vehicle is parked alongside a road, as animals may easily escape. Further, as seen above, to physically access the animals in the front end of a vehicle is impossible, as dividers placed throughout the compartments hinder access to the front. A person cannot walk or crawl through all the compartments and animals, to reach the compartment in the very front, and especially not provide the animals in the front with water and feed.[503]

For example, an observed 'closed' truck and trailer had only one access door per lower deck, and none on the upper decks. 'Closed' means that the road vehicle did not present typical side openings but was completely closed, except for mechanical ventilator windows. The driver confirmed that to access the upper decks, he would have to lift the roof, climb the ladder, and crawl/slip into the compartments through the narrow space between sidewall and lifted roof. This is highly dangerous for the driver and cannot be viewed as regular access to the animals. In the first and second decks of the same trailer, access was only possible to those compartments with direct access doors.

Italy, April 2019 – Small access window: the driver has to slip through a very small access window and crawl through the compartment.

[503] For visual illustration, see also: Eyes on Animals (2013): Importance of access to animals. Pages 4f. Link: https://www.eyesonanimals.com/wp-content/uploads/2011/12/Downloads_Eyes_on_Animals_report_Importance_of_Access.pdf (last accessed 14.05.2021).

If three decks were loaded with calves, the dividers present unsurmountable obstacles to reach the other compartments.[504]

Another issue are access doors or windows installed on only one side of the vehicle. In case the access door or window is on the left side, but a pig in need is on the very right side of the compartment. A driver will subsequently have to crawl through the width of the compartment, to reach the pig in need. Again, this is not safe for the driver, as pigs can bite, and also stressful for the animals.

The next issue is the size of the access doors or windows. Access windows are sometimes very small and make it complicated for a driver to enter. For example, in an observed transport of lambs, a lamb in need was on the right side of a compartment on the first deck, the access window was on the left side of the compartment. The access window was rather small. The driver had to hold onto another window on the upper deck and then slip with the legs first through the lower window. He then crawled through the flock of sheep and freed the trapped lamb with physical efforts. An access door on the right side would have allowed for a much safer undertaking.[505]

In another case, an unfit lamb could be saved only thanks to an access door and the presence of a ladder. The lamb Aron was found by Animals' Angels in laterally lying position with another lamb sitting on

November 2017, Italy – Example of a horse transport. The animals are in single stalls, yet access was given to only two stalls; one of the two access doors is visible in the picture.

[504] Observation made and information received during Animals' Angels Investigation No. SG.005.2019, France, 20.05.2019.
[505] Animals' Angels report on a long transport of lambs from Romania to Italy, 08.04.2019. Page 3.

his head. Aron was paddling with his legs, apparently at risk of suffocating. After intervention, the drivers accessed the compartment with the help of a ladder via the access window and took Aron out of the compartment. They placed him in another compartment with lower density. The lamb showed exhaustion, severe bruises, injuries, and hematoma all over his body, and was subsequently emergency unloaded. Apparently, he had been trampled constantly. Without an access door to the compartment where he was in, he would very likely have been trampled to death during the rest of the journey.[506]

Without a ladder, access to the upper decks during transit is impossible. This is the case for all vehicles, but especially for those which sides are covered with fixed grids. These grids prevent climbing up the vehicle by feet, as there are no bars where to step on.

Vehicles transporting horses in single stalls are a special case. The horses are usually standing sideways and are separated from each other by dividers. There may be some doors that give access to a corresponding stall, but there are not always access doors or windows for each and every single stall. To reach other stalls by walking through the vehicle is impossible. The dividers are very hard to overcome, and it would be very dangerous for the driver to climb over them. Horses easily get frightened by such potentially 'threatening' behaviours and may kick. Thus, in such cases, the animals cannot be cared for in case of emergency, until a stable is reached to unload them. This is to be taken very seriously, as immediate help cannot be provided, and it may take hours to reach the nearest unloading stable.

For access to animals transported in containers, please refer to *Chapter XIV: Containers and crates*.

As seen above, many road vehicles are manufactured in a way that prevents access to all animals/compartments. The Regulation must therefore be much more precise and require access to each compartment where animals are inside and to carry a ladder.

Demand 63

Specification that each compartment on each deck must be accessible by at least one access door which is wide enough for an adult person to enter; requirement to carry a ladder in all road vehicles.

[506] Animals' Angels report on two transports of lambs from Hungary and Romania to Italy, 08.+10.04.2019. Pages 3, 6, 7.

Reason 64

The Regulation does not lay down the nature/ requirements for an anti-slip flooring.

Italy, November 2018 – Short transport of calves from France to Italy: the corrugations of the floor are visible, yet gripping effect is lost by liquid manure covering it.

Means of transport must present a surface that is anti-slip, acc. to point 1.1 (g) of Chapter II of Annex I. What may sound self-explanatory is not so simple in reality.

For a flooring to be anti-slip, several requirements must be fulfilled. The width of the smooth areas between the corrugated surface, for example, is essential in partly corrugated floors. The smooth area must not be wider than the hoof or claw of the animal that is being transported. Otherwise, an anti-slip effect is not achieved. Corrugations in general must be oriented in both longitudinal and transverse directions to the vehicle so to provide grip for the animals.[507]

However, liquids and excrements easily render corrugated floors slippery. This is particularly problematic during 'short' transports, which can last up to 12 hours[508], as for these, no bedding material that could absorb the liquids is required. According to the experience of Animals' Angels, floors become quickly covered with excrements during short journeys. Without the use of bedding material, the anti-slip effect of the special flooring is not ensured anymore.

But grip for the animals during transport is of utmost importance, as seen in *Chapter IX: Bedding material*. They constantly need to balance the vehicle motion, and for this, good grip on all four legs is necessary.

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[507] Austrian Ministry on Social Affairs, Health, Care and Consumer Protection (2020): Handbuch Tiertransporte. Page 28. See footnote 310.

[508] Article 18 (4) of the Regulation.

Italy, November 2019 – Short transport of cows from France to Italy: the floor is covered with liquid manure; anti-grip effect is not guaranteed like this.

Therefore, the Regulation should set detailed requirements on the nature of anti-slip floorings. Ideally, the use of bedding material should be mandatory for all journeys, to address the problem of floorings becoming slippery when wet.

Demand 64

Introduction of detailed requirements on the nature of floors to ensure anti-slip effect and requirement for bedding material for all road journeys.[509]

Reason 65

The Regulation does not require road vehicles which transport animals in containers to be marked with an indication 'live animals'.

The Regulation requires that *'vehicles in which animals are transported shall be clearly and visibly marked indicating the presence of live animals (…)'*. However, this is not required for road vehicles which transport animals in containers, such as for example birds, rabbits, or minks. Even though the containers itself must be *'(…) clearly and visibly marked, indicating the presence of live animals (…)'* – the road vehicle transporting these containers does not need to be marked. [510]

This point in the Regulation seems inconclusive and suggests a loophole. It is vital that road vehicles transporting live animals indicate the presence of live animals. These reasons also apply to road vehicles transporting animals in containers.

[509] Exemptions from the use of bedding material may be granted for transports carried out for veterinary treatment.

[510] Annex I Chapter II points 2.1 and 5.1. of the Regulation

The signage 'live animals' fulfils different purposes. Firstly, it is crucial for the animals themselves. Road vehicles transporting animals in containers are not always immediately recognisable as such. This is the case especially for closed vans transporting 'laboratory' animals, dogs, or cats. Also closed and airconditioned trucks transporting for example chicks are not rapidly recognisable to a layman. Hence, if such a vehicle is involved in a road accident, the living 'freight' may not be immediately discovered. This means that animals in need would not be assisted without delay but subjected to further unnecessary suffering. What is more, it might also be dangerous for emergency service personnel to be surprised by living 'freight' of a vehicle involved in an accident.

Moreover, such signage is important for the public and road users. It enables them to immediately understand the increased risks coming from the vehicle in question. For example, in the case of an accident involving a live animal transport, free running animals pose a great threat to the safety of other road users. Even if transported in containers, animals may easily escape and run free, for example, when containers get damaged due to an accident or when containers fall off the vehicle. Latter happened in June 2021 in Germany. A road vehicle lost several containers loaded with chickens. Those chickens that survived the crash were running free and had to be caught by the emergency service.[511]

And finally, appropriate signage assists road police forces in their important controlling functions. For example, illegal pet trafficking is a major issue in the European Union[512]. One way to assist controlling bodies such as road police officers in tackling this trade would certainly be the mandatory indication on the vehicle that live animals are transported in the hold.

To sum it up, there are no reasons why road vehicles transporting animals in containers should not be required to be clearly and visibly marked, indicating the presence of live animals.

Demand 65

Road vehicles transporting containers with live animals must be required to be clearly and visibly marked indicating the presence of live animals.

[511] Article ‚Tiertransporter verliert Kisten mit rund 1.000 Hühnern' by Eva Eckinger, In: agrarheute, 12.05.2021, Link: https://www.agrarheute.com/land-leben/tiertransporter-verliert-kisten-rund-1000-huehnern-581216 (last accessed 06.08.2021).

[512] See for example: https://www.europarl.europa.eu/news/en/headlines/society/20200117STO70506/pet-trafficking-measures-against-the-illegal-puppy-business (last accessed 08.07.2021).

CHAPTER XIV:

Containers and crates

Reason 66

The Regulation does not specify how animals transported in containers can be accessed.

Point 1.1 (f) of *Chapter II* of Annex I of the Regulation requires that containers and their fittings and means of transport must be designed, constructed, maintained, and operated to *'provide access to the animals to allow them to be inspected and cared for.'* How this access shall be guaranteed is not specified.

Leporidae (e.g. rabbits), birds (e.g. chickens), and mustelidae (e.g. minks) are transported in containers on a commercial basis. There are different types and systems of containers. For example, some containers are plastic crates with a door on top or on a side. They are stacked on top of each other on board of a road vehicle. Other containers are of a drawer system, composed of drawer containers which are inserted into frames and placed on a road vehicle. No matter which system is used, to meet the requirement of the Regulation, each individual container with animals inside must be accessible.

However, Animals' Angles observed that this is often not the case as access to all containers loaded on a road vehicle is often not given. For example, when the access doors of the containers are not directed to the outside of the road vehicle but inwards or sideways, access is prevented by the other containers placed besides or above. In the case of crates with doors on the top, access is impossible once the crates are stacked on top of each other. In the case of drawer systems, the opening of the drawers can be prevented by metal frames once the drawers are placed on the vehicle.

The importance of access to the animals during transport is outlined in detail in *Chapter XIII: Road vehicle standards and authorisations*. When the containers cannot be accessed, animals in need cannot be helped but are left to their fate. This is particularly alarming as especially birds, thus animals transported in containers, are often found to need care and assistance, due to precarious health conditions or rough handling which resulted in injures. *For details, please see next Reason 67.*

For example, during a transport of 'broiler' chickens in July 2019, the bird Amel suffered an open fracture on the wing, as it got trapped in an interstice between the containers. Amel was found that way by Animals' Angels, approximately 3 hours after the departure of the transport. An open fracture is a severe and painful injury, and the animal would have needed immediate first aid. Yet, access to the container was impossible. Therefore, Amel did not receive first aid and care, but was transported for a further approx. 300 km.

Italy, 22.07.2019 – Bird Amel suffering a broken wing, access to the cage (see below) to provide first aid is impossible.

Demand 66

Specify how to ensure that each container is accessible during road transport.

Reason 67

The Regulation does not require explicitly that special care must be taken with animals in containers to avoid trapping and subsequent injury/suffering/death.

The Regulation requires that containers shall be designed, constructed, maintained, and operated in a way to *'avoid injury and suffering and ensure the safety of the animals'*[513]. This statement proofs to be insufficient in practice.

Firstly, all containers have openings of varying sizes to ensure ventilation. In practice, these openings present a high risk of injury for the animals transported. As animals transported in containers are small, their body parts fit easily through these openings and can get stuck or crushed.

All too often Animals' Angels observes animals trapped in or in-between containers. The problem is twofold. Firstly, loading causes a high risk of injury. Body parts of the animals can get clamped whilst the animals are put into the containers. The loading of birds and rabbits into containers is reportedly taking place with marked rawness. In the case of birds, several animals are caught at once and literally stuffed into a container.[514] In the case of rabbits, it has been documented how animals are brutally tossed into containers.[515] This problem is also noted in a report from EFSA.[516] During these processes, injuries such as fractures regularly happen. Consequently, these animals are already unfit for transport at the time of loading but are nevertheless transported. *Please refer to Chapter V: Fitness for transport for more details.*

So, when the animals are placed quickly into the containers and the doors are shut without checking for wings, legs, or heads sticking out, these body parts can get trapped. Animals' Angels observed birds with wings or legs crushed in the container-door.[517] This could only have happened during loading. In other cases, birds were observed with their legs stuck in gaps of the containers. This could happen at any stage of the transport.[518] Generally, these animals cannot free themselves but are forced to travel under extremely restrictive and often painful conditions.

The second major problem occurs when protruding body parts are crushed whilst containers are stacked on top of each other. For example, Animals' Angels observed chickens whose heads were crushed by upper containers. The animals were loaded into drawer containers

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513 Annex I Chapter II point 1.1 (a) of the Regulation.

514 HongYin, P., Moffat, L. (2012): Cracks in the Crate. Routine abuse of the EC 1/2005 legislation during the transport of chickens. Page 14. Link: https://www.eyesonanimals.com/wp-content/uploads/2011/12/Downloads_Cracks_in_the_Crate_EonA_22-05-2012.pdf (last accessed 28.07.2021).

515 Investigation of LAV in Italy, 2015. Link: https://www.facebook.com/watch/?v=10153862445818413 (last accessed 10.08.2021).

516 EFSA (2011): Scientific Opinion concerning the Welfare of Animals during Transport. Pages 40f. See footnote 41.

517 Animals' Angels report on chicken transports in Italy, 2011-2013, pages 10f.

518 For example, transport of chicken observed during Animals' Angels investigation no. HB.013.2019, France, Aire de Rousillion, 21.06.2019.

without roofs and other drawer containers were inserted above them, without paying attention to avoid the crushing of animals. This must have been excruciating for the affected chickens and resulted in the death of several animals.[519]

Rabbits face similar risks and can also get trapped easily. Animals' Angels observed for example one rabbit whose ear was trapped between two containers. Again, this must have happened whilst the upper container was stacked on top. This rabbit could thus not move at all but was forced to travel in this restrictive and likely very painful condition for more than four hours.[520]

Italy, 04.08.2011 – Chicken that died because her head got trapped.

Italy, 21.12.2011 – Rabbit with trapped ear between two containers.

Italy, 02.12.2011 – Turkey with trapped wing, suffering because of the injury, blood visible.

France, 21.06.2019 – Chicken trapped leg trapped, suffering because of the injury, blood visible.

As shown above, the safety of animals transported in containers is not ensured. The animals may get severely injured, suffer because of trapped body parts over hours of transport, and even die from inadequate container design or a lack of diligence during handling.

[519] Animals' Angels report on chicken transports in Italy, 2011-2013, page 9.
[520] Animals' Angels report on a transport of rabbits, from Caravaggio to San Giorgio in Bosco, Italy, 21.11.2011, pages 1-5.

To prevent avoidable incidents such as described above, the Regulation should lie down at least basic standards for the construction and design of containers. Diligence during the time-pressured loading processes cannot be relied upon. Therefore, it is the design and construction of the containers that must prevent injuries as far as possible. An analysis of advantages and disadvantages of the different container systems for birds is available from Eyes on Animals, namely the documentation 'Industry tips - Poultry Transport' and the report 'Cracks in the Crate'.[521]

Demand 67

Introduction of uniform and general standards/ norms for the construction and design of containers, for all animals concerned: the design must reduce the risk of animals getting trapped with body parts to a minimum.

Reason 68

The Regulation does not specify how animals transported in containers shall receive water and feed.

For poultry, domestic birds and domestic rabbits, suitable food and water must be available when journeys last longer than 12 hours. Chicks can be transported for 24 hours without feed and water, if the transport is completed within 72 hours after hatching.[522] All other animals transported in containers, such as mustelidae (e.g. minks), must be offered water at least every 12 hours and fed at least every 24 hours.[523]

EFSA stated already in 2011 that it is not possible to provide animals transported in containers with feed and water: *'For animals transported in containers, such as rabbits, provision of water and feed as stated in EC Regulation 1/2005 is not possible either during the journey, or during the resting periods and lairage'.*[524]

The reasons are manifold:

The issue regarding access to water during transport, discussed in *Chapter VII: Water supply*, also applies to animals who are transported in groups in containers.

Moreover, for animals transported in containers, like birds, mustelidae, and leporidae, additional technical, logistical, and welfare problems arise regarding water supply.

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[521] Eyes on Animals: Industry tips – Poultry Transport, Link: https://www.eyesonanimals.com/wp-content/uploads/2017/05/Industry-tips-poultry-transport-final-EN.pdf (last accessed 28.07.2021)/HongYin, P. and Moffat, L. (2021): Cracks in the Crate. See footnote 514.

[522] Annex I Chapter V point 2.1 of the Regulation.

[523] Annex I Chapter III point 2.7 of the Regulation.

[524] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Page 79. See footnote 41.

During 20 years of on-site experience, Animals' Angels has never observed containers with water supply on long distance transports of poultry or rabbits for slaughter. However, drinking systems have been observed on transports of more valuable animals such as racing pigeons or minks.

Even though water systems for containers on road vehicles exist, yet in practice, the problems are manifold: An adequate supply with water for all animals is not only nearly impossible; it may also present a risk to their welfare.

For animals transported in groups, such as birds, access to the drinkers for individual animals may be hindered. For example, if drinking nipples are used as a watering system and there is only one drinker per container, access is hindered due to the crowd, the high density and high-ranking animals guarding the drinkers. Limited internal height within the containers is also a problem. If the animals cannot stand up, moving inside the container to reach the drinker is very difficult.[525] The same applies to other types of water or feed supply like gels, especially, when only one item is placed in the container. This was observed in a transport of chicken and guinea fowls. The driver carried plastic boxes filled with a mass that served as water and feed supply, if the journey was to exceed 12 hours.[526]

Italy, 11.12.2013 – Plastic box with liquid mass that should serve as feed and water supply for birds.

Italy, 23.11.2011 – Watering bowls contaminated with excrements from minks in containers above.

Another problem is contamination, especially when bowls are used which are hung inside the single containers. Containers are stacked on top of each other and often have no solid flooring. Thus, excrements from upper containers drip into the watering bowls of the lower containers, as it was observed by Animals' Angels on a transport of minks. In this case, the water devices were hung onto one side of each container, but the water was rendered unpalatable by contamination.[527]
Another issue with bowls is certainly the movement of the vehicle. The Regulation requires that for journeys longer than 12 hours, water shall be available during transport. During transport, water in bowls most

[525] See also: Eyes on Animals: Industry tips – Poultry Transport. Page 7. See footnote 521.
[526] Observed during Animals' Angels investigation no. CH.19.11.2013, Potenza, Italy, 12.11.2013.
[527] Animals' Angels report on a transport of minks from the Netherlands to Greece, observed in Bari, Italy, 23.11.2011, pages 1-4.

likely spills due to the motion of the vehicle and dampens the animals and the containers. The latter may also happen with other watering systems such as drinking nipples in case they leak. This is the cause of the next problem: increased humidity and wet animals.

During high temperatures, increased humidity would decrease the efficiency of panting and thus increase the risk of heat stress and subsequent death. During cold temperatures, wetness of the animals will expose the animals to a high risk of hypothermia, cold stress, and subsequent death[528]. Humidity therefore poses a high threat to the well-being of the animals. *Please refer to Chapter VI: Temperature limits for more details.*

The European Food and Veterinary Office confirmed already in 2005 that giving water to animals transported in containers is unfeasible: *'Considering the size of the crates and stocking densities normally used for transporting poultry, it is not practicable for birds to receive food and water whilst they are in the crates (…)'*[529].

The journey time must therefore be reduced so that animals transported in containers do not need to be supplied with water or feed.

Demand 68

Reduction of the journey time to 4 hours to avoid that animals transported in containers need to be supplied with water or feed during transport.

Reason 69

The Regulation does not prohibit the leakage of excrement from upper onto lower containers during transport in the case of poultry, rabbits, and fur animals.

The Regulation states that when containers are loaded on top of each other, precautions shall be taken *'to avoid, or in the case of poultry, rabbits and fur animals, to limit urine and faeces falling on the animals placed underneath'*[530].

The leakage of excrements onto animals should be prohibited for all species. It is ethically unjustifiable to not specifically protect animals from being showered with excrements. It also exposes them to a high risk of thermal stress, as wet animals are susceptible to suffer from hypothermia during cold temperatures, especially combined with the draught during transport. Poor-feathered animals such as hens at the end of their life are especially affected: *'For spent layers, (…) cold and*

[528] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Page 50. See footnote 41.
[529] EU Commission, DG Health and Consumer Protection, FVO Directorate F5 - reply letter to Animals' Angels, dated 1 April 2005 (ref. no.: TC/dht D (2005) 650400).
[530] Annex I Chapter III point 1.7(a) of the Regulation.

wetting should be avoided wherever possible'[531]. In addition, contaminated excrements may contribute to disease or bacteria spread.

Many containers do not prevent the leakage of excrements onto lower containers during transport. In many metal or plastic containers observed by Animals' Angels, the flooring is made out of wire or plastic grid with large gaps. Excrements, liquids and even eggs immediately fall through these holes into lower containers.

The pictures below illustrate the extent of discharges during transport of chickens as well as rabbits that fell onto animals in lower containers and subsequently onto the floor:

Italy, 22.03.2011 – Transport of chickens/Italy, 22.03.2011 – Transport of rabbits

Italy, 04.02.2012 – (left) The fur of this rabbit is wet with urine from animals in upper containers.

Such situations must be prevented. The flooring of the containers should prevent the leakage of discharges and ensure anti-slip effect, also when becoming wet or dirty: *'We suggest that small ventilation gaps on the floor surface of containers can be adopted for both broiler and spent laying hens, which not only prevents leakage but also allows some air flow during transport. The holes also help form a rougher surface, increasing traction. The floor must also have ridges in it, to make it anti-slip.'*[532]

Demand 69

Introduction of uniform and general standards/norms for the construction and design of containers, for all animals concerned. The design must ensure anti-slippery flooring and prevent excrements or liquids or other items leaking on animals placed in containers underneath.

[531] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Page 52. See footnote 41.
[532] HongYin, P. and Moffat, L. (2021): Cracks in the Crate. Pages 34f. See footnote 514.

CHAPTER XV:

Transport by sea: Roll-on/roll-off ferries

Reason 70

The Regulation does not clarify the responsibility during transports via roll-on/ roll-off ferries.

Letter (x) of Article 2 of the Regulation defines a transporter as *'any natural or legal person transporting animals on his own account, or for the account of a third party'*. Letter (v) of the same Article defines a roll-on/ roll-off vessel as *'a sea-going vessel with facilities to enable road or rail vehicles roll on and roll off the vessel'*. Hereafter, for simplicity, the wording 'ferry' is used meaning a roll-on/roll-off vessel. When now a road vehicle with animals on board is embarked on a ferry, the person(s) responsible for the ferry consequently fall(s) under the definition of a transporter. This follows as in these cases, a ferry is *'transporting animals'*.

In practice, it may not always be clear to ferry operators that they are transporters within the remit of the Regulation, with all the resulting obligations. That means, they may not be aware of their manifold responsibilities for animals transported on their ferries.

Article 6 of the Regulation specifies the responsibilities of transporters. Hence, ferry operators should comply with these outlined provisions. According to Article 6 they must, inter alia, hold a transporter authorisation pursuant to Article 10 (1), or for long journeys pursuant to Article 11 (1). They must ensure that an attendant accompanies the animals during transport and that personnel responsible for the animals during transport have received training on relevant provisions of

Annexes I and II. Further, transporters must transport animals in compliance with the technical rules set out in Annex I.

The same applies, of course, to the transporter responsible for the road vehicle and its driver(s)/attendant(s). An *'attendant means a person directly in charge of the welfare of the animals who accompanies them during a journey'*[533]. In the case of road transport, it is often the driver who performs the function of the attendant. Therefore, hereafter, the wording 'driver' refers to both, a driver and attendant. [534]

Here is where the complexity begins. As described, there are two transporters when a road vehicle with animals is transported on a ferry, and different stakeholders are involved: the organiser of the journey, the transporter owning/operating the road vehicle, the driver(s) of the road vehicle, and the person(s) responsible on board and/or for the ferry.

On the latter point, it gets even more complicated: multiple natural or legal persons can be involved in the operation of a vessel, such as a ferry[535]. For example, the vessel itself can be owned by a natural person or by a group of companies. It can be owned but also chartered by a shipping company, which does not have to own a vessel to operate it. It must be noted that *'the term shipowner is not consistently used in international documents'*[536]. Then there is the shipmaster, also referred to as the commander of a vessel. The definition of a shipmaster varies in international and national laws or regulations, but he/she seems to have far-reaching responsibilities on board a vessel. And finally, there is of course the crew working on the vessel.[537]

It becomes clear that the responsibility for animals on board a ferry is very complicated and appears broadly based. The Regulation does not provide any help and does not specify the responsibilities of the different stakeholders for the animals during roll-on/roll-off transports. This is problematic because it offers opportunities to all stakeholders to evade responsibility.

However, someone taking responsibility for the animals during transport is crucial to ensure their safety and wellbeing. They must be provided with water and feed at specified intervals, good air quality, good ventilation and supervision. Furthermore, maintenance of temperature limits must be ensured. The animals must be protected from inclement weather and sea water, and they must be cared for in case of need, etc.

Now, once the road vehicle is loaded on the ferry, both the driver(s) of the road vehicle as well as the ferry transporter have responsibilities for the animals. Thus, who carries out which task, who is responsible for what?

The Regulation must clarify this. The personnel responsible to take care of the animals during the journey, including the sea leg of the

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[533] Article 2 (c) of the Regulation.

[534] A driver can perform the function of an attendant, acc. to Article 6 (6) (b) of the Regulation.

[535] The term 'vessel' entails a ferry, which is defined as a 'roll-on/roll-off vessel' by the Regulation, Article 2 (v).

[536] van der Kruit, P. (2020): Legal Handbook Shipmaster. Page 81. Link: https://maritimecyprus.files.wordpress.com/2020/05/legalhandbook2020digital2.0.pdf (last accessed 09.08.2021).

[537] Ibid. Pages 61-64.

journey, and supply them with water and feed, will almost invariably be the driver(s) of the road vehicle. Anything else would be illogical. The driver(s) usually travelled with the animals prior embarking the ferry. They know the intervals when the animals were last rested, watered or fed, and have the necessary training on animal transportation. Crew members of roll-on/roll-off ferries may fluctuate and have different tasks and training which have nothing to do with animal transportation. On the other hand, they possess the knowledge and skills to ensure the safe position of the road vehicle on the ferry. The positioning of the road vehicle on the ferry is a very important aspect which falls into the remit of the crew/master. If latter, however, are not familiar with the very particular circumstances of animal transport, an unfavourable position can have detrimental effects on the animals *(please see below Reason 71)*. The driver(s) should therefore be co-decision-makers. Yet in practice, their say on the positioning of the road vehicle on the ferry is hardly possible, due to language barriers or hierarchical structures.

For example, in two consecutively observed transports of cattle, both were allocated the same position on the top deck of a ferry in scorching sun with temperatures way above 30°C. In both cases, the drivers were from a foreign country and appeared not to have any codetermination.[538]

The Chief Veterinary Office of the Welsh Assembly Government provided detailed guidance on responsibilities and provisions during roll-on/roll-off transports. Chapter 4 on responsibilities reads as follows: *'4.1 Every person involved with the commercial transport of animals has a responsibility (Article 3) as appropriate to their role in planning, organising, and carrying out the journey, to comply with the Regulation and to protect the welfare of the animals, in particular not to cause them injury or undue suffering. In the case of RO-RO transport such responsibility may be broadly, but not exclusively, described as follows. 4.2 Animal shippers (i.e. those who arrange for animals to be transported from one place to another) – Must plan the journey and have contingency arrangements in place should any delay occur. Examples might be delayed departure caused by adverse weather, or ship breakdown at sea. They must ensure that the vehicle is suitable for carriage on the RO-RO vessel, that the ship operator is prepared to carry live animals, and that water, feed, and rest intervals for the animals can be complied with. 4.3 Shipowner/charterer/operator – Must ensure that the vessel has suitable facilities for transport of animals in vehicles, and that the Master is competent in and has specific instructions for RO-RO transport of animals.*

4.4 Shipmaster, and loading officers and ship's staff under his authority – Must ensure that the animal vehicle is suitable for RO-RO use (see Appendix 2), and is stowed and secured in a well ventilated position; that it is given sufficient protection from the weather, and the weather conditions anticipated for the voyage are such that animals will not be injured or caused undue suffering; and that, if necessary, appropriate access is provided to the vehicle for the driver or attendant. It is recommended that

[538] Animals' Angels report on a long transport of cattle from Romania to the Greek isle Crete, Piraeus, Greece, 27.07.2020, page 5. and Animals' Angels report on a long transport of cattle from Hungary to the Greek isle Kos, Piraeus, Greece, 31.08.2020, page 2.

ship's staff carry out a visual check of animal vehicles from time to time during longer voyages. 4.5 Vehicle operators and drivers - Must ensure that the animal vehicle is suitable for RO-RO use (see Appendix 2), and that the driver or attendant understands the particular circumstances and needs of animal transport on a RO-RO vessel. The driver should ensure that the vehicle is allocated a suitable position and should adjust its ventilation as appropriate; and make arrangements, if necessary, for access and provide care to the animals during the voyage.'[539]

In view of all the above, it is imperative to bring clarity to this jumble of responsibilities. What is more: are ferry operators aware of their responsibility to carry a means of killing for animals on journeys longer than three hours?[540]

Demand 70

The responsibilities for the animals during transports via roll-on/roll-off ferries must be clearly specified by the Regulation, for each involved party/stakeholder/person (organiser of the journey, road vehicle transport company, driver/attendant of the road vehicle/owner, operator, master, crew, or other natural or legal persons involved in the operation of the ferry).

Reason 71

The rules on journey times, resting periods and on watering and feeding intervals on roll-on/roll-off ferries are not clear.

The requirements of the Regulation regarding journey times and resting periods when road transports involve sea segments via roll-on/roll-off ferries have led to varying interpretations and legal uncertainty.

To make the analysis clearer, the relevant provisions of Chapter V of Annex I of the Regulation are outlined in the following:

Point 1.1: *'The requirements laid down in this Section apply to the movement of domestic Equidae, except registered Equidae, domestic animals of bovine, ovine, caprine and porcine species, except in the case of air transport'.*

Point 1.2: *'Journey times for animals belonging to the species referred to in point 1.1 shall not exceed eight hours'.*

Point 1.3: *'The maximum journey time in point 1.2 may be extended if the additional requirements of Chapter VI are met'.* Chapter VI lays down additional provisions for long journeys of the species referred to in point 1.1, incl. registered equidae. For example, the use of bedding

[539] Welfare of animals during transport – Guidance Notes. Link: https://gov.wales/sites/default/files/publications/2018-01/welfare-of-animals-during-transport-shipping-by-sea-on-a-ferry.pdf (last accessed 17.05.2021).
[540] Annex I Chapter II point 1.6 of the Regulation.

material, and the equipment of the road vehicle with a water supply system, a ventilation, and a navigation system, is mandatory.

Point 1.4: *'The watering and feeding intervals, journey times and rest periods when using road vehicles which meet the requirements in point 1.3 are defined as follows: (…)'.* For example, letter (d) of Point 1.4 states that bovine, ovine and caprine animals *'(…) must, after 14 hours of travel, be given a rest period of at least one hour sufficient for them in particular to be given liquid and if necessary fed. After this rest period, they may be transported for a further 14 hours'.*

Point 1.5: *'After the journey time laid down, animals must be unloaded, fed and watered and be rested for at least 24 hours'.*

Point 1.7 (a): *'Animals must not be transported by sea if the maximum journey time exceeds that laid down in point 1.2'* – so eight hours – *'unless the conditions laid down in points 1.3 and 1.4, apart from journey times and rest periods, are met'.*

Spain, March 2019 – Animal transports embarking closed deck of a roll-on/roll-off ferry to Morocco.

In practice, this derogation in point 1.7 (a) from compliance with journey times and resting periods led to a lot of confusion. *'The derogation from the maximum transport time (…) is in the view of the Commission necessary when animals are transported by sea. If this derogation was not in place, certain regions of the EU would not be able to transport animals to other regions, including mainland Europe, as animals cannot be unloaded during the sea leg of a journey.'*[541]

This derogation does not mean that the journey time during the sea leg of the journey can generally be ignored. Contrarily, the journey time at sea must be taken into consideration. This concludes from point 1.7 (b) of Chapter V of Annex I. Here it is required that the animals must be *'(…) rested for 12 hours at the port of destination or in its immediate vicinity unless the journey time at sea is such that the voyage can be included in the general scheme of points 1.2 to 1.4'.* The journey time at sea is specifically mentioned. Hence it follows that the journey time at sea must be considered.

In other words, it may be understood that if the sea leg itself of a journey takes longer than the permitted maximum journey time of the

[541] Answer by Mr Borg on behalf of the Commission to a Parliamentary question. Reference no. E-002709/2013. Link: https://www.europarl.europa.eu/doceo/document/E-7-2013-002709-ASW_EN.html (last accessed 17.05.2021).

concerned animals, the transport can nevertheless take place: provided that during the journey at sea, the animals on board the vehicle are watered and fed at the specified intervals[542]; and provided that after arrival at the port of destination, the animals are immediately rested[543]. From the answer of the European Commission cited above, it may be interpreted that the journey time at sea may only be exceeded if the sea leg itself of a journey is longer than the maximum permitted journey time, to allow remote islands of the EU to transport animals via sea from/to the European mainland, for example.

In the opinion of Animals' Angels, the journey time at sea should always be considered in the context of a complete journey, so together with the journey times on road. That means, when planning a journey that involves a segment on a ferry, the calculation of the total journey time should include the loading of the animals at the place of departure, the road transport until embarking the ferry, the journey time at sea, the road transport after disembarking the ferry until reaching the place of destination or rest, and the unloading of the animals. The journey time calculation starts with the loading of the first animal at the place of departure and ends with the unloading of the last animal at a place of rest or destination *(please refer to Chapter II: Journey Times for more details)*.

This is the only logical method for calculating journey time. Most importantly, because the journey time at sea cannot be considered as a resting period in the sense of 'rest'. The animals are confined inside a road vehicle and subjected to transport movement of the ferry. The motion at sea may be even more strenuous for the animals than on the road.[544] Further, for an adequate 'rest', the animals would need to be able to lie down whenever they desire, rest, eat and drink. This is not given inside a road vehicle. The minimum space allowances do not allow all the animals to lie down and rest at the same time, and feed and water must only be supplied at intervals specified in point 1.4, so on the example of cattle or ovine, only after 14 hours of transport.[545]

The exemption of point 1.7 (a) regarding the rest periods outlined in point 1.4 is not given because the journey time at sea should be considered as a rest period. The exemption is given because *'first, implementing such a rest period at sea is almost impossible in practice, since it would mean the vessel having to berth for at least 1 hour after 14 hours at sea, before sailing on for a further period of 14 hours. Secondly, unlike transport by road, where the lorry has to stop so that the animals can be cared for, fed and watered, the special features of transport by sea enable those operations to be carried out during the voyage (…).'*[546]

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[542] See also: Bernard Van Goethem, Directorate G, European Commission, 15.06.2020, reply letter to Eyes in Animals: '(…) the requirements of points 1.3 and 1.4, such as watering and feeding intervals, apply to transport by sea'.

[543] Point 1.7 (b) of Chapter I of Annex I of the Regulation.

[544] For example, for horses: EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Page 71. See footnote 41.

[545] *Please refer also to Chapter III: Space allowance (floor space), Chapter VII: Water supply during transport and Chapter VIII: Food supply.*

[546] Judgement of the Court (Third Chamber), Case C-277/06, 09 October 2008, points 30f. Link: https://curia.europa.eu/juris/document/document_print.jsf?docid=69092&-text=&dir=&doclang=EN&part=1&occ=first&mode=DOC&pageIndex=0&cid=4000782 (last accessed 18.05.2021).

Yet in practice, the derogations provided in point 1.7 (a) are misused. It led to a practice of generally 'ignoring' the journey time at sea.

For example, in a case observed by Animals' Angels, medium sized calves were to be transported via a roll-on/roll-off ferry from the Greek mainland to the Greek island Crete. They were loaded on a road vehicle which was not approved for long journeys.[547] The ferry crossing alone took approximately 12 hours. The road journey from the place of loading to the port of departure was approximately 6 hours excluding the time for loading; the road journey from the port of arrival to the place of destination was approximately 2 hours. This means the total journey time amounted to approximately 20 hours excluding loading and unloading of the animals (6+12+2). Consequently, the provisions for long journeys had to be complied with, as the total journey time was way longer than 8 hours. But this was not the case. The animals were transported in a vehicle which was not approved for long journeys and was neither equipped with an automatic water system nor a navigation system. The involved stakeholders claimed that it was a short transport because the journey time at sea would not count and accordingly, they could transport the calves on a long journey without the necessity to fulfil the additional provisions of Chapter VI of Annex I.[548]

It is thus necessary to clarify the rules on journey times, resting periods, watering, and feeding intervals for road vehicles embarking on roll-on/roll-off ferries, for all animal species.

To simplify it, the same rules should apply to all road transports, whether they contain segments via roll-on/roll-off ferries or not. An exemption from the journey time on roll-on/roll-off ferries may only be granted save in case:

a. the requirement of Article 3 (a) to minimise the length of the journey is applied, and
b. there is no other means to reach the destination other than via roll-on/roll-off ferry, and
c. the sea leg itself of the journey is longer than the permitted journey time for the relevant species, and
d. the animals are unloaded from the road vehicle, fed, watered, and rested for 24 hours prior embarking the ferry, and
e. the space allowances allow all animals to lie down at the same time inside the road vehicle, and
f. the animals are fed and watered during the sea leg of the journey at specified intervals, and
g. the animals are unloaded from the road vehicle, fed, watered, and rested 24 hours within 2 hours after disembarking the ferry. When there is no possibility to fulfil this at the port of destination or in its immediate vicinity, the transport cannot take place.

Especially for point a) the organiser should provide ample evidence to the competent authority before latter should approve the transport.

Further, it must be made clear by the Regulation that the journey time at sea counts as such and must be included in calculations on the

[547] Road vehicles used for long journeys must be approved, acc. to Articles 7 (1) (3) and 18 (1) of the Regulation.

[548] Animals' Angels report on a transport of cattle from Greek mainland to Crete, 06.07.2020, Piraeus, Greece, pages 1-3.

total journey time. It must be made clear that watering and feeding intervals always have to be complied with, also when the road vehicle is embarked on a roll-on/roll-off ferry. And, again, it must be made clear that a derogation from the journey times on roll-on/roll-off ferries may only be applied where the circumstances necessitate it, e.g., when there is no other means or way to reach the place of destination than via roll-on/roll-off ferry. The use of sea transport shall not present a substitute for road transport.

Demand 71

Clearer rules for transports via roll-on/roll-off ferries:

- Roll-on/roll-off ferries may only be used save in the case the circumstances necessitate it and where there are no other means to reach the place of destination.
- The journey time at sea counts and must be included in total journey time calculations, and therefore added to loading and unloading operations and to the road transports prior and after the sea leg of the journey.
- The journey time may only be exceeded if the sea leg itself is exceeding the maximum journey time, if there is no other means to reach the place of destination, and if the animals are unloaded from the road vehicle, watered, fed, and rested for 24 hours prior embarking the ferry and within 2 hours after disembarking the ferry.
- The watering and feeding intervals must be complied with during the sea journey.

Reason 72

The Regulation requires a resting period of only 12 hours after transports via roll-on/roll-off ferries.

Point 1.7 (b) of Chapter V of Annex I of the Regulation states that *'in the case of transport by sea on a regular and direct link between two geographical points of the Community by means of vehicles loaded on to vessels without unloading of the animals, the latter must be rested for 12 hours after unloading at the port of destination or in its immediate vicinity unless the journey time at sea is such that the voyage can be included in thegeneral scheme of points 1.2 to 1.4'*. In other words, the animals must be rested after arrival at the port of destination if the maximum journey time was reached or exceeded during the sea journey.

This contrasts with the 24-hour resting period required for animals who were transported by road, after the maximum journey time was reached. In this case, the Regulation states that the animals must *'(...) be unloaded, fed and watered and be rested for at least 24 hours'*[549].

These different resting requirements are illogical and incomprehensible. Why should animals transported by sea receive a shorter resting period than animals transported by land? Sea movement has been proven as an extremely important stressor for certainly equidae[550], thus post-recovery is just as important.

Resting periods after transport are essential and not laid down by the Regulation for no reason. Resting periods should allow the animals to recover, rest, move and stretch legs, and recharge, after a previous strenuous journey. Roughly it can be said that the longer a journey, the more strenuous for the animals. *Please refer to Chapter II: Journey Times* for further information about journey time and its implications on the animals' health and wellbeing.

There is scientific consensus that animals need to recover after transportation. For example, three stages of recovery were found in lambs after transport. Short- term stress and dehydration had recovered after the first 24 hours of lairage, and *'(...) the lambs would probably have been in an acceptable state, metabolically, to resume their journey after 96 hours of lairage'*[551]. Also, in cattle *'(...) the majority of physiological parameters returned to pre-transport values after 24 hours of recovery'*[552].

It becomes clear that a minimum of 24 hours should be granted to the animals to recover at least from short-term stress and probable dehydration. There is no reason why animals should not receive at least 24 hours of recovery after a transport that included a sea segment via roll-on/roll-off ferry.

Furthermore, the provision now detained in point 1.7 (b) of Chapter V of Annex I should be aligned with the provision of point 1.5 of the same Chapter. Means, it should be specified that the animals must be *'unloaded from the road vehicle, fed, watered, and rested'*. Currently, point 1.7 (b) states only that the animals must be 'rested'.

Demand 72

The Regulation should be amended to require that the animals must be unloaded, fed, watered, and rested for 24 hours after a relevant transport on a ferry.

549 Point 1.5 of Chapter V of Annex I of the Regulation.
550 EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Pages 71. See footnote 41.
551 Knowles, T.G. et al. (1993): Long distance transports of lambs and the time needed for subsequent recovery. Page 293. Link: https://www.researchgate.net/publication/14961946_Long_distance_transport_of_lambs_and_the_time_needed_for_subsequent_recovery (last accessed 17.05.2021).
552 EU Commission (2002): The welfare of animals during transport (details for horses, pigs, sheep and cattle). SCAHAW Report. Page 82. See footnote 28.

Reason 73

The Regulation leaves too much leeway as to what 'immediate vicinity' of the port of arrival means.

As seen above, the Regulation requires that animals be rested after the maximum journey time at sea was reached. Point 1.7 (b) of Chapter V of Annex I states that the animals *'(…) must be rested for 12 hours after unloading at the port of destination or in its immediate vicinity (…)'*.

It is however not specified what 'immediate vicinity' means. This is a very vague specification which leaves a lot of room for interpretation. In relation to the generally extremely long permitted journey times for the animals, 'immediate vicinity' may be considered as *'just a few more hours'*.

In practice this leads to unjustifiably prolonged journey times. For example, an audit in Ireland revealed that a 2-hour drive from the port of arrival to an unloading place was considered as 'immediate vicinity' by competent authorities. It was therefore applied as a rule even for transports of unweaned calves. These animals may be transported for a maximum of 19 hours, but the ferry crossing alone already took approximately 18 hours, exclusive loading at the place of departure, the road journey to the port and waiting times at the port. The EU Commission's auditing service did not agree on this rule and specified that *'(…) a 2-hours' drive from the port of arrival (…) cannot be considered as a rest in the "immediate vicinity" of the port'*[553].

Therefore, a specific definition must be laid down. It cannot be up to the discretion of every stakeholder to decide whether the planned unloading or destination place is in the immediate vicinity or not.

Demand 73

The revised Regulation should clearly define 'immediate vicinity' in kilometres or driving time.

Reason 74

The Regulation excludes roll-on/roll-off ferry transports to non-EU countries from the requirements of point 1.7 (b) of Chapter V of Annex I.

[553] DG(SANCO), 2008: General Audit. Report of a specific audit carried out in Ireland from 08/09/2008 to 12/09/2008 in order to evaluate carry out a specific audit to evaluate the implementation of controls for animal welfare on farms, during transport and at the time of slaughter. Part B – sector specific issues. Reference no. DG(SANCO)/2008/7891-MR-final. Page 8, 166. Link: http://ec.europa.eu/food/fvo/ap/apB_ie_2008_8724.pdf (last accessed 17.05.2021).

As seen above, point 1.7 (b) of Chapter V of Annex I requires that animals be rested after arrival at the port of destination if the maximum journey time was reached or exceeded at sea. The wording of the Regulation excludes transports to non-EU countries from this provision, as it reads *'in the case of transport by sea on a regular and direct link between two geographical points of the Community (...)'*. This is an illogical loophole. As seen above, resting periods are essential for the animals. This is the case no matter their place/country of destination.

At latest since the judgement of the European Court of Justice in 2015[554], it should be clear that the Regulation must be applied until the final destination, also if latter is in a non-EU country.

Nevertheless, in 2018, Animals' Angels still observed five transports of heifers to Georgia in which the requirement of point 1.7 (b) of Chapter V of Annex I was simply ignored. I.e. no unloading of the animals was planned after arrival at the port of destination in Batumi, Georgia, even though the ferry crossing alone takes approximately 3 days. The final place of destination for the animals was approximately 7 hours driving distance from the port of Batumi. The animals were consequently confined on board the vehicles for more than 80 hours.[555]

This is intolerable. The Regulation must make clear that the mandatory unloading after arrival at the port of destination, *outlined in Reason 72* above, applies to all transports, no matter whether the point of arrival is within or outside the European Union. If there is no possibility to unload the animals at the port of arrival or its immediate vicinity, the transport cannot take place.

Demand 74

The revised Regulation should require that the animals must be rested after arrival at the port of destination if the maximum journey time was reached or exceeded at sea, no matter if the port of arrival is within or outside the European Union.

Reason 75

The Regulation does not specify how to protect animals from exposure to weather or temperature extremes on roll-on/roll-off ferries.

The positioning of road vehicles on roll-on/roll-off ferries is crucial. It must provide for good ventilation and at the same time protect the animals from inclement weather. The requirements of the Regulation in this regard are not comprehensive enough. Point 3.1 of Chapter II of

[554] Case C-424/13, Zuchtvieh-Export GmbH v. Stadt Kempten, 2015, ECJ ruling of 23.04.2015. See footnote 40.
[555] Animals' Angels letter on five transports of pregnant heifers from Germany to Georgia, 30.01.2018.

Annex I solely states that *'before loading onto a vessel the master shall verify that when vehicles are loaded (a) on enclosed decks, the vessel is equipped with an appropriate forced ventilation system and it is fitted with an alarm system and an adequate secondary source of power in case of failure; (b) on open decks, adequate protection from sea water is provided'*.

No attention is paid to other hazards such as hindered airflow or weather extremes.

Firstly, airflow should not be hindered by other vehicles or objects next to the road vehicle. When latter is parked between two cargo trucks, for example, airflow is impeded. This is the case on both, open and enclosed decks, even when in the latter case the vessel is equipped with a ventilation system. Airflow is particularly important during high temperatures. Without adequate ventilation or airflow, the animals' ability to thermoregulate is even more restricted and they are easily subjected to heat stress. Good ventilation and airflow must therefore always be ensured, whilst at the same time avoiding draught. The latter is particularly dangerous in cold temperatures, and easily exposes the animals to cold stress *(please refer to Chapter VI: Temperature limits for more details)*.

EFSA recognised the high risk of cattle undergoing heat stress on enclosed decks and stated that *'(…) the problem [of heat stress] is exacerbated when the vehicles are stationary for prolonged periods within the hold of roll-on/roll-off vessels.'*[556]

Generally, the quality of the air and the quantity of air flow on enclosed decks is likely poorer compared to open decks. This is due to the simple fact of heat, air and odour build-up in closed environments, compared to open environments, even when ventilation is provided.

On the other side, on open decks, there is the risk of exposure to weather extremes. During high temperatures, the direct sun easily contributes to an increase of the temperature inside the vehicle and thus, poses a severe threat to the wellbeing of the animals on board. If exposed to direct sun, temperatures inside standstill vehicles rise within a short time span. During cold temperatures, precipitation may enter the compartments and expose the animals to welfare hazards.

For example, a road vehicle transporting heavy bulls to an island was positioned in direct sun on the open deck of a ferry. On its left side were two gas tankers, nothing on its right side. The outside temperatures reached 49°C in the sun and 40°C in the shade.[557] The bulls were suffering from severe heat stress already prior departure of the ferry. The ferry departed at 16:00 in the afternoon, thus amid the daily heat. These animals were exposed to severe suffering and were not protected from the inclement weather. In another case, the same scenario was observed: Heavy bulls suffered from heat stress even prior embarking the ferry and were loaded on the ferry in direct sun at 17:00 in the afternoon with 35°C outside temperatures.[558] Such practices do expose the animals to unnecessary suffering and are not in line with

[556] EFSA (2011): Scientific opinion concerning the welfare of animals during transport. Page 35. See footnote 41.

[557] Animals' Angels report on a long transport of cattle from Romania to the Greek isle Crete, Piraeus, Greece, 27.07.2020, page 5.

[558] Animals' Angels report on a long transport of cattle from Hungary to the Greek isle Kos, Piraeus, Greece, 31.08.2020, page 2.

the basic principle of the Regulation to protect animals during transport.

Greece, 31.08.2020 – Transport with live bulls parked on the open deck of a ferry, in direct sun and next to gas tanks, during outside temperatures of > 40°C.

Greece, 31.08.2020 – Bull Zoltan suffers from heat while truck is parked in direct sun waiting for embarkation on ferry.

It concludes that if the animals cannot be adequately protected from weather extremes, and/or if compliance with temperature and humidity limits inside the road vehicles cannot be ensured, road vehicles cannot be loaded on roll-on/roll-off ferries unless the outside weather conditions allow so.

Demand 75

Introduction of requirements on the positioning of road vehicles on roll-on/roll-off ferries:

- Road vehicles shall not be parked between objects that may impede airflow.
- On open decks: road vehicles shall be protected from precipitation, direct sun, and sea water.
- On closed decks: road vehicles shall be protected from exhaust gases. Access to the deck for attendants and fresh air supply must be guaranteed in any situation.

CHAPTER XVI:

Live animal exports to countries outside EU and EFTA Member States[559]

Reason 76

The Regulation does not prohibit the export of live animals for commercial purposes to countries outside EU and EFTA Member States although these exports are not in line with EU policies and contradict Article 13 of the Treaty on the Functioning of the European Union (TFEU).

Article 13 of the Treaty on the Functioning of the European Union (TFEU) states that *'(…) the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals (…)'*[560] when formulating and implementing Union's policies in certain key areas such as agriculture, fisheries, or transport.

Article 13 as a cross-sectional clause is enshrined in Part One Title II of the TFEU, and thus must be considered as a *guiding principle* of the Union. The European Commission itself has once highlighted that with Article 13 TFEU animal welfare is put *'on equal footing with other key principles mentioned in the same title'* like the promotion of gender equality, the guarantee of social protection, protection of human health, the combat of discrimination, the promotion of sustainable development, the protection of consumers and personal data.[561] Its importance is

[559] EFTA = European Free Trade Association; 4 EFTA countries: Iceland, Liechtenstein, Norway, Switzerland

[560] Consolidated Version of the Treaty on the Functioning of the European Union, 2016 O.J. (C 202) 01, art. 13

[561] Blattner, C. (2019): Protecting animals within and across borders. Oxford University Press. Page 328./See also: Compassion in World Farming (2014): Animal Welfare Article of the Treaty on the Functioning of the European Union is undermined by absence of access to justice. Page 2. Link: https://www.ciwf.org.uk/media/7427367/article-13-tfeu-undermined-by-lack-of-access-to-justice-december-2014.pdf (last accessed 30.07.2021).

also reflected in the very first recital of Council Regulation EC 1/2005 confirming that *'(...) the Community and the Member States are to pay full regard to the welfare requirements of the animals'*[562]. It should be noted that animal welfare considerations are put here at the very beginning of the preamble, thus emphasizing the great importance the EU gives to animal welfare (in theory), while for example, the smooth functioning of the market organisation only follows later in the second recital of the Regulation.[563] *Please see also Chapter I: Contravention of international and EU policies.*

The importance of Article 13 TFEU is also emphasized by the European Court of Justice (ECJ): On 23rd April 2015, the European Court of Justice ruled in Case C-424/13 that the Regulation applies until the final place of destination of the animals, regardless of whether this is inside or outside the EU territory. This means, i.a., that transport times, feeding, watering and resting intervals must be complied with also in the non-EU leg of the journey. Consequently, the competent authority at the place of departure is only entitled to approve the transport if the organiser has submitted a plausible planning of the entire journey considering the non-EU part, too. If this provision is not fulfilled by the organiser, the competent authority must act according to Article 14 (1)(b) by requiring *'(...) the organiser to change the arrangements for the intended long journey (...)'* before authorizing the transport – this applies also when the final destination lies outside the EU.[564] The Court justified its decision of extraterritorial dimension by arguing i.a. that *'(...) the protection of animal welfare is a legitimate objective in the public interest'* and that its importance is clearly reflected in the Member States' adoption of Article 13 TFEU (respectively Protocol 33 as the predecessor of Article 13 TFEU).[565]

However, when it comes to the reality of live animal export to non-EU countries, the ECJ-ruling of 2015 and the core principle of Article 13 TFEU are regularly ignored.

The underlying problem is that the Regulation cannot be complied with on most export routes. Up to the present day, on most routes to non-EU countries, transports continue to systematically violate community legislation as the provisions of the Regulation cannot be enforced up to the final destination. Moreover, the European authorities lack competences abroad to ensure enforcement of these provisions in the non-EU part of the journey.

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[562] Referring to the former Protocol No. 33 on the protection and welfare of animals annexed to the Amsterdam Treaty which was still in place in 2005 when Regulation EC 1/2005 entered into force. The Lisbon Treaty and thus Article 13 TFEU (which replaces Protocol No. 33 now) followed later in 2009.

[563] Guretzki, T. (2018): Der Schutz von Tieren im Zusammenhang des EU-Binnen- und -Außenhandels. Basler Studien zur Rechtswissenschaft. Schriftenreihe für Internationales Recht, Band 3. Helbing Lichtenhahn Verlag, Basel, page 42/See also: Hirt, A. et al. (2016): Tierschutzgesetz Kommentar. Page 853/rec. 6.

[564] Case C-424/13, Zuchtvieh-Export GmbH v. Stadt Kempten, 2015, ECJ ruling of 23.04.2015. Page 11/rec. 44, 51-52, 55-56. See footnote 40.

[565] Ibid. Page 10/rec. 35. See footnote 40/See also: Blattner, C. (2019): Protecting animals within and across borders. Oxford University Press. Page 9: 'The judgment suggests the Court viewed the transport as an export over which the European Union had jurisdiction qua its public morals.'

Over and over again, Animals' Angels has witnessed export transports of animals approved by competent EU authorities regardless the facts that:

- there are no EU-certified resting points outside the EU[566],
- the procedures at EU exit points and problems with customs clearance often lead to very long waiting times[567],
- the temperature requirements are regularly exceeded in summer[568] or severely undercut in winter[569],
- the planning of such journeys is still found to be unrealistic and/or incomplete[570],
- that the transport conditions for the animals often remain at an alarming level[571].

Also, the European Commission concludes in its Overview Report DG(SANTE) 2019-6834 on the welfare of animals exported by road that *'the main concerns for the welfare of animals relate to the non-EU leg of the journey. The available information indicates that* ***most transporters do not meet applicable EU rules after leaving the Union.*** *The absence of agreements with EU neighbouring countries, together with poor retrospective*

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[566] E.g. Animals' Angels report on two transports of pregnant heifers from Messingen, Germany, to Uzbekistan, 13.- 22.02.2019, see also: https://www.youtube.com/watch?v=xxyOeYKcKRc/Animals' Angels report on three transports of pregnant heifers from Germany to Uzbekistan, November 2019/Animals' Angels report on transports of 66 pregnant heifers from the Netherlands to Uzbekistan, 07.-16.02.2020/Animals' Angels report on two transports of pregnant heifers from Brandenburg, Germany, to Turkmenistan, 18.- presumably 28.02.2020, see also: https://www.youtube.com/watch?v=uDezhTmlgF4

[567] E.g. Animals' Angels policy brief: Why exports of live animals should not be authorized to non-EU countries without any animal welfare guarantees, July 2020, pages 7 – 9./Animals' Angels policy brief: Why exports of live animals should not be approved to Morocco, April 2019/Animals' Angels report on a transport of pregnant heifers from Germany to Morocco, May 2019.

[568] E.g. Animals' Angels report on a transport of pregnant heifers from Germany to Morocco, May 2019/Animals' Angels report on long transport of bovines from Bulgaria to Albania via Greece, Albanian transport company, date of report: 05.09.2019/Animals' Angels report on two long transports of Bulgarian cattle to Albania, via Greece, 30.-31.07.2020 and 01.-02.08.2020/Animals' Angels report on a long distance transport of heavy calves from Slovakia to Turkey, 12. – 15.09.2020/Animals' Angels footage on long-distance animal transports inspected at the border between Turkey and Bulgaria, August 2018, see video: https://www.youtube.com/watch?v=nWdu-j7cE_8M

[569] E.g. Animals' Angels report on two transports of pregnant heifers from Messingen, Germany, to Uzbekistan, 13.- 22.02.2019, see also: https://www.youtube.com/watch?v=xxyOeYKcKRc/Animals' Angels report on two transports of pregnant heifers from Brandenburg, Germany, to Turkmenistan, 18.- presumably 28.02.2020, see also: https://www.youtube.com/watch?v=uDezhTmlgF4/Animals' Angels report on transports of 66 pregnant heifers from the Netherlands to Uzbekistan, 07.-16.02.2020.

[570] E.g. Animals' Angels report on a transport of heavy bull calves from Hungary to Turkey, 05.-12.03.2020/Animals' Angels report on long distance transport of heavy calves from Slovakia to Turkey, 12.-15.09.2020/Animals' Angels report on long distance transport of heavy calves from Hungary to Turkey, 10.-12.09.2020

[571] E.g. Animals' Angels report on a transport of pregnant heifers from Austria to Uzbekistan, date of report: 18.04.2019/Animals' Angels report on long transport of bovines from Bulgaria to Albania via Greece, date of report: 05.09.2019/Animals' Angels report on two transports of pregnant heifers from Brandenburg, Germany, to Turkmenistan, 18.- presumably 28.02.2020/Animals' Angels report on sheep transport from Hungary to Turkey, 10.-13.03.2020/Animals' Angels report on transport of heifers from Germany to Turkey, observed 11.03. 2020/Animals' Angels report on transport of heavy bull calves from Bulgaria to Turkey, 13.-14.03.2020/Animals' Angels report on transports of pregnant heifers from Austria to Uzbekistan, date of report: 10.05.2021/Animals' Angels report on transports of pregnant heifers from Denmark to Uzbekistan, date of report: 19.07.2021.

checks and the ***inability of Member States to ascertain the conditions of transport and the feasibility of the plan for that part of the journey*** *contribute to that concern'*[572].

Animals' Angels findings collected during numerous field investigations along export routes and in non-EU countries over the past 15 years confirm these conclusions drawn by the European Commission; also the ANIT Committee *'calls attention to the numerous reports and information from citizens, NGOs and audit reports on animal welfare problems during transport and non-compliance with the regulation, in particular concerning long journeys and transport to third countries, compromising the European Union's obligation to ensure the protection of animal welfare during transport'*[573] and states that *'once livestock crosses the EU border, respect for animal welfare standards may be difficult to guarantee, both en route and on arrival, as third countries are not bound by EU legislation'*[574].

Case study 1: Lack of resting points outside the EU on the example of road transports of 'breeding' animals to Central Asia:

Reliable (official) information on resting points (=control posts) in non-EU countries lacks up to the present day. In 2018, the working group on cattle exports of the EU Animal Welfare Platform of the EU Commission has already requested a list of such places outside the EU from the World Organisation for Animal Health (OIE). To date, however, it does not seem possible to draw up such a list. In the Commission report DG(SANTE) 2019-6834 the EU Commission confirms that *'neither the Commission nor the Member States' authorities have reliable information on the resting points available in those countries and their standards'*[575].

Concerning the lack of EU-certified resting points outside EU territory, for example on the Eastern route to Russia, Kazakhstan and Uzbekistan, it must be noted that already in the Zuchtvieh-Case C-424/13 of 2015 the organiser of the transport in question confirmed that *'the applicability of the rules laid down in Regulation No 1/2005 outside the territory of the European Union, in particular those laid down in Chapter V* of Annex I *thereto, pertaining to watering and feeding intervals as well as journey times and resting periods, is unrealistic and counterproductive. In third countries there is not much hygienically and technically sound accommodation in which to rest the animals being transported, with the result that there is high risk of injury and cross-contamination'*[576]. And yet, the transports from the EU to Central Asia have continued on a regular basis.

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572 DG(SANTE) 2019-6834. Page 16. See footnote 279 (accentuation by the author of this report).

573 European Parliament (2021): Draft Report on the investigation of alleged contraventions and maladministration in the application of Union law in relation to the protection of animals during transport within and outside the Union(2020/2269(INI)), Committee of Inquiry on the Protection of Animals during Transport, pages 6f (Point 7). Link: https://www.europarl.europa.eu/doceo/document/ANIT-PR-680989_EN.pdf (last accessed 22.07.2021).

574 Ibid. Page 12 (point 55).

575 DG(SANTE) 2019-6834. Page 12. See footnote 279.

576 Case C-424/13, Zuchtvieh-Export GmbH v. Stadt Kempten, 2015, ECJ ruling of 23.04.2015. Page 9/rec. 27. See footnote 40.

The number of animals exported to Uzbekistan and Kazakhstan increased drastically since 2015[577]:

Bovines transported from EU to:	2015	2019	Increase from 2015 – 2019:
Uzbekistan	11.933	17.997	x 1.5
Kazakhstan	151	12.624	x 83

In April 2020, five years after the ECJ-ruling C-424/13 and numerous transports to Russia and Central Asia, the Russian Federal Service for Veterinary and Phytosanitary Surveillance (FSVPS) confirmed in reply to a letter of the German Federal Ministry of Food and Agriculture (BMEL) from 22 October 2019 that currently (i.e. April 2020) no stables in Russia operate as resting points, adding in the letter that a stable in Samara is under construction but cannot be used before the completion of the construction work and the veterinary and hygiene inspections.[578] This letter by the Russian central authority impressively highlights two areas of concern:

1. **For many years, organisers and operators of such export transports have clearly misled the European veterinary authorities by telling the untruth about apparent functioning and approved resting points in Russia;** and
2. **For many years, the competent veterinary authorities of the relevant EU Member States have failed to thoroughly conduct in-depth plausibility checks before authorizing export transports to Central Asia (often on a regular basis).** In this context it is worth mentioning what was officially told to a delegation of German official veterinarians during their visit in Russia: the representatives of the Russian veterinary authorities in the region of Samara *'were surprised that transports were authorized by Europe even though the certifying veterinary services in Germany [and other EU Member States] did not have proof of Russian registrations of unloading and supply facilities. As well, it was not understandable for them why there have not even been enquiries to the Russian authorities in this matter'*[579].

In May 2020, a second letter by the Russian FSVPS to the German BMEL followed, stating that currently there is only one authorized 'livestock' holding in Russia to temporary host 'farm' animals in transit, namely the resting point in Zuzk'y in the Smolensk region near the border with Belarus.[580] Only few days later a third letter was sent by FSVPS explaining that two more stables have been approved in the region of Samara.[581] In August 2020, a fourth letter of the FSVPS followed, again addressed to the BMEL. This time, the Russian Federal Authority said that six resting points for animals in transit have been approved at

[577] Data extracted from Eurostat. http://epp.eurostat.ec.europa.eu/newxtweb/(last accessed 22.07.2021).
[578] Letter of the FSVPS to BMEL, No. FS-SA-7/10946, dated 7 April 2020.
[579] Martin, M. et al. (2019): Visit to unloading and supply facilities pursuant to Regulation (EC) No 1/2005 in the Russian Federation indicated on journey logs of long distance transports (from 9 to 14 August 2019). Page 22, point H. Link: https://www.europarl.europa.eu/cmsdata/230136/Dr%20M.%20Martin_VisitControlPosts_Russia2019_EN.pdf (last accessed 30.07.2021).
[580] Letter of the FSVPS to BMEL, No. FS-SA-7/13568, dated 8 May 2020.

once in Russia.[582] But can those different explanations about the alleged existence of resting points sent by letters within such a short period of time really be considered sufficient proof?

The German Administrative Court Osnabrück, for example, said no in its judgement 6 B 44/20 of 09.06.2020 because *'the requirements of Regulation (EC) No. 1/2005 must also be met in the Russian Federation (see ECJ judgment of 23 April 2015, C-242/13, juris rec. 56) and, since the compliance with rest periods requires control posts [meant: resting points outside EU], they must meet the requirements of Regulation (EC) No. 1255/97'*[583]. Further: *'it cannot (…) be established with the necessary certainty that there are sufficient resting points/control posts available in the Russian Federation that are approved under Regulation (EC) No 1255/97 (…) as required'*[584].

The European Parliament had already called in its Resolution of 14.02.2019 that *'(…) when animals are required to be unloaded for a 24-hour rest period in third countries, the organiser must identify a place for rest with facilities equivalent to those of an EU control post'* including regular inspections by EU authorities of these facilities'[585].

The Dutch Minister of Agriculture, Nature and Food Quality summarized in her written answers to the third hearing of the ANIT Committee that *'information from different sources shows that resting places in certain third countries did not comply with both Regulation (EC) 1/2005 and the Zuchtvieh-ruling. Resting places were sub-standard, and even sometimes all but non-existent and/or they were often not used for a 24-hours stop, even though the journey plan indicated that a stop would be made there.* ***So far, there is no system in place to verify if non-EU resting places exist and comply with the rules, and there is no official EU-list of resting places outside the EU'***[586].

As consequence of the unclear and non-consistent information obtained from the different stakeholders and thus the impossibility of EU authorities to duly perform official controls in line with EU legislation, the Netherlands took clear measures in May 2020: they

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[581] Maisack, C. & Rabitsch, A. (2020): Aktuelle Probleme bei der Abfertigung/ Genehmigung langer, grenzüberschreitender Tiertransporte im Licht der Eu-GH-Entscheidungen C-424/13 und C-383/16. Tierschutz in Recht und Praxis, vol. 2020 (2020), issue no. 4, page A-44. See also: English translation. Page 113-126: http://rabitsch-vet.com/fileadmin/user_upload/Live_Animal_Transport.pdf (last accessed 30.07.2021).

[582] Letter of the FSVPS to BMEL, No. FS-KS-7/21867, dated 3 August 2020.

[583] Maisack, C. & Rabitsch, A. (2020): Aktuelle Probleme bei der Abfertigung/ Genehmigung langer, grenzüberschreitender Tiertransporte im Licht der EuGH-Entscheidungen C-424/13 und C-383/16. English translation, pages 113-126. See footnote 581.

[584] Quotation translated into English, original German version: „Es kann (…) nicht mit der erforderlichen Gewissheit festgestellt werden, dass in der Russischen Föderation ausreichend Kontrollstellen mit der nach der Verordnung (EG) Nr. 1255/97 erforderlichen Zulassung (…) vorhanden sind." See: VG Osnabrück B. v. 09.06.2020, 6 B 44/20.

[585] European Parliament resolution of 14 February 2019 on the implementation of Council Regulation (EC) No 1/2005 on the protection of animals during transport within and outside the EU (2018/2110(INI)). See footnote 34.

[586] Committee of Inquiry on the Protection of Animals during Transport (2021): Written questions to Carola Schouten, Dutch Minister of Agriculture, Nature and Food Quality, ANIT Public Hearing on Long distance transports of live animals within the European Union. Answer to Questions from Renew. P. 4. Link https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/ANIT/DV/2021/02-25/Questions-Answers_DutchMinisteryofAgriculture_NEWVERSION_EN.pdf (last accessed 01.08.2021; accentuation by the author of this report).

have suspended the approval of any further export transports that would require a 24-hour stop at a resting point outside the EU.[587] **This temporary export ban still is in place one year later and *'put a halt to export of breeding animals to destinations in Kazakhstan, Uzbekistan and furthest Russia'***[588].

So far, no other EU Member State on national level has followed the Dutch example despite the fact that up to the present day there is no list of EU-certified resting points outside the EU available and still no procedures are in place that would allow independent experts and relevant EU authorities to approve and regularly check on these resting points outside the Union.[589]

Table 2: Example of export transports of pregnant 'breeding' heifers to Central Asia, observed by Animals' Angels between 2019 and 2021. All transports were found in breach of different provisions of the Regulation, including the great majority of these transports being in non-compliance with the required 24-hour rest breaks for the animals.

No.	Date	Animals transported	Departure country	Destination country
1	13.-22.02.2019	66 pregnant Holstein heifers on two trucks	Germany	Uzbekistan
2	12.-22.03.2019	31 pregnant Fleckvieh heifers on one truck	Austria	Uzbekistan
3	29.03.2019 – unknown	Ca. 90 pregnant Holstein heifers on three trucks	Germany	Azerbaijan
4	9.-18./19.(?)10.2019	99 pregnant Holstein heifers on three trucks	Germany	Uzbekistan
5	7.-16.02.2020	66 pregnant Holstein heifers on two trucks	Netherlands	Uzbekistan
6	18. – 28.(?)02.2020	68 pregnant Holstein heifers on two trucks	Germany	Turkmenistan
7	15.-23./24.04.2021	224 pregnant Fleckvieh heifers on 7 trucks	Austria	Uzbekistan
8	15.-22./23.04.2021	66 pregnant heifers on two trucks	Denmark	Uzbekistan
9	16.-25.04.2021	165 pregnant heifers on five trucks	Denmark	Uzbekistan

[587] E-mail notification of the Dutch NCP to all MS NCPs, dated 25.05.2020.
[588] Committee of Inquiry on the Protection of Animals during Transport (2021): Written questions to Carola Schouten, Dutch Minister of Agriculture, Nature and Food Quality, ANIT Public Hearing on Long distance transports of live animals within the European Union. Answer to Questions from Renew. P. 4. See footnote 586.
[589] Experts in animal transport call for a certification and audit scheme 'according to a uniform set of requirements that meet the respective requirements of the animal species and category to be housed and cared for. Audit intervals should not exceed 1 year.' See: Marahrens, M. and Kernberger-Fischer, I. (2021): Research for ANIT Committee – The practices of animal welfare during transport in third countries: an overview, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels, page 52. Link: https://www.europarl.europa.eu/RegData/etudes/STUD/2021/690877/IPOL_STU(2021)690877_EN.pdf (last accessed 25.07.2021).

Considering that:

- EU authorities competent for the approval of export transports cannot ensure that the Regulation is enforced until the final non-EU destination,
- there are no reliable control mechanisms for the non-EU leg of the journey,
- and when the ECJ-ruling of 2015 is systematically disrespected by the parties involved in the export business,

it is high time to act for the sake of the animals who are willingly exposed to prolonged and severe stress, pain and suffering during the export transports. And for the sake of the rule of law which is widely ignored on live exports to non-EU countries.

In its recently published '2021 Rule of Law Report' the EU Commission emphasizes that *'the rule of law is not only an integral part of the democratic identity of the EU and of the Member States, but also essential for the functioning of the EU, and for the citizens and businesses to trust public* institutions'[590]. Further: *'Respect for the rule of law entails compliance*

Total journey time	Total distance	Compliance with 24h rest breaks?
> 9 days	6,137 km	**RU: only 1 break (for 15h)** **KAZ: no unloading** **→ animals >118h (=5d) on board the trucks**
~ 10 days	~ 6,000 km	**RU/KAZ: no official resting places in RU + KAZ** **UZ: animals observed in poor conditions (sunken flanks, no bedding, only one driver)**
unknown	unknown	**PL: already in the EU trucks parked for 9h with animals on board (despite vicinity of a Polish control post); no further trailing in non-EU part.**
~ 10 days	~ 6,000 km	**KAZ: Unloading in unsuitable stable (run-down, broken roof)**
~ 10 days	5,818 km	**RU + KAZ: no official resting places**
Min. 10 days	> 6,014 km	**KAZ: no unloading** **UZ: no unloading** **TM: no info.** **→ animals >80h (=3d) on board the trucks**
~ 9/10 days	~ 6,000 km	**KAZ: 24h stop in Aralsk – 4 trucks only for 11.5h acc. information received**
8/9 days	5,749 km	**UZ: animals unloaded one day earlier than scheduled in planning → discrepancies with 24h rests**
10 days	5,749 km	**KAZ: new-born calf on board. Stop in Aralsk, acc. information received**

[590] European Commission (2021): 2021 Rule of Law Report. The rule of law situation in the European Union. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions. COM (2021) 700 final, page 1. Link: https://ec.europa.eu/info/sites/default/files/communication_2021_rule_of_law_report_en.pdf (last accessed 23.07.2021).

with EU law and the principle of primacy of EU law, which is the foundation of the EU'[591]. This should also be true for animal transports.

It is high time to finally draw consequences from years of systematic violations of EU animal welfare legislation and ensure the correct application of the rule of law among all EU Member States. In this context, the only effective solution concerning exports of live animals to non-EU countries is an EU-wide ban.

Case study 2: Lack of animal welfare guarantees in the importing countries

Today, animals are still transported on a regular basis to countries beyond EU's borders where animal welfare does not play any role at all. Accordingly, these animals do not have any animal welfare guarantees once they leave EU territory. Even the internationally agreed animal welfare standards of the OIE are widely ignored in the importing countries.[592]

Actually, all importing non-EU countries of European animals are OIE members. Hence, they have committed themselves to comply with the international animal welfare standards set by the OIE.[593] Since the OIE is not an enforcement body, each Member Country itself has to ensure that the standards are complied with by introducing the corresponding legislation and enforcement tools. In theory. Practice paints a different picture as this commitment is mostly not reflected in any field of 'farm' animal activities and production in the non-EU destination countries.

Most importing countries of European animals in North Africa, the Middle East or Central Asia do not have adopted any national animal welfare legislation, especially when it comes to the housing, management, transport and slaughter of 'farm' animals.[594] For example, the Animal Protection Index (API)[595] concerning the indicator *'protecting animals used in farming'* is ranked with G (worst position in the ranking scale A - G) for countries like Morocco, Algeria, Egypt or Russia.[596]

Regardless of this fact, European animals have been and are still sent to these countries in great numbers. According to Eurostat, in 2020 alone, 114,403 cattle were exported from the EU to Algeria, 43,550 to Morocco, 16,170 to Egypt and 35,129 bovine animals to Russia, for example.[597]

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[591] Ibid.

[592] For country details, see: https://api.worldanimalprotection.org/indicators (last accessed 30.07.2021).

[593] See for the export of land 'farm' animals: OIE Terrestrial Animal Health Code, Section 7 on Animal Welfare with chapters 7.2. – 7.4. on transports of animals by road, sea and air and chapter 7.5. on the slaughter of animals (for aquatic animals see OIE Aquatic Code). Link: https://www.oie.int/fileadmin/Home/eng/Health_standards/tahc/2018/en_titre_1.7.htm (last accessed 30.07.2021).

[594] For further information, please see: https://www.globalanimallaw.org/database/national/index.html (last accessed 30.07.2021) and https://api.worldanimalprotection.org/(last accessed 22.07.2021).

[595] The Animal Protection Index (API) was published in 2014 for the first time and updated in 2020. Currently, the API ranks 50 countries around the world according to their animal welfare policy and legislation. Link https://api.worldanimalprotection.org/about (last accessed 30.07.2021).

[596] For country details, see: https://api.worldanimalprotection.org/indicators (last accessed 30.07.2021). N.B.: There is no API available for e.g. Libya, Lebanon, Uzbekistan, Kazakhstan or Turkmenistan.

[597] Data extracted from Eurostat: http://epp.eurostat.ec.europa.eu/newxtweb/(last accessed 30.07.2021).

Animals' Angels, other NGOs and journalists have repeatedly documented severe 'farm' animal abuse and cruelty during transport, handling at markets and at slaughter in different importing countries of North Africa and the Middle East region. Common practices include the beating and kicking of animals, tail-twisting, stabbing, hitting them into sensitive body parts such as head, genitals or udder, pulling them by their horns, blind-folding, grabbing into their eyes, throwing them on the ground and even severing their leg tendons for easier control and handling. Also, 'slaughter' cattle are hoisted up on one hind leg and hung upside-down with full consciousness. The slaughter of animals is without stunning and executed most likely by untrained workers, often cutting the animal's throat with several knife cuts.[598] **Such practices would clearly be classified as cruelty to animals under EU law and do not reflect Article 13 TFEU in any respect.**

Worth to mention in this context that, i.a., due to the severe animal welfare concerns in many non-EU countries, some federal states in Germany like Hesse and Bavaria have issued export bans of animals from their own state territory to so-called high-risk animal welfare countries, including Algeria, Armenia, Azerbaijan, Egypt, Iraq, Iran, Kazakhstan, Kyrgyzstan, Lebanon, Libya, Morocco, Syria, Tajikistan, Turkey, Tunisia, Turkmenistan and Uzbekistan.[599]

It would be important *'to open a discussion in the EU about exports to non-EU destinations, especially to countries with lower welfare standards'*, as highlighted by the Dutch Minister of Agriculture, Nature and Food Quality. Further: *'We need to realise that, in the end, breeding animals will also be traded on local markets and slaughtered in local slaughterhouses.'*[600] Often it is argued by industry representatives and exporters that there is a difference in the export of 'breeding' animals compared to 'slaughter' animals. Our investigations in Morocco, however, have shown that in the end there is no way of controlling what happens to the animals once they leave the EU; regardless of whether they are 'destined' for breeding or slaughter. During a field study in 2019 and 2020, Animals' Angels observed more than 37 European cows at local

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598 E.g. Animals' Angels report on EU 'dairy' cows in Morocco (sold and slaughtered at local markets), case study 2019/2020: https://www.animals-angels.de/fileadmin/user_upload/03_Publikationen/Dokumentationen/Animals_Angels_Dairy_Cows_From_the_EU_in_Morocco_Sold_and_Slaughtered_at_Local_Markets.pdf/Animals' Angels footage (2020): www.animals-angels.de/erika/www.animals-angels.de/eu-cows/Animals International footage (2017): https://animalsaustralia-media.org/uploads/lebendtierexport/https://www.eurogroupforanimals.org/news/welfarm-release-three-shocking-videos-call-long-overdue-end-export-live-animals/Media Coverage, e.g.: ARD/Das Erste, Tiertransporte gnadenlos, 22.07.2020, https://www.dw.com/de/tiertransporte-gnadenlos-viehhandel-ohne-grenzen/av-56163957/ZDF, 37 Grad, Geheimsache Tiertransporte, 20.11.2017, www.zdf.de/dokumentation/37-grad/37-geheimsache-tiertransporte-100.html#autoplay=true/ZDF, Frontal 21, Qualvolle Tiertransporte – Das Leiden der Rinder, 20.11.2018/ZDF, 37 Grad, Tiertransporte – ein Jahr danach, 18.12.2018, https://www.zdf.de/dokumentation/37-grad/weitererzaehlt-tiertransporte-ein-jahr-nach-der-ausstrahlung-100.html/Joint letter to EU COM and Agri Council by CIWF et al. on Article 13 TFEU: Export of live farm animals to Libya at time of escalating civil war, dated 8 May 2020. (All links last accessed 23.07.2021).

599 https://umwelt.hessen.de/pressearchiv/pressemitteilung/hessen-stoppt-export-von-nutztieren-drittlaender/https://www.stmuv.bayern.de/themen/tiergesundheit_tierschutz/tierschutz/tiertransporte_drittstaaten/index.htm (both last accessed 30.07.2021)/See also: Marahrens, M. and Kernberger-Fischer, I. (2021): Research for ANIT Committee – The practices of animal welfare during transport in third countries: an overview. Page 31. See footnote 589.

markets and slaughterhouses in Morocco, all of them 'dairy' cows who were originally sent abroad for breeding purposes. Many of these 'high performance breeding' cows found at the local markets have spent clearly less than two years in Morocco and often are sold for slaughter respectively previous fattening. In this context, it remains highly questionable how successful the herd building and how sustainable the export business is indeed – especially considering that the export of 'breeding' cows to Morocco was already booming one decade ago.

Moroccan market, October 2020 – Loading of exhausted cow Fanny, with excessive use of electro prod. *See also: www.animals-angels.de/eu-cows*

Morocco, October 2019 – French cow Fleur at market.

[600] Committee of Inquiry on the Protection of Animals during Transport (2021): Written questions to Carola Schouten, Dutch Minister of Agriculture, Nature and Food Quality, ANIT Public Hearing on Long distance transports of live animals within the European Union. Answer to Questions from Maria Noichl (S&D), page 3. See footnote 586.

Morocco, October 2020 – Picture above and below: German cow Erika in the slaughterhouse See also: www.animals-angels.de/erika

'In an analysis of importing countries last year, the German veterinary journal "Deutsches Tierärzteblatt" found that the husbandry conditions for German high-performance cows in Morocco were mostly unsuitable. Moreover, the "breeding cattle" are not used to build up own herds. Although more than 70,000 such animals have arrived in Morocco from Germany alone since 2010, the number of dairy cows in the country has not increased. On the other hand, beef production is increasing. "It is more profitable for farmers to slaughter cows and young cattle than to invest in building up a dairy herd".'[601], as published in the renowned German weekly newspaper DIE ZEIT. Several scientists and veterinary experts conclude that the building of an own breeding herd and a sustainable milk production are not evident in the importing countries due to different

[601] Translated from German into English from: Theile, M. (2021): Erikas lange Reise. DIE ZEIT, Edition No. 7 of 11.02.2021. Page 31. Link: https://www.zeit.de/2021/07/tierschutz-tierexport-kuh-schlachtung-transport-verbot-eu (last accessed 24.07.2021).

climatic conditions, lack of high-quality feed and management, and poor infrastructure. *'European cattle produce little milk when temperatures are high, water is scarce, and feed is poor in nutrients. There is a lack of targeted breeding, health control and agricultural infrastructure. Despite imports of European cattle, the dairy cattle population is not growing.'*[602] Wirths (2020) criticizes that above all, the aim of the export of 'breeding' cattle to non-EU destinations is primarily to relieve the EU market due to its overproduction of animals and milk. But she points out that live export does not help to build up a functioning dairy industry in the respective importing countries.[603]

As our report about European 'dairy' cows in Morocco shows[604], the animals arrive at the markets in neglected, poor and unfit conditions and are handled, transported, and slaughtered under worst animal welfare conditions which would be classified as cruelty to animals under EU law.

Clearly, the EU can no longer turn a blind eye to what is happening to its hundreds of thousands of animals outside the Union's borders. Since exporters, breeding associations, farmers and other parties involved in this business do not voluntarily adapt their business model to a more animal-friendly one; and since veterinary officials do not stop authorizing such export transports to non-EU countries, it is finally time for politicians to take responsibility for the animals and acknowledge that export transports to non-EU countries without any animal welfare guarantees are not in line with Article 13 TFEU. **An export ban is urgently needed on an EU-wide level.**

Recently, during the meeting of the Agriculture and Fisheries Council on 28 and 29 June 2021, the Netherlands, Germany and Luxembourg declared in a joint statement that *'finally, the conditions to which the animals are exposed after arrival at their destination, e.g. during onward transport, at livestock markets and at slaughter, must also be taken into account. (…) For all above reasons, we* ***call for an EU-wide ban of long-distance transports of livestock to third countries by road and by sea. This should be implemented in the upcoming revision of Council Regulation (EC) 1/2005.*** *We strongly advocate a shift from transporting live animals to a trade in meat and carcasses, as well as genetic material'*[605].

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602 Translated from German into English from: Wirths, F. (2020): Endstation Wüste. Eignen sich deutsche Zuchtrinder zur Milcherzeugung in Drittstaaten? Lecture manuscript for the 26th Symposium of the 'Deutschen Veterinärmedizinischen Gesellschaft' (DGV, German Veterinary Society), 03/2020. Page 1. Link: https://www.tierschutzbund.de/fileadmin/user_upload/Downloads/Hintergrundinformationen/Landwirtschaft/Endstation_Wueste_DVG_Tagung_2020.pdf (last accessed 30.07.2021).

603 Wirths, F. (2020) Länderbeispiele verstärken Beispiele an Zuchtrinderexporten. Langstreckentiertransporte im Fokus. DTBl. 8/2020. Pages 973–977. Link: https://www.bundestieraerztekammer.de/btk/dtbl/archiv/artikel/8/2020/laender-beispiele-verstaerken-zweifel-an-zuchtrinderexporten (last accessed 30.07.2021).

604 https://www.animals-angels.de/fileadmin/user_upload/03_Publikationen/Dokumentationen/Animals_Angels_Dairy_Cows_From_the_EU_in_Morocco_Sold_and_Slaughtered_at_Local_Markets.pdf (last accessed 30.07.2021).

605 Statement by the Netherlands, Germany and Luxembourg on the Council conclusions on animal welfare during maritime long distances transport to third countries. Meeting of the Council (Agriculture and Fisheries) on 28. and 29.06.2021. Link: https://www.bmel.de/SharedDocs/Downloads/EN/_Animals/erklaerung-nl-de-lux-tiertransporte.pdf;jsessionid=65CEEC3E29907D691EFEF68896B45C73.live921?__blob=publicationFile&v=2 (last accessed 30.07.2021).

Only recently, in April 2021, New Zealand has finally taken a stand for the animals on sea export by issuing an export ban as first country worldwide. According to the Agriculture Minister of New Zealand, *'at the heart of our decision is upholding New Zealand's reputation for high standards of animal welfare. We must stay ahead of the curve in a world where animal welfare is under increasing scrutiny'*[606].

Also, the European Union, considered as the world-leading mover towards better animal protection, must set clear limits to purely economic interests. According to Article 13 TFEU, the EU and its Member States have to pay full regard to the welfare needs of animals as sentient beings when implementing and formulating Union's policies. With the current revision of the Regulation, this principle has to be translated into reality by an EU-wide export ban to non-EU countries that do not have enforced animal welfare standards comparable to the EU.

Please note in this context two important examples where the EU has already given consideration to the welfare of animals when formulating EU policies:

In 2009, the European Union adopted the Regulation (EC) 1007/2009 which prohibits the import, **export**, and EU-trade of seal products. Interestingly, such ban of commercial trade of seal products was based on the public moral concerns of EU citizens and politicians *'sensitive to animal welfare considerations due to the pain, distress, fear and other forms of suffering which the killing and skinning of seals, as they are most frequently performed, cause to those animals'*[607]. The Regulation (EC) 1007/2009 argues in its first recital that *'seals are sentient beings that can experience pain, distress, fear and other forms of suffering. (…) In its Recommendation 1776 (2006) of 17 November 2006 on seal hunting, the Parliamentary Assembly of the Council of Europe recommended inviting the Member States of the Council of Europe practising seal hunting to ban all cruel hunting methods which do not guarantee the instantaneous death, without suffering, of the animals, to prohibit the stunning of animals with instruments such as hakapiks, bludgeons and guns, and to promote initiatives aimed at prohibiting trade in seal products.'* Apparently, several Member States had tried to implement stricter legislation while others did not put in place any restrictions on the trade of seal products[608] which *'adversely affect[ed] the operation of the internal market'*[609]. Consequently, the aim of Regulation (EC) 1007/2009 was the harmonization of Community rules[610] while taking fully into account considerations of the welfare of animals according to the provisions of the Treaty[611]. **Recital 11 of Regulation (EC) 1007/2009 underlines the fact that *'given the conditions in which seal hunting occurs, consistent verification and control of hunters'* compliance with animal welfare requirements is not feasible in practice or, at least, is very difficult to achieve in an effective way'**. Recital 21 explains that *'the objective of this Regulation, namely the elimination of obstacles to the functioning of*

606 https://www.theguardian.com/world/2021/apr/14/new-zealand-to-stop-exporting-livestock-by-sea (last accessed 30.07.2021).
607 Recital 4 of Regulation (EC) 1007/2009.
608 Recital 5 of Regulation (EC) 1007/2009.
609 Recital 6 of Regulation (EC) 1007/2009.
610 Recital 8 of Regulation (EC) 1007/2009.
611 Recital 9 and 10 of Regulation (EC) 1007/2009.

the internal market by harmonising national bans concerning the trade in seal products at Community level, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level'.

Actually, for the export of live 'farm' animals the same arguments as described above are true.

A second example is the Regulation (EC) 1099/2009 on the protection of animals at the time of killing. Its Article 12 *'requires meat imported from third countries to come from animals slaughtered to welfare standards equivalent to those of the EU [according to the chapters II and III of this slaughter regulation].'*[612] Marahrens (2021) emphasizes in his written answers to the ANIT Committee: *'It is astonishing that while the EU carries out controls on the import of food of animal origin and also of animals in the exporting third countries to establish that the conditions of production and husbandry comply with EU law and standards, it does not control the handling of the animals and their whereabouts in the third countries to which they are exported from the EU. Any export of live animals to third countries should be banned as long as these countries do not at least comply with the requirements of the OIE Terrestrial Animal Health Code in a comprehensible manner. These are already below the EU standard'*[613].

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Article 13 TFEU must be finally put into practice when it comes to live export policies. The export of live animals to non-EU countries (except EFTA) causes excessive pain and suffering to the animals, and thus is not in line with Article 13 TFEU. Consequently, live export to non-EU destinations (excl. EFTA) must be banned EU-wide.

Reason 77

The Regulation does not require animal welfare prerequisites to be part of bilateral contracts between EU (and its Member States) and non-EU countries concerning the export of live animals.

The EU has numerous bilateral and/or association agreements concerning agricultural trade in place with non-EU countries and regions, including those countries that regularly import live animals from the EU such as Morocco, Egypt, Algeria, Lebanon or Gulf countries.[614]

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[612] Compassion in World Farming et al. (2020): Article 13 TFEU: Export of live EU farm animals to Libya at a time of escalating civil war. Joint letter to EU Commission, signed by 37 animal welfare organisations, dated 8 May 2020, page 2.

[613] Committee of Inquiry on the Protection of Animals during Transport (2021): Written questions to Dr Michael Maharens, Friedrich-Loeffler-Institut (Germany), ANIT Public Hearing on Approvals controls data. Answer 4 to Questions from The Left – GUE/NGL, page 13. Link: https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/ANIT/DV/2021/02-01/AnswersM.Marahrens_EN.pdf (last accessed 30.07.2021).

[614] https://ec.europa.eu/info/food-farming-fisheries/trade/agricultural-international-trade/bilateral-agreements_en (last accessed 08.08.2021).

Since 2002, the EU Commission is trying to include animal welfare in these trade agreements with non-EU countries.[615] As reiterated in the last 2012-2015 Animal welfare strategy, the EU Commission should *'continue including AW [animal welfare] clauses in bilateral trade agreements or cooperation fora, as well as to increase the strategic opportunities for developing more concrete cooperation with third countries (…)'*[616].

To date, however, no animal welfare provisions have been included, for example, in agreements with the so-called 'Neighbouring South Countries' like Morocco, Algeria, Egypt, Lebanon or Jordan[617] - despite the fact that severe animal welfare violations have been documented in these countries; and despite the fact that the EU has been and still is sending hundreds of thousands of animals to these countries.

As stated by the EU Commission (2019) *'the main concerns for the welfare of animals relate to the non-EU leg of the journey. The available information indicates that most transporters do not meet applicable EU rules after leaving the Union.* ***The absence of agreements with EU neighbouring countries****, together with poor retrospective checks and the inability of Member States to ascertain the conditions of transport and the feasibility of the plan for that part of the journey* ***contribute to that concern.'***[618]

In this context, the European Parliament stresses in its 2019-report on the implementation of Regulation (EC) 1/2005 that *'unless animal transport standards in third countries are aligned with those of the EU and their implementation is sufficient to ensure full compliance with the Regulation, live animal transport journeys to third countries should be subject to bilateral agreements to mitigate these differences,* ***and that in the event of failure to achieve this, they should be forbidden.'*** [619]

Also, veterinary experts call for bilateral agreements finally requiring animal welfare standards in the non-EU countries which *'must then also be monitored by an independent body and sanctions must follow in the event of non-compliance.'*[620]

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615 https://ec.europa.eu/food/animals/animal-welfare/international-activities_en (last accessed 08.08.2021).

616 EU Commission (2017): Study on the Impact of Animal Welfare International Activities. Final report. Volume I – main text. Page 25. Link: https://op.europa.eu/en/publication-detail/-/publication/dc039353-ca9c-11e7-8e69-01aa75ed71a1 (last accessed 08.08.2021).

617 Ibid.

618 DG(SANTE) 2019-6834. Page I. See footnote 279.

619 EU Parliament (2019): Report on the implementation of Council Regulation No 1/2005 on the protection of animals during transport within and outside the EU (2018/2110(INI)). Recommendation 88, page 19. Link: https://www.europarl.europa.eu/doceo/document/A-8-2019-0057_EN.pdf (accentuation by the author of this report; link last accessed 08.08.2021).

620 Committee of Inquiry on the Protection of Animals during Transport (2021): Written questions to Dr Maria Dayen, Federal Chamber of Veterinary Surgeons (Bundestierärztekammer). Public Hearing on Long distance transports of live animals to third countries: Checks and issues in the Third Countries. ANIT Committee, 1 March 2021. Page 10. Link: https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/ANIT/DV/2021/03-01/Questions-Answers_Dr.MariaDayen_Federal-ChamberofVeterinarySurgeons_EN.pdf (last accessed 08.08.2021)/See also: Written questions to Dr med. vet. Madeleine Martin, Landestierschutzbeauftragte (AW Officer Hesse). Public Hearing on Long distance transports of live animals to third countries: Checks and issues in the Third Countries. ANIT Committee, 1 March 2021. Page 12. Link: https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/ANIT/DV/2021/03-01/Questions-Answers_DrMadeleineMartin_EN.pdf (last accessed 08.08.2021).

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Animal welfare prerequisites must be included in all bilateral agreements between the EU (and its Member States) and non-EU countries whereas the animal welfare standards in the non-EU countries should be comparable with EU standard. The compliance of these animal welfare standards should be monitored independently, and in case of non-compliance with the standards sanctions must follow accordingly. This demand must be put in place without further delay until the definitive ban of the export of live animals to non-EU (non-EFTA) destination.

Russia, February 2019 – Animals' Angels teams trailing transports of pregnant heifers from Germany to Uzbekistan.

Reason 78

The Regulation does not require the exchange of information (database) for safe animal trade between EU and non-EU countries ensuring best possible welfare conditions.

Concerning the export of animals to non-EU countries it is widely known that one major challenge regarding enforcement of animal welfare rules is the lack of information exchange and communication between the EU Member States and the non-EU countries.

This lack of communication is already a problem within the EU as *'there is still limited and quite general feedback to the country reporting the non-compliance from the Member States receiving the notifications and there is seldom confirmation that the receiving Member State has taken subsequent action.'*[621] Looking at the communication beyond EU borders, the EU Commission reports that *'the majority of Member States do not receive any feedback from the [non-EU] country of destination about the condition of the animals on arrival.'*[622]

Also, in its 2021-Council questionnaire the EU Council criticized the lack of communication with non-EU countries,[623] and highlighted the importance of a regular feedback system on the conditions of the animals arriving in the non-EU destination countries.[624] The EU Council concluded that *'feedback from the competent authorities would significantly contribute to the quality of the retrospective checks after the journey and allow action to be taken regarding the transporters and means of transport. Better communication would also improve the adoption of contingency measures.'*[625]

Demand 78

The Regulation should require a mandatory feedback procedure between EU and non-EU countries after every export transport. Also, national contact points for animal transport should be appointed for the involved non-EU country who are competent and trained in the field of animal protection during transport and committed to achieve improvements for the animals. This demand must be put in place without further delay until the definitive ban of the export of live animals to non-EU (non-EFTA) destination.

621 DG(SANTE) 2019-6834. Page 6. See footnote 279.
622 EU Commission (2020): Overview Report on the Welfare of Animals Transported by Sea. DG(SANTE) 2019-6835. Page 10. Link: https://ec.europa.eu/food/audits-analysis/overview_reports/details.cfm?rep_id=137 (last accessed 25.07.2021).
623 Council of the EU (2021): Questionnaire to contribute to the planned evaluation and revision of Regulation (EC) No 1/2005 on the protection of animals during transport as regards long distance transport to third countries/Outcome of the Presidency Questionnaire (7780/21, VETER 25). Brussels, 22.04.2021, page 4. Link: https://data.consilium.europa.eu/doc/document/ST-7780-2021-INIT/en/pdf (last accessed 27.07.2021).
624 Ibid. Page 7.
625 Ibid.

CHAPTER XVII:

Export by sea: Vessel transport

N.B.: In 2020, the EU Commission has published an overview report on the welfare of animals transported by sea.[626] For the Workshop on Animal Welfare during Transport of 25.05.2021, the European Parliament's Committee of Inquiry on the Protection of Animals during Transport (ANIT) requested a study about animal welfare on sea vessels and criteria for approval of livestock authorisation.[627]

Both studies are highly recommended to read in detail.

Reason 79

The Regulation does not clarify the responsibilities during sea transport via 'livestock' vessel.

Article 2 (q) of the Regulation defines the 'organiser' of a journey as either (i) a transporter who has subcontracted to at least one other transporter for a part of a journey; or (ii) a natural or legal person who has contracted to more than one transporter for a journey; or (iii) a person who has signed section 1 of the journey log as set out in Annex II of the Regulation. According to Article 5 point 3 (a), for example, the organiser shall ensure that for each journey the welfare of the animals is not compromised by insufficient coordination of the different parts of the journey, and that the weather conditions are taken into account.

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626 DG(SANTE) 2019-6835. See footnote 622.

627 Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels. Link: https://www.europarl.europa.eu/RegData/etudes/STUD/2021/690876/IPOL_STU(2021)690876_EN.pdf (last accessed 25.07.2021).

The 'transporter' of a journey is described in Article 2 (x) as any natural or legal person transporting animals on his own account, or for the account of a third party. According to Article 5 point 1 the organiser must guarantee that the transporter contracted for the journey is authorised in accordance with Article 10 point 1 or Article 11 point 1 in case of long journeys.

Both, organiser and transporter shall ensure that the animals are not transported in a way likely to cause injury or undue suffering to them, and that all necessary arrangements have been made in advance to minimise the length of the journey and meet the animals' needs during the journey.[628] According to Article 5 point 2 and 3 (b), they also have to make sure that at any time they can provide the competent authorities with information on the planning, execution and completion of the concerned journey under their responsibility.

However, as reality shows, even for road transports, when mostly only one organiser and one transporter are involved in the journey, the share of responsibilities is often not clear; but at least in most cases the competent authorities know to whom they can address their queries, warnings, or sanctions. When it comes to those journeys where also a sea transport by vessel is part of it, things become even more complicated.

A 'livestock' vessel is defined in Article 2 (l) as a vessel which is used or intended to be used for the carriage of 'farm' animals other than a roll-on/roll-off vessel, and other than a vessel carrying animals in moveable containers. This means, the animals are transported first by road vehicles to an EU port where they are unloaded from the trucks, mostly directly onto a vessel.[629] During the sea transport, which can easily last several days to weeks, the animals are accommodated in pens on several decks on board the vessel. At the port of the (non-EU) destination, the animals are then unloaded from the vessel and reloaded again on trucks to be transported to their final destination.

In 2018 alone, nearly 2.9 million sheep and cattle were exported by sea from seven EU Member States to non-EU countries on 658 vessels.[630]

As stated by Boada-Saña, Kulikowska et al. (2021), currently as of February 2021, there are 78 vessels approved in the EU to transport live animals. The majority of these 'livestock' vessels are converted cargo vessels *'which means their design does not take into account the welfare, needs and safety of animals'* – only 5 out of the 78 vessels were

[628] Acc. to Article 3 of the Regulation.

[629] Only six of the 13 EU exit ports for 'livestock' vessels have unloading and resting facilities in their surroundings. However, even in those few the capacity is not always sufficient for the number of animals to be loaded on the vessel: 'e.g. one port has capacity for around 600 cattle and another for around 860 cattle, but livestock vessels from those ports sometimes load two to three thousand cattle.' I.e. in most cases there is no possibility to unload the animals from the trucks (often arriving in dozens at the port) to properly feed, water and rest them when there are delays or any problems with the loading onto the vessel. See: DG(SANTE) 2019-6835. Page 6. See footnote 622.

[630] Exporting EU MS in 2018: Croatia, France, Ireland, Portugal, Romania, Slovenia and Spain. Main importing non-EU countries in 2018: Lebanon, Jordan, Israel, Libya. See: Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 15. See footnote 627.

actually built for the purpose of transporting live animals. The average age is 41 years (with 16 vessels even being older than 50 years).[631]

Around 18,000 cattle or 75,000 sheep, respectively, can be loaded on the biggest vessel for one sea transport.[632] This means that *'dozens to hundreds of animal consignments'*[633] with up to several thousands of animals loaded on dozens to hundreds of trucks arrive from different origins at an EU port to be re-loaded onto one single 'livestock' vessel. Consequently, there is more than one organiser and more than one transporter involved which makes logistics in the port complicated. *'The arrival of all these animals to the port is a critical moment during the journey. If the logistics are not well-organised there is a higher likelihood of animal welfare problems'*[634], as stated by the EU Commission, for example, when the numerous trucks all arrive at the same time or when there are any delays concerning the loading onto the vessel; thus the trucks have to queue up and wait inside the port with the animals on board the vehicles due to lack of proper unloading facilities in the vicinity of most EU ports. When temperatures are high, which is especially the case in summer in most ports of Southern Europe, the welfare situation for the animals becomes worse.[635]

Also very problematic is that the organisers of the single journeys (incl. also the road transport from the place of departure to the EU port and the second road transport in the destination country), who are responsible for section 1 of the journey log, are *'not necessarily the same organiser who made arrangements for transport by sea [where numerous different consignments of animals are mixed and put together]. This creates logistical problems, as no one is responsible for co-ordinating the arrival of the road vehicles at the EU exit port and ensuring that animals are taken care of if the loading of the vessel is delayed'*[636]. The Regulation does not give an answer to this problem as no precise definitions and specifications on the responsibilities of the organiser of sea transports are laid down. Also, the outcome of a questionnaire on long-distance transport to third countries, prepared under the Portuguese Presidency for the Agriculture and Fisheries Council of the European Union identifies as one of the most difficult enforcement points concerning the transport by 'livestock' vessel *'the definition and identification of the organiser'*, being *'(…) particularly problematic if the operation involves consignments with origins in different Member States and journey logs where different organisers are identified for the road journey'*[637]. This means that these *'dozens to hundreds of animal consignments, as listed in the journey logs, are broken up and mixed during the loading into vessels. It is highly*

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631 For detailed information, please see: Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 16. See footnote 627.

632 DG(SANTE) 2019-6835. Page 3. See footnote 622.

633 Marahrens, M. and Kernberger-Fischer, I. (2021): Research for ANIT Committee – The practices of animal welfare during transport in third countries: an overview. Pages 46-47. See footnote 589.

634 DG(SANTE) 2019-6835. Page 6. See footnote 622.

635 Ibid. Page 5/Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Pages 30, 36. See footnote 627.

636 DG(SANTE) 2019-6835. Page 5. See footnote 622.

637 Council of the EU (2021): Questionnaire to contribute to the planned evaluation and revision of Regulation (EC) No 1/2005. Page 7. See footnote 623.

unlikely that all consignments loaded onto the vessel in the EU port are intended to be transported to the same point of destination in the third country'[638]. The Council thus highlights *'the need to clarify definitions and responsibilities for organisers and transporters, in order to identify, authorise, sanction, and suspend/withdraw parties responsible for transporting animals as necessary'*[639].

Concerning the 'sea transporter' the Regulation lacks any specific considerations. The EU Commission states in its Overview Report 2019-6835 that *'the absence of an authorised transporter for the sea leg of the journey creates legal uncertainty about who is legally responsible for, and can be held to account for, the wellbeing of the animals during the sea part of the journey.'*[640] In this context it is worth mentioning that the EU Commission did not receive sufficient information about the conditions during sea transport and at arrival of the animals in the non-EU destination countries to include in its Overview Report.[641] This implies that also the competent authorities at the places of departure lack this kind of important information as there is no routine feedback by the transporters, the ships' Masters or the third countries.[642] Obviously, proper control on the sea transport and retrospective checks on the conditions in which the animals arrive at the final destinations in the non-EU country are not possible to conduct for the competent EU authorities. This is very alarming, considering the high numbers of animals involved in this sea trade and the numerous complaints of NGOs on serious animal welfare problems during sea transport and in third countries.[643] Also, it clearly contradicts the ruling C-424/13 of the European Court of Justice of 2015[644] requiring that the Regulation EC 1/2005 applies until the final place of destination of the animals, regardless of whether this is inside or outside the EU territory.

In its recent Council conclusions, the Agriculture and Fisheries Council of the EU asks the EU Commission concretely *'to emphasise the important role of the sea transporter, notably the obligation to communicate information before the journey, and the actions adopted whenever there are events during the journey that may compromise animal health and welfare'*[645]. It further calls on an improved and standardised authorisation system of the sea transporter, defining for example, for how long the authorisation certificate is valid, or setting criteria for the suspension/withdrawal of the authorisation.[646]

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638 Marahrens, M. and Kernberger-Fischer, I. (2021): Research for ANIT Committee – The practices of animal welfare during transport in third countries: an overview. Page 47. See footnote 589.

639 Council of the EU (2021): Questionnaire to contribute to the planned evaluation and revision of Regulation (EC) No 1/2005. Page 10. See footnote 623.

640 DG(SANTE) 2019-6835. Page 5. See footnote 622.

641 Ibid. Page 1.

642 Ibid. Page I.

643 E.g.: Robin des Bois, Animal Welfare Foundation and Tierschutzbund Zürich (2021): 78 EU-approved livestock carriers. Link: https://www.animal-welfare-foundation.org/files/downloads/78_EU_livestock_carriers_June_2021_RobindesBois_AWF_TSB-1.pdf (last accessed 27.07.2021)/AWF/TSB Zürich (2020): Animal Welfare Overboard – Cartagena Port (Spain). See also: https://www.animal-welfare-foundation.org/en/service/dossiers/animal-welfare-overboard (last accessed 28.07.2021).

644 Case C-424/13, Zuchtvieh-Export GmbH v. Stadt Kempten, 2015, ECJ ruling of 23.04.2015. See footnote 40.

645 Council of the EU (2021): Questionnaire to contribute to the planned evaluation and revision of Regulation (EC) No 1/2005. Page 4 (point 20). See footnote 623.

646 Ibid. Page 5.

When talking about responsibilities during sea transport, one must also look at the current provisions laid down for attendants of animals on 'livestock' vessels.

According to Article 2 (c) of the Regulation, the *'attendant'* is a person directly in charge of the welfare of the animals who accompanies them during a journey. As laid down in Article 6 point 6 of the Regulation, the transporter shall ensure that an attendant accompanies any consignment of animals; except when the animals are transported in containers, or when the driver performs the function as an attendant during road transport. Both exceptions are not the case in sea transport by vessel, thus an attendant in charge of the welfare of the animals is also required during the sea transport. Pursuant to Article 11 point 1, the transporter must submit valid certificates of competence for all drivers and attendants carrying out long journeys. These certificates of competences shall be granted according to Article 17 point 2 of the Regulation, but only include drivers and attendants of road transports, not those accompanying sea transports. This is illogical. Why should only drivers and attendants of road transports be certified, and not also those attendants who accompany animals on a sea transport? Often, they travel on sea for several weeks and are without any possibility to call a veterinarian on short term in case of an emergency. Furthermore, there is no provision about the number of attendants necessary to fulfil their role to ensure the welfare of the animals during the sea transport, considering that several ten thousand of animals at once can be transported on a vessel.

According to Boada-Saña, Kulikowska et al. (2021) *'the Network Document [on 'livestock' vessels, produced by the National Contact Points] recommends that during vessel approval the CA [competent authority] verify that the applicant's ship's crew is trained in relevant provisions of Annexes I and II of Reg. 1/2005. However, the crew are usually not European and do not have any official certificate. Livestock vessels may carry up to 60,000 animals on board. Their crew is responsible for live sentient cargo and for public health. Hence, they need extensive knowledge of the technicalities of the vessel (ventilation, water, etc.), animal behaviour (for proper handling, to detect abnormalities and ensure their own safety when handling), animal health (to detect early stages of diseases, prevent spreading and notify authorities at destination), humanitarian emergency killing (recognising when it is needed and knowing how to use a killing instrument), public health (symptoms of zoonotic diseases, prevention, public health risk). The crew must also be trained in the ISM manual. However, there is no clear protocol established on what knowledge is needed and how to verify it. As a result, it is up to each inspector to decide and conclude if the crew is competent or not'*[647].

Also, the EU Council of Agriculture and Fisheries suggests EU-recognised training courses on the welfare of animals during maritime transport, as well as the sufficient proof about such a training.[648]

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[647] Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Pages 27-28. See footnote 627.

[648] Council of the EU (2021): Questionnaire to contribute to the planned evaluation and revision of Regulation (EC) No 1/2005. Page 5. See footnote 623.

However, considering that the majority of the EU-approved vessels for the transport of live animals belong to non-EU shipowners and that the majority of the vessels is flying under substandard, even black-listed flags such as Togo, Comoros, or Tanzania under the Paris Memorandum of Understanding (Paris MoU[649])[650], it appears rather difficult to implement this into practice. For example, how do the competent EU authorities want to ensure that the crew attending the animals on vessel is indeed properly trained? Surely, written confirmation about the crew members' competence cannot be considered as sufficient proof as other examples concerning exports to non-EU countries have shown (for example non-existent resting places outside EU despite written confirmations, see *Chapter XVI: Live animal exports to countries outside EU and EFTA Member State)*. For a certificate of competence, the attendants should receive in-depth training including also practical parts. Already within the EU, a uniform level of competence does not work *(see Chapter XII: Drivers' and attendants' competence)*. How should uniform training courses be implemented for attendants of animals outside the EU, especially taking into account that often *'crews have various nationalities, Syrian, Indians, Lebanese, Egyptians, Ukrainians, Turks, Azerbaijanis'*[651]? Additionally, there are no proper control and enforcement tools in place once the animals leave EU territory *(see Chapter XVI: Live animal exports to countries outside EU and EFTA Member State)*.

Once the animals arrive at the non-EU port and are re-loaded on road vehicles to be further transported to final destination, responsibilities are completely unclear. Despite the fact that already back in 2015 the European Court of Justice ruled in Case C-424/13 that the provisions of the Regulation EC 1/2005 must be complied with until final destination in the non-EU country. Practically speaking, this means that *'road vehicles that comply with the technical requirements for long transport for the respective animal species and category (type 2) according to Regulation 1/2005 must be used here. There must be a ventilation system, water and, if necessary, feeding devices and also a satellite navigation system on board the vehicles and this must be proven and documented by the organiser of the export of the animals to the authorities at the place of clearance and departure as part of the plausibility check of the route planning'*[652]. As practice has shown, the common transport

[649] https://www.parismou.org/(last accessed 27.07.2021).

[650] Robin des Bois, Animal Welfare Foundation and Tierschutzbund Zürich (2021): 78 EU-approved livestock carriers, page 12. Link (last accessed 26.07.2021) https://www.animal-welfare-foundation.org/files/downloads/78_EU_livestock_carriers_June_2021_RobindesBois_AWF_TSB-1.pdf./N.B.: In order to minimise the operating costs and to avoid higher regulatory standards of the owner's country many EU-approved 'livestock' vessels are 'flagged out', i.e. the vessel is registered in a country other than that of the vessels' owner which is called flag of convenience (FOC). 'FOC registries are criticized for allowing vessel owners to be legally anonymous and difficult to prosecute in civil and criminal actions. Some FOC vessels have been found to be connected with crime, substandard working conditions and negative impact on the environment' (Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 17. See footnote 627).

[651] Ibid. Page 12.

[652] Marahrens, M. and Kernberger-Fischer, I. (2021): Research for ANIT Committee – The practices of animal welfare during transport in third countries: an overview. Page 47. See footnote 589.

vehicles used in the non-EU countries are definitively not comparable with EU-approved type II-vehicles. Rather they are often construction vehicles completely inadequate for the transport of live animals as they lack loading ramps, safe partitions, roof cover to protect the animals from direct sun. Most often, they are not even equipped with a watering or ventilation system.

Lebanon, 2011 – Spanish sheep further transported and unloaded without ramp. See also: https://www.youtube.com/watch?v=pXtU1UB6Ggg

The EU Commission has concluded in its Overview Report 2019-6834: *'The export of animals from the EU to non-EU countries is complex and generally involves many actors and countries. This complexity, in particular the international dimension, makes it difficult to ensure a level playing field in the application of animal welfare rules, creates risks for the welfare of the animals and poses challenges for the authorities involved'*[653].

The ECJ ruling C-424/13 of 2015 remains unenforced until today and is not enforceable as practice has shown in the past. Responsibilities on the sea transport and the non-EU leg of the journey are still unclear, and there is no routine feedback on the welfare conditions of the animals on board the vessels and at arrival at the non-EU destinations. Competent EU authorities and institutions cannot give any details about the numbers of animals getting sick, injured, or even dying during the sea transport. This has to stop.

[653] DG(SANTE) 2019-6835. Page 15. See footnote 622.

Lebanon, October 2018 – Bulls from the EU, further transported on unsuitable construction vehicle in the port of Beirut after 11 days on sea. See also: www.animals-angels.de/lebanon

Demand 79

Sea transport by vessel to non-EU countries must be banned on an EU-wide level as it systematically disrespects EU law and ECJ ruling. The responsibilities of the organiser, transporter and crew members during the sea transport and the subsequent transport in the non-EU country are not defined and described in detail and, above all, the competent EU authorities lack a comprehensive control possibility to actually hold the non-EU parties concerned accountable and to ensure that the welfare of the animals is maintained until arrival to final destination in the non-EU country.

Reason 80

The Regulation does not lay down the mandatory presence of a certain number of veterinarians in accordance with the number of animals loaded.

According to Article 20 the Regulation requires that the competent authority shall inspect 'livestock' vessels before and during any loading and unloading of animals. Among others, they have to ensure that the animals are fit for transport.[654] As stated by the EU Commission, *'checking the fitness of the animals is generally a weak point. Veterinarians at EU exit ports have to check that animals loaded in the vessel are fit to continue the journey. As the majority of animals are not rested in the ports, veterinarians check this when the animals walk from the road vehicle onto the vessel or when animals are still in the vehicles. The former is sometimes difficult as the loading takes several hours, many animals walk at the same time, it is not always easy to see the animals when they are on the ramps and generally there is no permanent presence of a veterinarian for the entirety of the loading. The latter seems especially difficult, as most ports do not have appropriate facilities to allow the veterinarians to inspect all animals in the vehicles, particularly in the upper decks'*[655].

Considering that one single vessel could carry up to 18,000 cattle or even 75,000 sheep at once, one can imagine that the loading of the entire vessel takes very long and that it is not feasible for the competent veterinarians at the EU port to check on all animals in a thorough way due to lack of staff, time and resources. For example, for Spain it has even been reported by Boada-Saña, Kulikowska et al. (2021) that not always veterinarians check the animals during loading but only non-veterinary port personnel[656].

Up to the present day, there are no provisions laid down on the number of official veterinarians needed in order to perform proper official controls during the loading of 'livestock' vessels. The NCP 'Network Document on Livestock Vessels'[657] gives some further explanations and guidance on Article 20 (although only on a non-legal binding basis). However, it *'does not provide a protocol harmonized among MSs on how to perform preloading inspections of vessels'*[658] and does not give any recommendations on the number of veterinarians necessary to conduct proper preloading checks. This leads to *'uneven quality of checks and different inspection results for the same vessel'* not least

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654 According to Article 20 point 2(a) of Regulation (EC) 1/2005.

655 DG(SANTE) 2019-6835. Page 7. See footnote 622.

656 Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 37. See footnote 627.

657 NCP Network Document on Livestock Vessels. Guidance to assist member states (update 2021). Link: https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp?FormPrincipal:_idcl=FormPrincipal:whatsNewList:pager&page=0&-FormPrincipal_SUBMIT=1&org.apache.myfaces.trinidad.faces.STATE=DUMMY (last accessed 28.07.2021).

658 Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 32. See footnote 627.

because of the differences in the knowledge, time, and resources of the staff among the different EU Member States.[659]

For the sea transport itself, the presence of a veterinarian on board the vessel is not mandatory at all.

It is very alarming, especially considering what the EU Commission has pointed out, namely that *'currently, neither the Member States nor the Commission have information or statistics on the health and welfare state of the animals during sea journeys'*[660]. Sea transports of live animals often take several days or even weeks during which the animals are confined on board the vessels. If one animal becomes sick or injured, there is no possibility to call a veterinarian for proper medical treatment or humane killing. Also considering the problems described in the chapter before, most likely the crew members joining as attendants of the animals do not have the training and competence *'to ensure the ongoing monitoring of animal welfare and compliance with EU animal welfare and related law'* which a veterinarian on board could do.[661] Up to the present day, there are not even official EU data available on the mortality rates of animals on vessels.[662] Dead bodies of animals are thrown illegally overboard which *'seems to be a regular practise due to problems with reception facilities [of carcasses], additional expenses of carcass disposal, and requirements of EU law'*[663]. Boada-Saña, Kulikowska et al. (2021) list more than 50 cases of dead EU animals washed up at beaches, for example, in the Mediterranean.

When talking about mortality rates, one has to take in mind that *'this only estimates extreme events and death during transport is usually preceded by a period of poor welfare'*[664]. In most cases, pain, sickness, injury and suffering started much earlier for the animals.

Greece, 05.07.2021 – Dead bull washed up at the beach. No identification possible as the ear tags have been taken off. This is a common practice in order to make it impossible to verify the identity and origin of the animal.

659 Ibid.
660 DG(SANTE) 2019-6835. Page 10. See footnote 622.
661 Ibid. Page 49.
662 DG(SANTE) 2019-6835. Page 4. See footnote 622.
663 Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 44. See footnote 627. N.B. They report that apparently only few ports for 'livestock' vessels accept the reception of carcasses (page 44).
664 Ibid. Page 39.

Veterinarians on board the vessels could help identifying those animals in need and properly take care of them.

The EU Council on Agriculture and Fisheries is in favour for *'the presence, during the journey of the livestock vessels, of a veterinarian in order to verify the implementation of the relevant animal health and welfare standards'*[665]. Also, the ANIT Committee comes to this conclusion[666]. For example, Australia already requires this, but only for sea voyages of 10 days or more[667]. The question arises why the presence of a registered veterinarian is not mandatory for every sea transport, including those of less than 10 days of duration? Considering the great number of animals loaded on a single vessel, it is highly questionable how effective one veterinarian alone can take care of all the animals. A proper risk analysis would be necessary in advance to define a sufficient number of veterinarians in relation to the number of animals, the conditions of these animals, and the journey route and likely duration in order to ensure that sick or injured animals can be provided with medical treatment and in case be euthanised.

Demand 80

EU-wide ban of exports of live animals by sea as there are severe animal welfare problems reported for sea transports, and because of insufficient resources, a lack of veterinarians and time made available in the EU Member States it cannot be ensured that:

- **during the loading of the animals on the vessel, in-depth veterinary inspections on the single animals are conducted,**
- **during the sea transport, a sufficient number of veterinarians accompanies the animals to take adequate care of sick, injured or moribund animals,**
- **during loading and sea transport, a proper documentation about sick, injured, and dead animals is carried out for each journey and reported to the competent EU authorities accordingly.**

[665] Council of the EU (2021): Questionnaire to contribute to the planned evaluation and revision of Regulation (EC) No 1/2005. Page 5 (point 23). See footnote 623.

[666] EU Parliament (2021): Draft Report on the investigation of alleged contraventions and maladministration in the application of Union law in relation to the protection of animals during transport within and outside the Union (2020/2269(INI)). Page 11 (point 53). See footnote 573.

[667] Standard 4.1.9 of Australian Standards for the Export of Livestock 3.1, 2020. Link: https://www.agriculture.gov.au/sites/default/files/documents/asel-v3.1-a4.pdf (last accessed 27.07.2021).

Reason 81

The Regulation does not lay down that the veterinarians accompanying the animals during a journey must compile a daily log concerning sick, injured and dead animals.

As already mentioned above, *'neither the Member States nor the Commission have information or statistics on the health and welfare state of the animals during sea journeys'*[668]. This is unacceptable, considering that the European Union is sending millions of animals by 'livestock' vessel abroad every year.

Boada-Saña, Kulikowska et al. (2021) report that *'the main causes of cattle death are heat stroke, trauma, and respiratory disease (shipping fever). The biggest contributor to sheep mortality is starvation due to inappetence, which accounts for nearly half of all deaths, and/or salmonellosis (about a fifth of all deaths). Apart from mortalities, diseases and injuries are reported. Israel's Agriculture Ministry admitted the high prevalence of these problems in animals imported by sea, confirming that 'common problems' include injury and suffocation from overcrowding, high temperatures, poor ventilation'*[669]. And yet, in 2021 the EU is still lacking reliable data on what is actually happening with its animals sent on sea journey.

Demand 81

As there is no reliable system in place to report sick, injured, or dead animals on vessels, such sea transports should be banned EU-wide without further delay.

Reason 82

The Regulation fails to ensure a uniform and proper certification system for the approval of 'livestock' vessels according to its Article 19.

Article 19 of the Regulation defines the conditions under which the competent authority or body designated by a Member State shall grant a certificate of approval of livestock vessels. Among others, the vessel can only be approved by one Member State[670] and the certificate is valid for maximum of five years or becomes invalid as soon as the

[668] DG(SANTE) 2019-6835. Page 10. See footnote 622.
[669] Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 39. See footnote 627.
[670] According to Article 19 point 1(b) of the Regulation (EC) 1/2005.

vessel has been reconstructed or modified[671]. The competent authority or designated body is required to inspect the vessel before granting the authorisation in order to verify that section 1 of Annex I Chapter IV is complied with.[672] I.e., they have to check if the construction and equipment requirements as laid down in section 1 of Chapter IV concerning pen strength, ventilation and water systems, storage and production capacity for fresh water, drainage system, (emergency) lighting, fire-fighting system, and in case the respective monitoring, control and alarm systems, and primary and secondary power source are complied with in each vessel prior to certification. Furthermore, the competent authorities must record the approved vessels and their certifications in a database in order to be able to identify them quickly, especially in case of non-compliance with the Regulation.[673]

As reported by Boada-Saña, Kulikowska et al. (2021), currently there are 78 vessels approved in the EU for the transport of live animals by *'Croatia (3 vessels); France (11); Portugal (10); Romania (47); Slovenia (1); Spain (6); Ireland (5)'*[674]. As confirmed by the EU Commission, *'there is (…) no public list detailing all vessels which are approved for transporting animals in the Union. Each Member State compiles its own list, and authorities rely on the certificate presented by the organiser.'*[675] Astonishingly, *'the authorities in a Member State do not have access to the inspection results from authorities in other countries'*[676].

The NCP 'Network Document on Livestock Vessels' gives further guidance and details about the procedures to approve such vessels for the competent authorities, including i.a., templates of the check list for the approval of 'livestock' vessels and of the approval certificate.[677] Apparently, Portugal has integrated this Network Document into its national control system for approving 'livestock' vessels, as reported by the EU Commission in its Overview Report 2019-6835. However, the Commission does not give further information to what extent the other relevant Member States have put the document into practice (excluded: Ireland as its system was the base for the 2014 draft) but emphasizes that *'the majority of competent authorities inspecting livestock vessels do not have adequate procedures, or access to specific technical expertise, to verify vessels' systems for water pumps, ventilation and drainage, all of which are critical for animal welfare during a journey on a livestock vessel'*[678]. Further: *'Regulations and controls for animal welfare are not geared to detect issues that could cause vessels to tilt and overturn. Moreover, official veterinarians would not have the necessary skills to detect these issues'*[679]. However, 'livestock' vessels are controlled not

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671 According to Article 19 point 2 of the Regulation (EC) 1/2005.
672 According to Article 19 point 1(c) of the Regulation (EC) 1/2005.
673 According to Article 19 point 3 and 4 of the Regulation (EC) 1/2005.
674 Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 23. See footnote 627.
675 DG(SANTE) 2019-6835. Page 8. See footnote 622.
676 Ibid.
677 NCP Network Document on Livestock Vessels. Guidance to assist member states (update 2021). See footnote 657.
678 Apparently, Portugal's experience led to a revision of the Network Document in 2019. See: DG(SANTE) 2019-6835. Page 8. See footnote 622.
679 DG(SANTE) 2019-6835. Page 10. See footnote 622.

only by veterinary authorities but also by the Port State Control (PSC), an inspecting body for marine safety. The PSC inspectors bring the technical expertise, but apparently *'the two services [PSC and veterinary authorities] do not share a communication platform. Veterinary authorities seem not to use the vessel deficiency database, and therefore approve very substandard vessels to carry live animals. On the other hand, PSC inspectors do not directly include animal welfare in their inspections and do not know what is required to ensure it. (…) PSC inspectors and veterinary authorities should cooperate to avoid approval of substandard vessels'*[680].

In this context is to mention the catastrophic capsizing of the vessel Queen Hind in November 2019 with more than 14,000 sheep victims.[681]

What is also alarming, is that more than 50% of the EU-approved 'livestock' vessels are substandard and blacklisted under the Paris MoU, respectively *(see above Reason 79).* They are ranked as medium to high risk[682] and should have never been approved by EU authorities to transport live animals in the first place.

In its recent Conclusion of 28 June 2021, the Agriculture and Fisheries Council of the European Union *'emphasises the need to improve and standardise (…) the vessel certification process, namely: the documentation requested; the technical requirements of the vessel; the qualifications and experience needed by the competent authorities necessary for a vessel approval process; the definition of the state flags and classification societies accepted; the specific criteria for the suspension/withdrawal of authorisation; the duration of the certification's validity; the definition of the role and responsibilities of the EU representative of a transporter from a third country'*[683].

The following steps would have been necessary in order to ensure a uniform certification process:

1. An interdisciplinary team of veterinarians and ship technicians is needed to consider all the technical safety aspects as well as the welfare needs of the animals. They should work closely together throughout the approval procedure of the vessel.
2. A template of the check list on the approval of 'livestock' vessels is needed, containing details and procedures how to assess the vessel. This template should follow the example of the NCP 'Network Document on Livestock Vessels' and be completed on a mandatory basis.

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680 Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 12. See footnote 627.

681 https://www.theguardian.com/environment/2020/feb/03/secret-decks-found-on-ship-that-capsized-killing-thousands-of-sheep (last accessed 27.07.2021)/N.B.: Queen Hind was converted from car cargo into a 'livestock' vessel at an age of 37 years, approved by Romania in 2017. Additional decks were added during the re-construction which 'raised the centre of gravity of Queen Hind and caused instability after loading of live animals which by nature are moving. From the start of the departure manoeuvre, the vessel experienced instability that finally got out of control'. See: Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 78. See footnote 627.

682 Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 17. See footnote 627.

683 Council of the EU (2021): Questionnaire to contribute to the planned evaluation and revision of Regulation (EC) No 1/2005. Page 5 (point 2). See footnote 623.

3. 'Livestock' vessels shall be approved only if they are white-listed under Paris MoU to minimise the risk of poor vessel performance, accidents or any other incident that could harm the welfare of the animals.
4. Black-listed 'livestock' vessels shall be forbidden for severe animal welfare and marine safety concerns.
5. 'Livestock' vessels under 'flags of convenience' shall be banned to ensure that the vessel owner is legally accountable.
6. No former cargo vessel that has been converted into a 'livestock' vessel shall be approved.
7. A public list of all EU-approved 'livestock' vessels must be accessible. This list has to be updated on a regular basis.
8. In order to facilitate and standardise the approval system of 'livestock' vessels within the EU, a central EU authority would be necessary for this purpose. This would help to better coordinate the communication and cooperation between ship technicians and veterinarians, and to increase uniform inspections and approval procedures. All findings could be gathered and reported without delay to the competent authorities in the Member States.
9. Regular follow-up inspections of approved 'livestock' vessels are needed on a yearly basis.
10. No 'livestock' vessel shall be approved by EU authorities for the export by sea to non-EU countries as the export outside the EU contradicts Article 13 TFEU and the ECJ ruling C-424/13 *(see Chapter XVI: Live animal exports to countries outside EU and EFTA Member States)*.

N.B.: These requirements could have been also taken into account for the pre-loading inspections pursuant to Article 20. Especially there is a need of an interdisciplinary team including technicians during the assessment of the vessel and its equipment as official veterinarians do not have the technical knowledge and time to do so.[684]

Demand 82

During the last decades the EU has proven to be unable to implement a uniform and proper certification system for the approval of 'livestock' vessels. Considering the complexity of the problem, the lack of personnel in the administration in many countries and the lack of funds necessary to improve the system, everything speaks in favour of banning animal transports by 'livestock' vessel to and from the EU and no longer granting EU licences for 'livestock' vessels.

[684] DG(SANTE) 2019-6835. Page 9. See footnote 622.

Reason 83

The Regulation does not adapt the journey log template for sea transports.

The EU Commission states that *'for most journeys, approved journey plans (…) wrongly indicate, in the majority of cases, the EU exit port as the final destination. This indicates that authorities do not consider the road and the sea parts as components of a single journey and that organisers do not take sea transport into account.'*[685] Apparently, also the EU legislator forgot about the sea transport part when setting up the provisions for the journey log in Annex II to the Regulation.

For example, section 1 (planning) of the journey log does not require any specific information about the expected duration of the sea voyage, the date and time of loading and unloading in the ports, or the total number of animals loaded on the vessel. Also, there is no information required about the total weight of the animal consignments and the available space on board. Not even the sea transporter, the means of transport or a contact person being in charge for the welfare of the animals throughout the sea voyage has to be indicated. Indeed, DG SANTE audits found that *'most approved journey plans did not identify the livestock vessel and the authorised transporter for the sea leg of the journey'*[686].

Section 4 of the journey log shall be completed by the driver during the course of the journey. For the sea transport, this section has not been adapted, too. There is no driver anymore, and the attendants for the animals have changed with the unloading of the animals from the truck and re-loading onto the vessel, respectively. Who is now in charge of their wellbeing?

It is simply illogical that only road transports are considered in the journey log. Latest since the ECJ-ruling C-424/13 of 2015, it is evident that the journey log has to be completed until the final destination for all long journeys over 8 hours, thus including sea transports.

Demand 83

Considering that one of the aims of the revised Regulation is that it should be easier to enforce, not adding unfulfillable control tasks to the authorities, the transport by 'livestock' vessel from and to the EU should be banned.

685 Ibid. Page 4.

686 Boada-Saña, M., Kulikowska, K. et al. (2021): Research for ANIT Committee – Animal welfare on sea vessels and criteria for approval of livestock authorisation. Page 29. See footnote 627.

CHAPTER XVIII:

Clear legal concepts and harmonized interpretation within the EU

Foto: European Union 2020 - Source : EP

Reason 84

The use of vague terms in the Regulation, unclear and contradictory provision and legal gaps, cause uncertainty and give rise to different interpretations, arbitrary and discriminatory enforcement and lack of harmonization in the application of the Regulation.

Legal certainty is one of the general principles of EU law, stated by the European Court of Justice.[687] It means that EU laws must be worded so that they are clearly understandable, definite and precise.[688] Legal certainty protects those who are subject to the law from its arbitrary use by state power.

The Regulation contains many vague terms that have made its application uneven and arbitrary in the EU Member States. Additionally, some of its provisions are unclear, contradictory or give rise to legal gaps which make its application discriminatory, arbitrary and unequal in the EU.

Examples of vague terms: if necessary[689], minimum[690], appropriate[691], adequate[692], suitable[693], sufficient[694], serious[695].

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687 Case 105/75 Giuffrida v Commission [1976] ECR 1395; C-65/93 European Parliament v Council of the European Union (1995) ECR 1-643. -241, 344; C-321/95 P, Stichting Greenpeace Council (Greenpeace International) and Others etc.

688 'Interinstitutional agreement between the European Parliament, the Council of the European of the European Union and the European Commission on better Law-making', 13.04.2016. See whereas 2) and 8), paragraph I, points 2f (legal certainty-simplicity-clarity-consistency-practical to implement).

689 E.g. Annex I Chapter V point 1.4(c) and (d) of the Regulation.

690 E.g. Article 22 paragraph 1 of the Regulation.

691 E.g. Article 3(h) of the Regulation.

692 E.g. Annex I Chapter II point 1.2 of the Regulation.

693 E.g. Annex I Chapter II point 2.2 of the Regulation.

694 E.g. Article 26 paragraph 5 of the Regulation.

695 E.g. Article 10 paragraph 1(c) of the Regulation.

Examples of unclear or contradictory provisions:

- article 2 (r)(ii) collides with Point 1.5 of Annex I Chapter V; in fact, Article 2 (r)(ii) represents a loophole and is used to avoid resting periods during long journeys;
- point 1.7 of Annex I Chapter V is complicated, not clear to understand and contradictory, being used to avoid resting periods and journey times when the transport, or part of it, is carried out by a ferry[696];
- point 2.1 Annex I Chapter VI of is unclear and gives rise to the controversy if automatic drinking systems are required in trucks or mobile buckets can constitute the only water system, especially for horse transports[697];
- letters B and C of Annex I Chapter VII are unprecise and give rise to the controversy if the Regulation laid down minimum and maximum space allowances or only minimum.
- point 3.1 of Annex I Chapter VI provides a tolerance for temperature limits, 'a +/- 5°C tolerance, depending on the outside temperature': This provision is vague and unclear and gives rise to the routine application of temperature limits extended to -/+5°C, being not specified when the tolerance can be exceptionally applied.
- point 1.4 (a) of Annex I Chapter V mentions unweaned calves, lambs, kids and foals on milk diet: this definition is vague and unclear, not providing any limit of age.

A further example leading to an uneven application to the Regulation is that the term 'economic activity' is not further defined by the Regulation. Article 1 paragraph 5 excludes the applicability of the Regulation when a transport is not carried out in connection with an economic activity. In the Member States there is uncertainty about the definition of this important term.[698]

The EU Commission and the European Parliament received several requests to clarify the meaning of certain unclear and vague provisions of the Regulation. Those requests should be used as a track to solve long on-going controversies.

Demand 84

In the revised Regulation, vague terms and unclear provisions must be substituted with definite, precise, clear, and measurable indications. Loopholes and contradictions must be eradicated.[699]

[696] Question for written answer to the Commission, Rule 117, David Martin (S&D), 07.03.2013 and answer. Subject: journey times in the case of combined road-sea transport of animals.

[697] Questions of Animals´ Angels regarding the watering system during long transports (2009 and 2016).

[698] BVerwG v. 09.04.2014 - 3 C 2/13; Vorlage zur Vorabentscheidung; EuGH-Vorlage; Tierschutz- und Tierseuchenrecht; Vermittlung und Transport von herrenlosen Hunden aus dem Ausland nach Deutschland.

[699] For more details see also: Chapter II (Journey Times) – Reason 6 (transport of unweaned animals) and Reason 10 (assembly centre hopping), Chapter III (Space allowances), Chapter VI (temperature limits), Chapter VII (water supply) and Chapter XV (Ro-Ro ferry).

Reason 85

The Regulation does not lay down clear legal provisions for the transport of aquatic 'farm' animals.

The Regulation fails to sufficiently protect aquatic 'farm' animals, namely fishes, during transport.

As aquatic animals, *'fishes live in a completely different environment to land animals, and thus their needs during transport vary significantly. Regardless, the regulation does not take into account this important fact, nor does it give any specification on transport times or loading densities for fishes, despite EFSA's opinion that "[t]he duration of transport, stocking densities and environmental conditions during process can result in deterioration in welfare, including the health, of the particular fish species".'*[700] To the present day, however, *"'farmed' fishes and terrestrial 'farm' animals are covered by the same EU legislation'*[701], including the Regulation (EC) 1/2005.

Fishes are sentient beings. It is time to finally consider them accordingly in the revision of the Regulation, especially taking into account the sheer number of individuals involved[702] and knowing that *'live transport inherently presents major challenges to their ability to cope with handling stressors and with their environment.'*[703]

Demand 85

The revised Regulation must consider the species-specific needs of fishes during transport and set up species-specific rules accordingly. Due to the complexity and differing needs of fishes, it is advisable to draw up a separate regulation specifically for aquatic 'farm' animals.

[700] Ibid. Page 96.
[701] Giménez-Candela, M. et a. (2020): The legal protection of farmed fish in Europe – analysing the range of EU legislation and the impact of international animal welfare standards for the fishes in European aquaculture, dA. Derecho Animal (Forum of Animal Law Studies) 11/1 (2020). Pagwe 112. Link: https://revistes.uab.cat/da/article/view/v11-n1-gimenez-candela-saraiva-bauer/460-pdf-en (last accessed 09.08.2021).
[702] Ibid. Page 87f.
[703] Saraiva, J.L. et al. (2021): Research for ANIT Committee – Particular welfare needs in animal transport: aquatic animals, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels. Page 7. Link: https://www.europarl.europa.eu/RegData/etudes/STUD/2021/690875/IPOL_STU(2021)690875_EN.pdf (last accessed 09.08.2021).

CHAPTER XIX:

Official controls and accompanying documents

Reason 86

The Regulation (EU) 2017/625[704] will abrogate parts of the Regulation (EC) 1/2005 concerning official controls.

From 15 December 2022, several provisions of the Regulation (EC) 1/2005 concerning official checks of animal transports will fall within the scope of the Official Controls Regulation (EU) 2017/625 and thus be replaced. Article 154 of the Official Controls Regulation lays down the amendments to the Regulation (EC) 1/2005, i.a. the Articles 14, 15, 16 and 21, Article 22 (2), and Articles 23, 24 and 26 are deleted. They shall continue to apply until 14 December 2022 or an earlier date to be determined in the delegated act adopted in accordance with paragraph 3 of this Article.[705]

[704] Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC; hereinafter 'Official Controls Regulation'.

Concerning Article 21 of the Official Controls Regulation on specific rules on official controls and for action to be taken by the competent authorities in relation to the welfare requirements for animals, the Commission is empowered to adopt delegated acts in accordance with Article 144 to supplement this Regulation by laying down rules for the performance of official controls to verify compliance with Union rules referred to in point (f) of Article 1 (2).[706]

Practice will show how the Official Controls Regulation will be implemented and enforced in relation to animal transport and what delegated acts will actually be adopted.

Demand 86

In any case, under no circumstances should official controls on animal transports become weaker than in the current Regulation.

Reason 87

The Regulation does not foresee the mandatory presence of an official veterinarian at the time of loading.

Article 14 of the Regulation describes the checks and other measures that must be carried out by the competent authority before long journeys. Besides verifying the validity of the documents including transporter authorisations, certificates of approval for the transport vehicles and certificates of competence for drivers and attendants, the competent authority at the place of departure must also check if the journey log submitted by the organiser of the journey is realistic and in compliance with the Regulation[707]. I.e. the competent authority is required to conduct a plausibility check on the route planning prior to any long journey exceeding 8 hours. Only if the outcome of the check is satisfactory, the journey shall be approved by the competent authority[708].

[705] Paragraph 3 of Article 154 reads as follows: 'The Commission is empowered to adopt delegated acts in accordance with Article 144 to amend this Regulation concerning the date referred to in paragraph 2 of this Article. That date shall be the date of application of the corresponding rules to be established pursuant to the delegated or implementing acts provided for in Article 21.'

[706] Article 1 (2)(f) of the Official Controls Regulations reads as follows: 'This Regulation shall apply to the official controls performed for the verification of compliance with the rules, whether established at Union level or by the Member States, to apply Union legislation, in the areas of: (f) welfare requirements for animals (…).'

[707] According to Article 14 (1)(a)(ii) of the Regulation.

[708] According to Article 14 (1)(c) of the Regulation.

Concerning the journey log, section 2 has to be filled out at the place of departure. It contains text boxes for the keeper to complete, as well as further boxes for 'additional checks at departure' which refer to the official veterinarian competent at the place of departure. By signing these additional boxes (no. 8–11), the official veterinarian declares to have checked and approved the loading of the animals in question, and that all animals were fit for transport, and the transport vehicle and transport practices were in compliance with the Regulation.

Although there is this additional part added to section 2 for official controls at the departure place, it is not mandatory to fill in these extra boxes. The Regulation does not require the presence of an official veterinarian during the actual act of loading of the animals. In other words, the Member States and not least the competent authorities on the ground can decide on their own if and how often the loading of animals is checked by their officials.

The only provision laid down in this context can be found in Article 15 (2) where it reads that for long journeys between Member States and with non-EU countries official checks at the place of departure concerning the fitness for transport have to be carried out before the loading as part of the animal health checks. This is usually done within 24 hours before the start of the journey and thus most likely without the transport vehicle even being present[709]. But if the official veterinarian is not present during loading, how can he/she ensure indeed with stamp and signature that the journey log indicates compliance with the Regulation as required by Article 14 (1)(a)(ii)?

From 15 December 2022, Article 14 and 15 of the Regulation will be replaced by the corresponding rules of the Official Controls Regulation (EU) No. 2017/625, i.e. Article 21. In this context, Article 21 of the Official Controls Regulation also still lacks to lay down precise rules e.g. on how to perform official checks at the departure place and if the presence of an official veterinarian is required or not during loading. Animals' Angels' years of experience in the field have shown that many animal welfare problems could have been avoided already at the beginning of the journey – i.a. with the presence of an official veterinarian who is trained on animal transport checks.

For example, overcrowded transport conditions as well as insufficient internal heights inside the animals' compartments could be easier detected by an official veterinarian on the spot, including immediate intervention and adjustment of the problems observed. Sick, injured or otherwise unfit animals could be identified instead of sending them undetected on a long journey. Furthermore, the condition of the means of transport could be checked prior to departure ensuring that e.g. all drinkers and ventilation devices are in proper working order, the water tank is refilled, food is carried on board, the amount of bedding is good, etc. Also, the number of drivers could be confirmed, as well as their handling skills could be verified during loading.

[709] DG(SANTE) 2019-6834. Page 9. See footnote 279/See also: Answer of the EU Commission to a Parliamentary Question, E-007176/2012(ASW). https://www.europarl.europa.eu/doceo/document/E-7-2012-007176-ASW_EN.html (last accessed 02.08.2021).

As the EU Commission (2019) summarizes in its Overview Report on Welfare of Animals Exported by Road *'the official controls at the place of departure play a very important role in increasing compliance and preserving the welfare of animals during journeys. In particular, checks at the beginning of the journey concern the inspection of livestock vehicles, the supervision of the loading of animals and the verification that journey plans are complete and appropriate (…).'*[710] In this context it is worth to mention that those Member States requiring the presence of an official veterinarian during loading have apparently *'the highest level of compliance when vehicles are inspected before leaving the EU'* as further reported by the EU Commission (2019).[711] Even though this refers to transports to non-EU countries, the positive impact of supervised loading procedures is likely to be observed in inner-EU transports, too.

The ANIT Committee of the EU Parliament *'agrees with the Commission that the presence of a qualified veterinarian during loading for long journeys to non-EU countries constitutes a good practice'*[712] and *'considers it fundamental to guarantee the presence of a veterinarian during loading operations and at exit points, in particular for long-distance transport.'*[713]

In the Network Document on checks of road transports, prepared by the National Contacts Points of the Member States, it is emphasized a *'good practice to always carry out an inspection at the moment of loading as this gives the opportunity to evaluate the vehicles' conditions and the handling of the animals in addition to checking the animals' fitness for transport.'*[714] Furthermore, to the document is annexed a check list for inspecting the vehicle at the time of loading.

Also, the Council of the European Union points out in its Conclusions of 28 June 2021 that *'Member States' official control systems are crucial so as to ensure compliance with animal welfare standards and the humane treatment of animals, and to guarantee that adequate measures are taken to avoid unnecessary pain and suffering of animals. It is thus necessary to ensure that competent authorities have appropriate resources, including technological tools and expertise to perform official controls and to assess specific conditions during the relevant activities in all stages linked to livestock transport vessels.'*[715] This should not only be true for transports by sea but for all journeys.

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[710] DG(SANTE) 2019-6834. Page II. See footnote 279.
[711] Ibid. Page 10.
[712] EU Parliament (2021): Draft Report on the investigation of alleged contraventions and maladministration in the application of Union law in relation to the protection of animals during transport within and outside the Union (2020/2269(INI)). Page 12 (point 59): See footnote 573.
[713] ANIT Committee (2021): European Parliament Draft Recommendation to the Council and the Commission pursuant to Rule 208(12) of the Rules of Procedure following the investigation of alleged contraventions and maladministration in the application of Union law in relation to the protection of animals during transport within and outside the Union (B9-0000/2021). Point 38, page 6. Link: https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/ANIT/RE/2021/06-16/1233377EN.pdf (last accessed 03.08.2021).
[714] NCP Network Document on Checks Before Journeys when Live Animals are Destined for Export by Road. Page 4. See footnote 472.
[715] Council of the EU (2021): Questionnaire to contribute to the planned evaluation and revision of Regulation (EC) No 1/2005. Page 3 (point 11). See footnote 623.

Demand 87

The presence of an official veterinarian at the time of loading must be mandatory. This has to be taken into account when adopting delegated acts according to Article 20 (2) of the Official Controls Regulation in order to ensure that official checks on animal welfare prior to journey approval are carried out on EU-wide comparable and high level.

Reason 88

The Regulation does not define the average speed to be used to calculate the journey time.

In order to carry out a thorough plausibility check according to Article 14 (or from 15th December 2022 onwards according to the Official controls Regulation EC 2017/625) prior to long journeys, it is important to verify if the journey time has been calculated correctly by the organiser. Among others, the average speed of the transport vehicle plays an important role hereby.

Whereas the TRACES system calculates with generally 70 km/h on average, the German handbook on animal transports distinguishes if the journey is on long distance and including more than 60% highway or not. If yes, then it should be calculated with 70 km/h, too. For shorter journeys or less highway share, it is recommended to calculate with only 60 km/h.[716] Rabitsch and Wessely (2012) describe from practical experience that *'(…) the imponderabilities of the road, in particular on lower category roads (country roads), and the traffic situation rarely permit a speed higher than 70 km/h [on average]'*, adding that 70 km/h is unrealistically high and rather 'industry-friendly'.[717]

Animals' Angels regularly observes that the journey time indicated in the planning of long-distance transports is calculated too short. Often the road conditions, drivers' breaks, stops at petrol stations for fueling, or routes with high traffic volume are not considered in the planning. If additionally, the average speed of such transports is assumed unrealistically high, delays and prolonged transport times for the animals along the journey are inevitable with likely consequences for their wellbeing. Therefore, it would be necessary to lay down EU-wide uniform rules, including for the calculation of the average speed for animal transports.

[716] Marschner, U. et al. (2020): Handbuch Tiertransporte. Page 44. See footnote 318.
[717] Rabitsch, A. and Wessely, W. (2012): On Compliance with Driving Times and Rest Periods for Drivers in Connection with the Long-Distance Transport of Animals. Page 14. Link: http://rabitsch-vet.com/fileadmin/user_upload/Live_Animal_Transport.pdf (last accessed 03.08.2021).

Demand 88

Define a realistic average speed for future calculation of journey times.

Reason 89

The Regulation does not lay down that the organiser, transporter, and official veterinarian must consider the social regulation for drivers when planning, approving and executing animal transports.

As already described in *Chapter II: Journey times*, the transport and resting times for animals are not congruent with the driving hours and rest periods for drivers as laid down in the Regulation EC 561/2006 on the harmonisation of certain social legislation relating to road transport.

On a regular basis, Animals' Angels observes long-distance transports of animals carried out with an insufficient number of drivers causing delays for the animals due to drivers' breaks along the route while the animals remain on board the vehicles.

As required by Article 14 (1)(a) the competent authority at the place of departure is responsible i.a. to check the certificates of the drivers and attendants of the animals, and to verify that the journey log contains realistic information compliant with the provisions of the Regulation.

According to Animals' Angels point of view, this also includes that the competent authority has the obligation to ensure that a sufficient number of drivers is carrying out the transport in question. The certificates of competences for all drivers should be submitted by the organiser as well as the replacement with new drivers along the route should be indicated and explained to the competent authority before approving any journey. As practice has shown over and over again, this is not enforced on a regular basis most likely for economic reasons: *'If the veterinary services responsible for authorizing such long distance transports only gave their approval to transports carried out with a third or fourth driver, then these transports would cost much more and thus become uneconomical for transporters and dealers.'*[718]

Demand 89

Introduce an absolute journey time limit to 8 hours to ensure compatibility with drivers' hours according to social legislation relating to road transport.

[718] Animals' Angels (2016): The Myth of Enforcement. Page 115. Link: https://www.animals-angels.de/fileadmin/user_upload/03_Publikationen/Dokumentationen/Animals_Angels_Myth_of_Enforcement.pdf (last accessed 03.08.2021).

Reason 90

The Regulation does not foresee that the completed journey log must always be automatically returned to the place of departure.

According to point 8 of Annex II of the Regulation the transporter of a journey is required i.a. to keep a copy of the completed journey log and the corresponding records of the journey (like GPS, temperature etc.). The documents must be sent to the competent authority for the approval of the transporter but shall be made available only upon request to the competent authority of the place of departure. The transporter has a period of one month to send the requested documents.

I.e. the return of the journey log is only mandatory to the competent authority for the transporter's authorisation but not to the competent authority at the place of departure that was actually approving the transport in question. This is illogical as the competent authorities shall carry out checks according to Article 15 (1) and 27 (1) of the Regulation. The results of these retrospective checks would be actually necessary for targeted and risk-based controls.

But as practice has shown, often the exchange of information and feedback system is not properly working and journey logs are not returned, for example, to the competent authorities at the place of departure when requested. The Dutch Minister of Agriculture, Nature and Food Quality, Carola Schouten, explains in this context that *'approximately 75% of exports of live animals from the Netherlands are carried out by transporters from other member states. We experience problems when imposing sanctions on those transporters, for example in the case of non-returned journey logs, and refusing to submit satellite navigation system (SNS) data and temperature recordings.'*[719]

As stated by the EU Commission (2019) this is especially true for exports to non-EU countries as *'in most cases, the authorities do not get from transport companies the data recorded by livestock vehicle devices (GPS, tachograph and thermograph) when they are outside the EU, although the rulings of the European Court of Justice of 2015 and 2017 indicate that Member States' competent authorities can also use these data to verify that transports have complied with the requirements of animal transport Regulation.'*[720]

Animals' Angels can confirm this with an example from 2021 of transports of pregnant heifers from Denmark to Uzbekistan[721]: according to information received, the Danish competent authority requested the journey log and GPS and temperature records for several transports in order to perform retrospective checks after Animals' Angels has reported severe animal welfare infringements in these transports,

[719] Committee of Inquiry on the Protection of Animals during Transport (2021): Written questions to Carola Schouten, Dutch Minister of Agriculture, Nature and Food Quality, ANIT Public Hearing on Long distance transports of live animals within the European Union. Answer to Questions from Renew. Page 2. See footnote 586.
[720] DG(SANTE) 2019-6834. Page 19. See footnote 279.
[721] Animals' Angels report on transports of pregnant heifers from Denmark to Uzbekistan, date of report: 19.07.2021.

including a new-born calf on board of one truck. For those data (including journey log and GPS records) forwarded to the Danish authorities all data records ended at the EU exit point in Poland. I.e. neither was the section 4 of the journey logs completed until destination in Uzbekistan, nor was available the GPS records for the entire non-EU part of several thousand kilometres. Interestingly, for exactly this truck with the new-born calf on board, the Danish authorities apparently did not receive any transport documentation – neither the journey log nor the corresponding GPS data were returned by the transport company, also not upon repeated requests. Thus, proper retrospective checks on these transports are impossible for the competent authority at the place of departure due to lack of data.

Demand 90

Introduce to the revised Regulation that copies of the completed journey log and corresponding records have to be returned to all competent authorities involved in the transport in question on a mandatory basis within two weeks after completion of the journey. Furthermore, the competent authority should have the possibility and obligation, respectively, to deny issuing new transport documents if a transporter/organiser did not return the documents of a previous journey hindering retrospective checks.

Reason 91

The Regulation does not foresee routine post-festum checks.

According to Article 15 (1) of the Regulation the competent authority has to conduct official checks at any stage of the journey on a random or targeted basis in order to verify compliance with the Regulation, especially considering travel times and rest periods. In case the animals are transported to a slaughterhouse, these checks may be integrated in the inspections at the slaughterhouse.[722] However, Article 15 does not give any details about how often these checks should be performed.

Article 27 of the Regulation lays down in its point (1) that the competent authorities shall check compliance with the Regulation including inspections of animals, means of transports and accompanying documents. These checks must be on a non-discriminatory basis and conducted *'on an adequate proportion of the animals transported each*

[722] According to Article 15 (3) of the Regulation.

year within each Member State.'[723] Again, a further definition of what 'adequate proportion' actually means is not given by the Regulation.

I.e. the Regulation does not require systematic retrospective, post-festum checks of long journeys. As pointed out by the EU Commission (2019) *'each Member State decides its own inspection regime (…)'*[724] which has led to great discrepancies in the checks among the Member States.[725]

As already mentioned previously, from 15 December 2022 onwards the Official Controls Regulation will replace several provisions of the Regulation, including Article 15. In this context is to mention Article 21 point 9 stating that *'the Commission shall, by means of implementing acts, lay down rules on uniform practical arrangements on official controls performed to verify compliance with the Union rules referred to in point (f) of Article 1(2) laying down animal welfare requirements and on action taken by the competent authorities following such official controls, regarding: (a) uniform minimum frequency of such official controls, where a minimum level of official control is necessary to respond to the risk associated with different animal species and means of transport, and the need to prevent non-compliant practices and to limit the suffering of animals.'*[726] A further definition of what 'uniform minimum frequency' means in this context is not given.

Demand 91

Routine post-festum checks must be carried out on a mandatory basis whereas the frequency of the checks must be adjusted to the transport route, animal species and number of animals and transports concerned. This has to be taken into account when adopting implementing acts according to Article 21 (9) of the Official Controls Regulation in order to ensure that retrospective checks on the compliance of animal transports are carried out routinely, used for risk analyses and uniformly conducted among the EU Member States.

[723] According to Article 27 (1) of the Regulation.
[724] DG(SANTE) 2019-6834. Page 9. See footnote 279.
[725] Animals' Angels (2016): The Myth of Enforcement. Page 115. Link: https://www.animals-angels.de/fileadmin/user_upload/03_Publikationen/Dokumentationen/Animals_Angels_Myth_of_Enforcement.pdf (last accessed 03.08.2021).
[726] Article 21 (9)(a) of the Regulation 2017/625 (accentuation by the author of this report).

Reason 92

Journey logs accompanying transports to non-EU countries are often only filled in with the information regarding the part of the journey taking place in the EU.

The Court of Justice of the European Union stated, during the judgment in Case C-424/13, Zuchtvieh-Export GmbH vs Stadt Kempten, that *'in any event, the authority may require, among other things, changes to the arrangements for the intended transport in order to ensure that it will pass by enough resting and transfer points to indicate that the transport will comply with the requirements as to watering and feeding intervals and journey times and resting periods.'*[727]

Nevertheless, the section 4 of the journey log is only filled in until the EU exit point and then handed in to the veterinary office on-site, i.e. the border inspection post. This way, authorities carrying out retrospective checks don't have any information regarding the part of the journey taking place outside the EU territory until the final destination of the animals. E.g. this was documented by Animals' Angels in several transports of pregnant heifers from Denmark to Uzbekistan in April 2021. In all observed cases section 4 of the journey log ended at the EU exit point in Poland, thus completely neglecting the non-EU part of the journey of more than 4,400 km *(see above Reason 90)*.

Instead of handing in the journey log at the EU exit point, only one copy of the journey log should be given to the veterinary office at the exit point and another copy should be carried and filled in by the drivers including all happenings outside the EU until the final destination. Section 3 of the journey log should be filled in by the keeper of the final destination in the non-EU country. The completed journey log containing the details regarding the entire transport, from the EU country to the non-EU country, should always be sent to the veterinary office of the place of departure.

Demand 92

Journey logs accompanying transports to non-EU countries via sea, air or road, must be filled in with details about the entire journey up to the final destination in the non-EU country.

[727] Case C-424/13, Zuchtvieh-Export GmbH v. Stadt Kempten, 2015, ECJ ruling of 23.04.2015. See footnote 40.

Reason 93

The template of the journey log does not indicate sufficient details for the veterinary office at departure to check that the journey is realistic and complies with the Regulation.

The template of section 1 of the journey log, together with the intra trade certificate, is notified to the veterinary officers to obtain the authorisation to the transport. Nevertheless, the current template does not allow the veterinary officer sitting at the desk to have all the relevant details to carry out an accurate assessment.

New boxes for the following information should be added to the template:

- Category of the animals transported according to the Regulation.
- Number of decks and compartments where animals will be loaded, when transported by road.
- The types of transporters involved (road/air/sea transporter).
- Number of drivers carrying out the transport by road, including also possible changes of drivers.
- The reason of the stops indicated in the planning (box 6).

Additionally, box 6.1 indicating rest and transfer stops should also indicate any stop causing relevant waiting times such as at borders, at ports or due to drivers' mandatory breaks.

Demand 93

Revise the template of the journey log, in order to indicate all the necessary information describing the entire transport from departure to destination, even when it takes place with different means of transports and outside the EU.

CHAPTER XX:

The sanctioning system and enforcement of the Regulation

Reason 94

The rules on penalties applicable to infringements of the provisions of the Regulation are uneven and inconsistent, differing immensely from Member State to Member State and giving rise to market distortion.

Article 25 of the Regulation provides that each EU Member State shall legislate, autonomously, on penalties for violations of the Regulation. The reason for this decision is the assumption that each state has its own legal system providing and enforcing penalties. The European Community cannot interfere but only lay down common principles: The penalties must be effective, dissuasive, and proportionate.[728]

Thus, it remained up to each Member State to decide how to prosecute violations of the Regulation. Some countries laid down heavy monetary sanctions (e.g. Italy[729], Romania[730]), some very low sanctions (e.g. Spain[731], France[732], Bulgaria[733]), some have entrusted the responsi-

[728] European Commission (2011): Report from the Commission to the European Parliament and the Council on the impact of Council Regulation (EC) No 1/2005 on the protection of animals during transport. Point 2.6.3, page 12. Link: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0700&from=EN (last accessed 05.08.2021).

[729] Decreto Legislativo 25 luglio 2007, n. 151, Disposizioni sanzionatorie per la violazione delle disposizioni del regolamento (CE) n. 1/2005 sulla protezione degli animali durante il trasporto e le operazioni correlate.

[730] Hotarare nr. 984 din 25 august 2005 privind stabilirea şi sancţionarea contravenţiilor la normele sanitare veterinare şi pentru siguranţa alimentelor.

[731] Ley 32/2007 para el cuidado de los animales, en su explotación, transporte, experimentación y sacrificio.

[732] Code rural, livre II, titre Ier, chapitre IV, section 3 'transport'.

[733] Bulgarian Law on veterinary medical activity, 02.05.2006.

bility for the matter to the veterinary authority only (e.g. Romania[734]), some to the veterinary authority and to the police (e.g. Spain[735]), others centralised the power to levy sanctions (e.g. Spain[736]), some empowered field inspectors (e.g. Italy [737]). The resulting panorama is fragmented.[738]

Among other consequences, transporters violating the same rule incur a different penalty depending on the country in which the transport is checked.[739] Even in some states they must pay immediately if they are foreigners (e.g. Denmark, Italy, Slovenia[740]), in some others, foreign transporters may not pay, without incurring enforcement consequences (e.g. Romania[741]). Transport companies and drivers are aware in which countries there is a higher risk to be submitted to a road check and in which countries this is very unlikely to happen[742]. As of today, the community legislation is applied unevenly, unequally[743] and the market and competition for the transport of live animals in Europe are seriously distorted.[744]

The EU Commission, as guardian for the correct application of EU laws, to date has not yet an overview of the penalties and sanction

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734 See Ordinance No. 2/2001, article 15 and Ordinance No. 42/2004, Chapter III.

735 European Commission (2018): Country profile. Organisation of official controls. Spain. Page 55.

736 Meriggi, S. (2020): The harmonization of animal protection during transport in the European Union - Analysis of the sanctioning systems in Italy, Romania and Spain, dA. Derecho Animal (Forum of Animal Law Studies) 11/3. Page 7. Link: https://ddd.uab.cat/record/233637 (last accessed 05.08.2021).

737 EU Commission (2014): Overview report on a series of study visits – DG(SANTE) 2014-7350. Link: https://ec.europa.eu/food/audits-analysis/overview_reports/details.cfm?rep_id=72 (last accessed 05.08.2021).

738 Baltussen, W. et al. (2011): Study on the impact of Regulation (EC) No 1/2005 on the protection of animals during transport. Point 3.8.5, page 103: 'Between different EU MS there are huge differences in penalties for the same infringements'. Link: https://www.researchgate.net/publication/254840664_Study_on_the_impact_of_regulation_EC_No_12005_on_the_protec-tion_of_animals_during_transport (last accessed 05.08.2021).

739 The violation of the Regulation for transporting unfit animals is punished with very different monetary sanctions in Italy (2000 euro), in Romania (approx. 3877.57 euro) and Spain (up to 600 euro).

740 EU Commission (2014): Overview report on a series of study visits – DG(SANTE) 2014-7350. Page 2. See footnote 737.

741 Meriggi, S. (2020): The harmonization of animal protection during transport in the European Union - Analysis of the sanctioning systems in Italy, Romania and Spain. Page 6. See footnote 736.

742 Baltussen, W. et al. (2011): Study on the impact of Regulation (EC) No 1/2005 on the protection of animals during transport. Point b), pages 108 - 109. See footnote 738.

743 Contrary to Treaty of the European Union, Articles 2,3,9 and Treaty on the Functioning of the European Union, Article 8.

744 WSPA, Eyes on Animals (2011): Weaknesses in the animal-transport monetary sanctions. A comparative study of the effectiveness, proportion and dissuasiveness of the monetary penalties applicable to infringements of Regulation EC 1/2005 among major players of the EU. Link: https://www.eyesonanimals.com/wp-content/uploads/2011/12/Downloads_WEAKNESS_IN_MONETARY_SANCTIONS_OF_ANIMAL_TRANSPORT(1).pdf (last accessed 05.08.2021)/See also: Motion for a European Parliament Resolution on the implementation of Council Regulation No 1/2005 on the protection of animals during transport within and outside the EU (2018/2110(INI)), paragraph "Implementation and enforcement". Pages 6-9. The EU Parliament 'stresses that the systematic breach of the Regulation in certain areas and some Member States leads to unfair competition resulting in an uneven playing field between operators in the different Member States, which in turn can lead to a 'race to the bottom' regarding animal welfare standards during transport' (see point 7, page 7). Link: https://www.europarl.europa.eu/doceo/document/A-8-2019-0057_EN.html (last accessed 05.08.2021).

systems implemented by the various Member States, despite many reports addressing the problem of uneven penalties in the EU[745]. Nevertheless, the EU Commission is aware[746] that such an overview is needed,[747] and that it would help to analyse best and common practices,[748] to design the basis for a harmonised sanction regime. A similar analysis has been provided during the process for the harmonisation of penalties concerning commercial transport in EU.[749] Nevertheless, the EU Commission has never acted in concrete and effective terms, for example with infringement actions, in order to correct the non-deterrent penalties applicable to infringements of the provisions of the Regulation in certain Member States. Accordingly, in 2019, the EU Parliament called upon the Commission to develop a roadmap to align sanctions across the Member States.[750]

To tackle the problem, as a first step, the EU-Commission should contract a comparative study on the existing sanction systems of the Regulation.

Demand 94

Following corresponding legal studies, the revised Regulation should introduce a harmonized sanctioning system.

[745] Question for written answer to the Commission, Rule 117, Milan Zver (PPE), 15.01.2013 and answer. Subject: size of fines for infringements of Regulation (EC) No 1/2005/See also: Question for written answer to the Commission, Rule 117, Michael Cramer (Verts/ALE), 09.07.2021 and answer. Subject: effectiveness of fines for infringements of Regulation (EC) No 1/2005/Question for written answer to the Commission, Rule 117, Brian Simpson (S&D), 11-04-2013 and answer. Subject: monetary sanctions against foreign transport companies for infringements of Council Regulation (EC) No 1/2005.

[746] EU Commission (2014): Overview report on a series of study visits – DG(SANTE) 2014-7350. See footnote 737.

[747] Baltussen, W. et al. (2011): Study on the impact of Regulation (EC) No 1/2005 on the protection of animals during transport. Page 115: 'more uniform level of penalties in the different MS and at least a level which is dissuasive'. See footnote 738./See also: European Parliament (2019): Report of the European Parliament on the implementation of Council Regulation No 1/2005 on the protection of animals during transport within and outside the EU. Page 7, 21. Link: https://www.europarl.europa.eu/doceo/document/A-8-2019-0057_EN.html (last accessed 05.08.2021).

[748] WSPA, Eyes on Animals (2011): Weaknesses in the animal-transport monetary sanctions. A comparative study of the effectiveness, proportion and dissuasiveness of the monetary penalties applicable to infringements of Regulation EC 1/2005 among major players of the EU. See footnote 744.

[749] Legal Firm Grimaldi (2013): Study on sanctions in the field of commercial road transport. A similar comparative study was submitted to the European Commission. It concerned sanctions of commercial road transport. The law firm recommended three policies in its conclusions, to approximate transport legislation: 1) no action; 2) the use of soft law; 3) action through a directive issuing indications for harmonized sanctions. The path for the harmonization of the penalties on animal transports is at point 2), so far. It´s time to pass to step 3) with a regulation directly applicable to all EU Member States.

[750] European Parliament (2019): Report of the European Parliament on the implementation of Council Regulation No 1/2005 on the protection of animals during transport within and outside the EU. Page 7. The EU Parliament 'calls on the Commission to develop a roadmap to align sanctions across the Member States'. See footnote 747.

Reason 95

The penalties applicable to infringements of the provisions of the Regulation are not effective, dissuasive and proportionate in all EU Member States.

Violations of the Regulation are mostly sanctioned with monetary penalties of very different amounts in the EU. For example, the transport of overcrowded animals is punished with a fine of min. 1,000 euro in Italy[751], 135 euro in France[752], min. 1,292.52 euro[753] in Romania[754] and until 600 euro in Spain[755]. Some countries tend to issue warnings (e.g. Greece[756]), and the application of fines is exiguous (e.g. France, Greece, Hungary).[757] The application of monetary fines and high amounts are more dissuasive and can cover the costs of the necessary resources for controls.[758] The only effective way to uniform penalties and to ensure that they are proportionate and dissuasive is that the Regulation provides a grid with categories of offences, of different levels (example, serious and most serious), and correspondent sanctions, with minimum and maximum limits, in case of monetary penalties, or indicating a way to calculate their amounts in an equal way.[759]

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[751] Decreto Legislativo 25 luglio 2007, n. 151, article 7(3) + annex 3(2.1), 'The carrier that does not observe the transport practices of Annex 3 of this decree'.

[752] WSPA, Eyes on Animals (2011): Weaknesses in the animal-transport monetary sanctions. A comparative study of the effectiveness, proportion and dissuasiveness of the monetary penalties applicable to infringements of Regulation EC 1/2005 among major players of the EU. Page 9. See footnote 744.

[753] 6000 Lei.

[754] Hotarare nr. 984 din 25 august 2005, article 31(c)(6), 'Non-observance of the distribution of space for each animal species'.

[755] Ley 32/2007, article 14(3)(a), 'El incumplimiento de obligaciones exigidas por las normas de protección animal en cuanto al cuidado y manejo de los animales, siempre que no se produzcan lesiones permanentes, deformidades o defectos graves, o la muerte de los animales'.

[756] Law 4235/2014: Administrative measures, procedures and sanctions in the implementation of EU and national legislation in the fields of food, feed and animal health and protection and other provisions of jurisdiction, article 3.

[757] Annual reports on inspections on animal welfare during transport of Greece (2016-2017-2018), Hungary (2017-2018), and France (2018), according to article 27 of the Regulation: sanctions are close to zero.

[758] GHK Consulting in association with ADAS UK (2010): Evaluation of the EU policy on animal welfare and possible policy options for the future. Page 108: 'Costs incurred by Competent Authorities may be partly offset by the imposition of fines imposed as a result of non-compliance or as a result of fees charged for specific activities'. Link: https://ec.europa.eu/food/system/files/2021-07/aw_eu_strategy_eupaw-eval_report_201012.pdf (last accessed 05.08.2021).

[759] A similar attempt was made for the harmonisation of commercial transport in general: Commission Regulation (EU) 2016/403 of 18 March 2016 supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator./GHK Consulting in association with ADAS UK (2010): Evaluation of the EU policy on animal welfare and possible policy options for the future. Page 37: 'However, for fines to be effective, they have to outweigh any cost savings from non-compliance and thus should be in relation to the relevant revenues'. See footnote 758.

Demand 95

On the base of a comparative study, the revised Regulation should provide uniform and common categories of offences and sanctions which must be effective, dissuasive and proportionate.[760]

Reason 96

The authorities competent to enforce the Regulation differ from Member State to Member State.

Member States have often designated veterinary state administrations as the sole competent authority for the welfare of animals during transport. Others designated the police forces, too. The reasons to entitle veterinary authorities and police bodies are several. Veterinary offices often suffer from lack of resources.[761] Additionally, they need the police to stop transports and to carry out road checks. The police work in strategical places where the transports take place: e.g., on roads, at ports or at borders. Thus, the police can detect trucks. While veterinarians have the scientific knowledge on animal welfare, the police can physically stop a transport for control. Therefore, police officers (road police and border police), and customs officers can offer a valuable contribution to animal transport checks, raising the levels of enforcement.[762] In this way the state does not just overcharge one of its administrations. Police forces and customs shall be entitled to check aspects that are not strictly scientific[763], such as the clinical evaluation of an animal.

Demand 96

The revised Regulation should give the competence to carry out animal welfare checks on animal transports to the state veterinary services, road police and customs in all EU Member States.

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[760] Treaty on the functioning of the European Union, Chapter 3, Approximation of laws.

[761] Examples: 1) European Commission. Country profile. Organisation of official controls. Greece (2019). Page 61. 2) Multi annual control plan 2016-2020 of Spain: Control oficial de la Cadena Alimentaria.

[762] GHK Consulting in association with ADAS UK (2010): Evaluation of the EU policy on animal welfare and possible policy options for the future. Page 37. 'Inspections of compliance with transport legislation in Member States are made by veterinarians, the police or by separate road transport inspectorates. A noted limitation, with regard to veterinarians inspecting transport, is that they do not always have the authority to stop vehicles on the public road, so they have to rely on police assistance. This limits the ability to enforce transport legislation'. See footnote 758.

[763] Means of transport, documents, and animal transport conditions (ex. density, temperature, bedding).

Reason 97

The Regulation does not specify the entities empowered to levy fines on violations of the Regulation.

In some EU countries (e.g. Spain[764], Greece[765]), the power to impose sanctions is given only to central authorities or only to the veterinary inspectors but not to police (ex. Spain[766], Germany[767]). Field inspectors can ascertain violations but not take any corrective action. They must transmit their findings to the central administration which will evaluate if it is the case to issue sanctions or not. The same happens when the police can only verify incompliances but not sanction on the spot. Where enforcement is centralized, it becomes a cumbersome and inefficient bureaucratic apparatus.

Demand 97

The revised Regulation should ensure that all field inspectors are empowered to levy fines on violations of the Regulation on the spot.

Reason 98

There is ongoing lack of coordination and exchange of information among the EU Member States, concerning violations of the Regulation.

In the last 14 years, there have been different ways of reporting penalties for transporters sanctioned in countries other than those where they are authorised. Only in recent years, the Traces system has been used to record irregularities. But it seems that there is still no uniform method for recording violations. This means that much information has been lost and the authorities have never had a full picture on the infringements. Animals' Angels has alerted the authorities about a number of repeatedly sanctioned transporters who have continued to

764 Meriggi, S. (2020): The harmonization of animal protection during transport in the European Union - Analysis of the sanctioning systems in Italy, Romania and Spain. Page 7. See footnote 736.
765 According to information received by Greek Ministry, pers. communication.
766 Ley 32/2007, Art. 19.
767 Tierschutzzuständigkeitsverordnungen der Länder (Animal Welfare Competence Regulations of the Federal States).

transport animals without any corrective action[768] to prevent a recurrence.[769]

The Regulation must indicate the means to notify infringements to all involved authorities, to avoid leakage of information and a common template with the necessary information to be included. Such an electronic database will allow formal notifications, their storage, the analysis for statistics and risks and a better monitor of repeated infringements and of the application of corrective measures such as the withdrawal of transporters' authorisation or confiscation of vehicles.[770]

Demand 98

The revised Regulation should establish and implement an electronic database for the notification of infringements that allows an easy access for analysis and statistics.[771]

Reason 99

The emergency measures laid down in the Regulation have economic implications, among others, which weaken their application.

The Regulation provides that authorities, when finding that the Regulation is not complied with, must require the person responsible for the animals to take necessary action to protect the wellbeing of the animals. A non-exhaustive list describes possible scenarios, for example changing the truck when it is broken, unloading the animals until solving the problem or even euthanising the animals when there is no other solution. Animals' Angels has witnessed these situations quite often.[772]

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[768] European Parliament (2019): Report of the European Parliament on the implementation of Council Regulation No 1/2005 on the protection of animals during transport within and outside the EU. Pages 8, 27, 35. See footnote 747.

[769] E.g. Animals' Angels complaint reports concerning the Hungarian transport company Erdohat Kft: Four transports of lambs for slaughter from Romania and Hungary to Italy, 2018/Two long transports of unshorn lambs <26 kg from Romania to Italy, 2019/Long transports of lambs from Romania to Italy, 2021. //Animals´ Angels complaint reports concerning the Romanian transport company Gagea: Two long transports of unshorn lambs <26 kg from Romania to Italy, 2019/Long transport of lambs from Romania to Greece, 2020/Long transport of lambs from Romania to Italy, 2020/Long transport of lambs from Romania to Italy, 2021.

[770] European Parliament (2019): Report of the European Parliament on the implementation of Council Regulation No 1/2005 on the protection of animals during transport within and outside the EU. Page 21. See footnote 747.

[771] NCP Network Document on Checks Before Journeys when Live Animals are Destined for Export by Road. Page 16. See footnote 472.

[772] Animals´ Angels report: Transports of Austrian calves from Hungary to Turkey stuck at the Bulgarian-Turkish border, 2016 (SM.04.04.2016). In this case, Austrian bulls remained in a Bulgarian slaughterhouse for a month, because of the controversy, among others, concerning who had to pay the expenses of 'euthanasia' of the bulls, refused at the Turkish border./Further: Information received during Animals´ Angels investigation (SM.002.2021, region Friuli, Italy, 30.03.2021). Despite heifers were heavily overcrowded in one compartment, veterinary inspectors did not consider ordering the unloading of one or two animals at a stable or control post, to avoid causing economic burden to the owner of the stable. According to their experience, if one or two animals are left in a stable, the owner of the animals abandons them there.

Putting the adequate measures in place is often not easy. For veterinarians, the most pressing issue is often not having a legal basis for knowing whom to charge the measures that must be taken. Unloading at a stable, euthanasia at an abattoir, the replacement of a lorry, all these emergency measures entail costs. Another problem is that the companies that support the emergency measure, e.g. provide a stable for unloading or a veterinarian who provides emergency treatment often encounter problems when it comes to the payment as transporters are not willing to pay for a service ordered by the police. After bad experiences, these entities often are not willing give a hand anymore in cases of emergency.

The legislation must offer support and certainty to inspectors and to those offering solutions. Often veterinarians feel between a rock and a hard place, pressed by complaints from those involved, threats of legal action and the duty to apply an emergency measure. It is easy for the latter duty to give way in the face of other pressures.

Demand 99

The revised Regulation should specify subjects to be charged of the costs of emergency measures. Organiser and transporter should be held responsible, in solidum. Payment on the spot should be provided.

Reason 100

The Regulation inflicts sanctions for the infringement of its provisions to the transport companies only.

The transport company is not the only party deciding on the conditions of an animal transport. Nevertheless, sanctions for the violation of the Regulation are usually inflicted only to the transporter. But the responsibility for infringing the Regulation cannot lie solely with one of the parties involved in the transport chain. It must be extended to the other parts[773] such as the organiser[774], the keeper at departure and destination, the seller and/or the buyer of the animals and the veterinarian authorizing the journey. For example, the buyer of the animals or the keeper at the destination, for profit reasons may insist on transporting as many animals as possible even breaching the density limits and causing pressure on the carrier that could lead him to break the legal limits. When an animal is unfit before loading, the keeper at the place of

[773] Consortium of the Animal Transport Guides Project (2017). Paragraphs 1.4 of the guides to good practices for the transport of sheep, cattle, pigs, horses, poultry. Link: http://www.animaltransportguides.eu/materials/(last accessed: 19.05.2021).

[774] DG(SANTE) 2019-6834. Page 6: 'The most important entity, from the point of view of the animal transport Regulation, is the journey's organiser, who is the primary legal or natural person responsible for the animals' welfare throughout the journey'. See footnote 279.

departure may insist on transporting the animal despite the fact that it is forbidden. Transports which are non-compliant with the Regulation, for example for not planning the mandatory 24-hour stop or for transporting animals in overcrowded conditions, may be approved at the place of departure because the veterinary authority does not carry out consistent checks.

The Italian law[775] implementing penalties for the violation of the Regulation, specifies for different categories of offences, the categories of offenders that must be sanctioned, for example:

- For documental irregularities, the organiser, the keeper at departure place and the transporter are jointly and severally liable to pay the correspondent sanctions.
- For the transport of unfit animals or the violation of transport practices, the keeper at the place of departure or the owner of the control post and the transporter are jointly and severally liable to pay the correspondent sanctions.
- For violations concerning the certificate of approval of vehicles for long transports, the organiser and the transporter are jointly and severally liable to pay the correspondent sanctions.
- For violations concerning the certificate of the driver, the organiser, the transporter, or the keeper at place of departure are liable to pay the correspondent sanction.

Demand 100

The Regulation must specify which parties of the transport chain will be liable for which category of offence, separately or jointly and severally. Authorities approving transports violating the Regulation must be held responsible, too.[776]

[775] Decreto Legislativo 25 luglio 2007, n. 151; Disposizioni sanzionatorie per la violazione delle disposizioni del regolamento (CE) n. 1/2005 sulla protezione degli animali durante il trasporto e le operazioni correlate

[776] Question for written answer E-003760-13to the Commission, Rule 117, Bill Newton Dunn (ALDE), 03.04.2013 and answer. Subject: enforcement of Regulation (EC) No 1/2005 — fines for veterinarians who approve deficient journey logs.

CHAPTER XXI:
Translation problems

Reason 101

Translation errors in the Regulation lead to legal uncertainties and cause differences in implementation and enforcement.

The Regulation is extremely complex and it has been published in 23 European languages. Because of regularly occurring translation errors, the 23 versions of the Regulation are not identical.[777] Obviously, translation errors cause legal uncertainty. They provide authorities in different EU Members States with divergent tools and lead to differences in implementation and enforcement.

The following examples illustrate the problem:

Annex I Chapter III of the Regulation (English version) stipulates in its point 2.3 *'Equidae shall not be transported in multi-deck vehicles except if animals are loaded on the lowest deck with no animals on higher deck'*.

The Directorate General for Health and Food Safety of the EU Commission interprets point 2.3 (English version) as follows: the word 'animals' refers to equidae only.[778] Consequently, when equidae are loaded on the lower decks of a road vehicle, all non-equine animals can be loaded on the upper deck(s).

The Spanish wording of point 2.3[779] corresponds to the English version: *'El transporte de équidos en vehículos de varios pisos sólo podrá realizarse cuando los animales ocupen el nivel inferior y no se coloque ningún animal en el piso superior'*.

However, the situation changes when looking, for example, at the German or Dutch version of point 2.3: *'Equiden dürfen nicht in Multideck-Fahrzeugen befördert werden, es sei denn, die Tiere werden auf das unterste Deck verladen und die oberen Decks bleiben unbelegt'* or respectively: *‚Eenhoevigen mogen niet in voertuigen met meerdere laadvloeren vervoerd worden, tenzij de dieren op de onderste laadvloer geladen*

[777] See for example: Diario Oficial de la Unión Europea (2011): Corrección de errores del Reglamento (CE) no 1/2005 del. Link: https://www.mapa.gob.es/es/ganaderia/legislacion/Correcci%C3%B3n%20de%20errores%20del%20Reglamento%20(CE)%201%202005_tcm30-105034.pdf (last accessed 02.07.2021).

[778] Ref. Ares (2020)4020782-30/07/2020 (E-mail letter to Animals' Angels).

[779] Annex I Chapter III of the Regulation.

worden terwijl de hogere laadvloeren leeg blijven'. These translations state that the upper decks must remain empty when equidae are loaded on the lower decks of a road vehicle.

A legal commentary published in Germany states that according to point 2.3 (German version), horses and other equidae may only be transported in multi-deck vehicles, if the animals are loaded on the lowest deck and the upper decks remain unoccupied and are not used for animals of other species.[780]

In this example, the specifications of the English/Spanish version and the German/Dutch version of point 2.3 of Annex I Chapter III of the Regulation and their legal interpretations are completely contradictory. Another example refers to the construction of transport vehicles.

The English version of Annex I Chapter II point 1.1 (b)reads *'means of transport, containers and their fittings shall be designed, constructed, maintained and operated so as to: (…) (b) protect the animals from inclement weather, extreme temperatures and adverse changes in climatic conditions'*[781].

The same wording is used in the Italian translation: *'I mezzi di trasporto, i contenitori e le loro attrezzature sono concepiti, costruiti, mantenuti e usati in modo da: (…) b) proteggere gli animali da intemperie, temperature estreme e variazioni climatiche avverse'*[782] and so do the Spanish[783] and French translations[784] for example.

Different to the translations above, the German version is more specific: *‚Transportmittel, Transportbehälter und ihre Ausrüstungen sind so konstruiert und gebaut und sind so instandzuhalten und zu verwenden, dass (…) b) die Tiere vor Wetterunbilden, Extremtemperaturen und Klimaschwankungen geschützt sind, d. h. sie müssen stets überdacht sein;'* Other than the English, Italian, French and Spanish version, the German translation clearly states that vehicles must always be roofed. Thus, the German version is more detailed facilitating the implementation and enforcement of the rule for authorities in German-speaking countries.

To counteract such differences in the translations and the associated interpretations of the law, the Regulation should be substantially simplified. First and foremost, a significant reduction of the transport time would help to essentially simplify the regulatory text.

Demand 101

The regulatory text should be substantially simplified to keep mistranslations to a minimum.

[780] Hirt, A. et al. (2016): Tierschutzgesetz – Kommentar. Annex I Chapter III marginal note 19.

[781] Regulation (EC) 1/2005, English version. Link: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32005R0001&from=en (last accessed 02.07.2021).

[782] Regulation (EC) 1/2005, Italian version. Link: https://eur-lex.europa.eu/legal-content/IT/TXT/HTML/?uri=CELEX:32005R0001&from=en (last accessed 02.07.2021).

[783] Regulation (EC) 1/2005, French version. Link: https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX:32005R0001&from=en (last accessed 02.07.2021).

[784] https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX:32005R0001&from=en (last accessed 02.07.2021).

CHAPTER XXII:

Our responsibility as caring humans

Reason 102

Because we are not only responsible for our actions but also the things we accept without a word of protest.

Demand 102

We call for a strict revision of the Regulation in favour for the animals and aiming their best possible protection during transport. But above all, we call for a rethink. Article 13 TFEU recognises animals as sentient beings. It is high time to do justice to this recognition. The revised Regulation on the protection of animals during transport has to reflect a morally acceptable treatment of animals that respectfully considers their life and their suffering as sentient beings.


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Conclusion

Animal transport is one of the major animal welfare concerns in the EU and the current revision of the Regulation is long overdue. Too many complaints about violation of the rules on animal protection during transport are piling up on the desks of authorities across the EU. Too many scientists and veterinarians are pointing out the immense stress animals undergo during transport and the associated risks for their health. Too many shocking reports of animals severely suffering during transport and images of sick, injured, and dead animals are provided by journalists and NGOs, raising dismay among EU citizens. And ultimately, the low level of compliance with the Regulation by operators has become indisputable. Especially concerning is the situation during long journeys or exports to non-EU countries.

The current revision of the Regulation provides an opportunity that must not be missed. This dossier summarizes why and where the Regulation has to be revised. In 22 chapters and with more than 100 demands, Animals' Angels calls for a detailed technical review aiming for the best possible protection of the animals transported.

The goal is clear: the revised Regulation will have to be easier to implement and to enforce. The decisive step in this direction is the drastic reduction of transport time and a ban on export of live animals to high-risk non-EU countries. A wide range of other precautions are required to ensure the necessary protection of the animals during transport considering scientific findings, practical experience, and ethical evaluations.

Primarily, however, it is time for a rethink: In accordance with Article 13 of the Treaty on the Functioning of the European Union, the Regulation must put emphasis on the fact that non-human animals are sentient beings and not commodities. The revised Regulation must therefore ensure that animals, as sentient beings, are offered the best protection possible.

N.B.: All Animals' Angels reports mentioned in the document at hand are available upon request at kontakt@animals-angels.de.

APPENDIX:

List of Demands

CHAPTER I:
Contravention of international and EU policies

1 **Reason 1:** The current Regulation counteracts and contradicts the EU's commitment to the UN Sustainable Development Goals.

1 **Demand 1:** The EU's commitment to the 17 Sustainable Development Goals should be paid full respect in the Regulation and bring about direct legal consequences.

→ page 12/14

2 **Reason 2:** The current Regulation counteracts and contradicts the animal welfare standards of the World Organisation for Animal Health (OIE) as well as the concerns of EU's political bodies.

2 **Demand 2:** Compliance with OIE standards and respect of expert opinions within the EU requires direct legal consequences of Whereas (5) in the legal text of the Regulation.

→ page 15/17

3 **Reason 3:** The Regulation is not in line with the Treaty on the Functioning of the European Union.

3 **Demand 3:** Article 13 of the Treaty on the Functioning of the European Union should be paid full respect and bring about direct legal consequences to improve the welfare of animals during transport.

→ page 17/18

4 **Reason 4:** The Regulation is not in line with new scientific findings.

4 **Demand 4:** Whereas (11) to the Regulation should be implemented in the legal text bringing about direct legal consequences.

→ page 18/19

CHAPTER II:
Journey times

5 **Reason 5:** The Regulation does not foresee any absolute journey time limit.

5 **Demand 5:** Introduction of absolute journey time limits

- 8 hours maximum for all animals except birds, rabbits and so-called 'spent' animals.
- 4 hours maximum for birds, leporidae (e.g. rabbits) and 'spent' animals.

→ page 20/26

6 **Reason 6:** The Regulation does not limit the journey time for unweaned animals.

6 **Demand 6:** Introduction of a maximum journey time limit of 8 hours for all unweaned/early weaned animals, adapted to their specific welfare needs and including a transport ban of very young animals (e.g. for calves younger than 28 days).

→ page 26/29

7 **Reason 7:** The restrictions for the transport of unbroken horses foreseen in the Regulation are not implemented and not enforceable in practice.

7 **Demand 7:** Introduction of a maximum journey time of 8 hours for all equines.

→ page 29/33

8 **Reason 8:** The Regulation does not limit the journey time for so-called 'spent' animals at the end of their productive lives.

8 **Demand 8:** Introduction of an absolute journey time limit for 'spent' animals to 4 hours and a general ban of transports of 'spent' animals via markets or other assembly centres.
If 'spent' animals like cows, hens or sows are transported, the Regulation must ensure that their special needs are fully taken into account, additionally to the 4-hour transport limit: Significantly more space and bedding/Sufficient supply of water and food/Separation of the compromised animals/Reduction of the temperature range in which compromised animals may be transported.

→ page 33/36

9 **Reason 9:** The Regulation does not foresee an absolute journey time limit for animals transported in containers.

9 **Demand 9:** Introduction of a maximum journey time of 4 hours for animals transported in containers, especially considering birds (e.g. chickens, turkeys, ducks, geese) and leporidae (e.g. rabbits).

→ page 37/38

10 **Reason 10:** The Regulation does not properly prevent so-called 'assembly centre hopping'.

10 **Demand 10:** The exemption concerning the 6-hour rest at assembly centres has to be deleted and 'assembly centre hopping' must be forbidden. Instead, precise provisions easy to understand, implement and check are needed to ensure proper enforcement of the Regulation. A general journey time limit of 8 hours would assist in this regard.

→ page 38/41

11 **Reason 11:** Social regulation for drivers and resting times for animals are not congruent.

11 **Demand 11:** Introduction of an absolute journey time limit to 8 hours to ensure compatibility with driver's hours according to social legislation relating to road transport.

→ page 41/42

CHAPTER III:
Space allowance (floor space)

12 **Reason 12:** The space allowances indicated in the Regulation are insufficient and do not properly protect the animals' health and welfare.

12 **Demand 12:** As a general rule, the revised Regulation should ensure that there is sufficient space for each animal on board the means of transport to guarantee their safety, their resting comfort, their movement within the compartment, among others to easily reach the drinkers and to regulate their body temperature without being forced to be in body contact with other animals.
See Demands 13 – 19 below for species-specific indications.

→ **page 43/44**

13 **Reason 13:** The indications of the Regulation concerning space allowances for horses are inappropriate to properly protect the animals during road transport.

13 **Demand 13:** Space allowances for horses should be given in terms of kg/m². The Regulation should lay down clearly that in case of single stalled animals, at least 10 – 20 cm of total space between animal and partitions must be provided. It should lay down that mares in the last third of the gestation period must be provided at least 10v % more space as well as equines transported during elevated temperatures. Furthermore, the Regulation should require that equines are stalled diagonally with stalls 30 – 40 cm skewed and placed with the hindquarter in driving direction. The Regulation should also state clearly that equines should not be tied during transport, and where this is not possible, they should be able to lower the head without running the risk of getting tangled with their legs.

→ **page 45/48**

14 **Reason 14:** The Regulation does not provide any detailed indications for space allowances for donkeys and hybrids.

14 **Demand 14:** The Regulation should lay down clear indications for space allowances for all equines, including donkeys and hybrids.

→ **page 49**

15 **Reason 15:** The indications of the Regulation concerning space allowances for pigs are inappropriate to properly protect the animals during road transport.

15 **Demand 15:** Space allowances for pigs should be revised ensuring that pigs have sufficient space to lie down in sternal and recumbent position with the legs stretched out in a 'square' without touching or overlapping with other pigs and to move to the drinking devices of the vehicle. The Regulation should give transporters and competent authorities a tool to easily determine the space requirements for pigs of all sizes and weights and in case animals of different sizes and weights are transported.

→ **page 50/51**

16 **Reason 16:** The indications of the Regulation concerning space allowances for cattle are inappropriate to properly protect the animals during road transport.

16 **Demand 16:** Space allowances for cattle need to be revised and increased, according to an allometric equation that takes weight and body shape into account. Space allowances for horned and pregnant cattle and during high temperatures must be increased and indicated.

→ **page 52/55**

17 **Reason 17:** The indications of the Regulation concerning space allowances for ovine and caprine animals are inappropriate to properly protect the animals during road transport.

17 **Demand 17:** Increase existing minimum space allowances for ovine and caprine animals. Delete the provision according to which an area under 0.2 m^2 may be provided for small lambs (i.e., < 26 kg) and provide a realistic and precise range of measures for these animals. Indicate greater space allowances for fleeced/unshorn, horned and/or pregnant animals and for transports during elevated temperatures.

→ **page 56/58**

18 **Reason 18:** The indications of the Regulation concerning space allowances for poultry are inappropriate to properly protect the animals during road transport.

18 **Demand 18:** Scientific research is needed on the adequate allometric formula to indicate the minimum space that birds need during transport. On the base of its outcome, indicate space allowances for the commercial transport of birds during cold and hot temperatures, in combination with temperature limits.

→ **page 59/60**

19 **Reason 19:** The Regulation does not foresee any detailed requirements for space allowances for rabbits.

19 **Demand 19:** Following scientific research on the adequate allometric formula to indicate the minimum space that rabbits need during transport, considering the postures they need to adopt and especially to dissipate heat. On the base of its outcome, indicate space allowances for the commercial transport of rabbits during cold and hot temperatures, in combination with temperature limits.

→ **page 60/61**

CHAPTER IV:

Internal heights (space above the animals)

20 **Reason 20:** Except for equidae, the Regulation does not lay down species-specific indications for the height above the animals inside the vehicle compartments or containers but only gives very general indications open to interpretation.

20 **Demand 20:** Introduction of species-specific rules for the space above the animals inside compartments, crates, and containers, which clearly state that none of the animals should be able to touch the ceiling with their heads, horns, or combs while having the head held up and having their four or two legs on the ground. See Demands 21 – 25 below for species-specific indications.

→ page 62/64

21 **Reason 21:** The Regulation does not lay down specific requirements for the height above cattle during transport.

21 **Demand 21:** Introduction of specific rules for the space above the animals for cattle, i.e., clearly stating that there must be more than 20 cm above the top of horns or heads of animals and that cattle with height at withers exceeding 110 cm may only be transported one deck.

→ page 65/66

22 **Reason 22:** The Regulation does not lay down specific requirements for the height above ovine and caprine animals during transport.

22 **Demand 22:** Introduction of specific rules for the space above the animals for ovine and caprine animals, i.e., clearly stating that there must be at least 15 cm, respectively at least 30 cm, above the top of horns or heads of the animals.

→ page 67

23 **Reason 23:** The Regulation does not lay down specific requirements for the height above pigs during transport.

23 **Demand 23:** Introduction of specific rules for the space above the animals for porcine animals, i.e., clearly stating that there must be a clearance of a minimum of 15 cm for vehicles with good forced ventilation systems and at least 30 cm for vehicles without forced ventilation above the highest parts of their bodies.

→ page 68

24 **Reason 24:** The Regulation does not lay down specific requirements for the height above poultry during transport.

24 **Demand 24:** Introduction of specific crate height requirements for poultry ensuring at least 10 cm clearance above their heads in a standing position.

→ page 68/69

25 **Reason 25:** The Regulation does not lay down indications on the internal height for rabbits during transport.

25 **Demand 25:** Introduction of specific crate height requirements for rabbits depending on the breed, age and size of the animals, ensuring that they can sit in their natural upright position while upheld ears do not touch the top of the crate.

→ page 70

CHAPTER V:
Fitness for transport

26 **Reason 26:** The definitions of the Regulation about fitness for transport are not comprehensive and leave room for interpretation.

26 **Demand 26:** Introduction of a comprehensive and precise list about animal conditions (incl. symptoms, pain behaviour, signs of diseases) when animals are to be considered 'unfit for transport'.

→ page 71/74

27 **Reason 27:** The Regulation offers too much leeway for the evaluation if a compromised animal is fit for transport.

27 **Demand 27:**

- Veterinary advice must always be sought for any compromised animal, e.g., an animal with questionable health or wellbeing.
- A comprehensive list should specify animal conditions (incl. symptoms, pain behaviour, signs of diseases) in which animals are to be considered 'compromised'.
- A template for veterinary certificates accompanying compromised animals should be provided, with a specified legally binding time-period of validity.
- Compromised animals may only be transported with such a veterinary certificate, or under veterinary surveillance, for the purpose of veterinary treatment.

→ page 74/77

28 **Reason 28:** The Regulation does not prohibit the commercial transport of animals who are blind in both eyes.

28 **Demand 28:** Introduction of the prohibition to transport animals who are blind in both eyes for commercial purposes.

→ page 78

29 **Reason 29:** The Regulation does not require checks on fitness for transport by competent authorities for short journeys.

29 **Demand 29:** Requirement for animal health and fitness checks at the place of origin/loading by competent authorities for every commercial transport of live animals, no matter the duration.

→ page 79/80

30 **Reason 30:** The Regulation does not specify the actions to be taken if an animal is considered unfit for transport at the place of loading.

30 **Demand 30:** Requirement that animals who are unfit for transport must be killed on-site by professionals, without delay and without causing additional suffering to the animals in all cases where there is no prospect of cure through veterinary treatment.

→ page 81/82

31 **Reason 31:** The Regulation does not prohibit the transport of animals with light symptoms of infectious diseases or when there is the possibility of a latent infection.

31 **Demand 31:** If animals show the slightest symptoms of infectious diseases, or if there is a possibility that they carry latent infections, veterinary advice must be sought, and the animals shall not be moved unless to the nearest slaughterhouse.

→ page 83

32 **Reason 32:** The Regulation does not prevent the transport of highly pregnant animals.

32 **Demand 32:**

- Prohibition to transport animals when 40% of the expected gestation period has passed.
- Requirement that information on insemination and/or pregnancy diagnosis accompanies animals throughout their entire journey.
- Limitation of the transport time to maximum 4 hours for pregnant animals transported for commercial purposes.
- Provision of significantly more space, adequate ceiling height, extra bedding, increased feeding and watering for pregnant animals.
- Science-based specification of the temperature range in which pregnant animals may be transported.

→ page 84/87

CHAPTER VI:
Temperature limits

33 **Reason 33:** The Regulation lacks science-based, species-specific temperature limits during transport.

33 **Demand 33:** Introduction of science-based temperature limits, adapted to and based on the thermoneutral zones of the different animal species and categories.

→ page 88/91

34 **Reason 34:** The Regulation does not consider relative humidity when laying down temperature limits.

34 **Demand 34:** Introduction of species-specific temperature limits in combination with humidity.

→ page 91/92

35 **Reason 35:** The Regulation lacks clear legal provisions that animal transports are not allowed under and above certain outside temperatures, respectively.

35 **Demand 35:** Introduction of legally prescribed outside temperatures for commercial animal transports considering the species- and category-specific needs of the animals, whereas in general no animal shall be transported under 0°C or above 25°C outside temperature.

→ page 92/94

36 **Reason 36:** The Regulation does not foresee temperature limits for short journeys.

36 **Demand 36:** Introduction of science-based, species-specific temperature and humidity limits for all journeys, no matter their duration.

→ page 94/95

37 **Reason 37:** The Regulation does not require means of transport to measure and record the humidity in combination with the temperature.

37 **Demand 37:** Requirement for all road vehicles to be equipped with on-board systems that measure temperature and humidity and can be set for different thresholds.

→ page 95/96

CHAPTER VII:
Water supply

38 **Reason 38:** The Regulation leaves too much leeway as to how and how much water the animals shall receive during transport.

38 **Demand 38:**

- Reduction of the journey time to 4, respectively 8 hours.
- The Regulation must require all commercial road vehicles to be equipped with a water system for unforeseen delays and emergencies, and lay down specifications on types of drinkers, which must be species- and category-appropriate
  - Position and number of drinkers in relation to the animals
  - The amount of water storage to carry, which must be sufficient to cover the daily water need of all loaded animals.

→ page 97/109

CHAPTER VIII:
Food supply

39 **Reason 39:** The Regulation leaves too much leeway as to when, how, in which quantities and in what form the animals shall receive food during transport.

39 **Demand 39:** Limitation of the journey time to 4, respectively 8 hours, so that it is not necessary to feed animals during transport.

→ page 110/111

CHAPTER IX:
Bedding material

40 **Reason 40:** The Regulation does not require bedding material for short journeys.

40 **Demand 40:** Requirement to provide bedding material in all commercial journeys of ruminants, porcine and equidae, no matter the transport duration.

→ page 112/114

41 **Reason 41:** The Regulation does not offer detailed indications on type and quantity of bedding material to be used on long journeys.

41 **Demand 41:** Introduction of specific indications about the type and quantity of suitable bedding material to be used for the different species of animals.

→ page 114/115

CHAPTER X:
Animal markets

42 **Reason 42:** The Regulation does not sufficiently protect the animals at markets.

42 **Demand 42:** Introduction of detailed, specific rules for animal markets, concerning facilities and provisions (water, food, bedding), space allowances, monitoring, as well safety and emergency provisions including all species commonly traded at markets.
Introduction of clear rules stipulating that all markets shall be authorised in accordance with the relevant EU or national legislation and shall be under official veterinary supervision.

→ page 116/117

43 **Reason 43:** The Regulation does not lay down specific requirements for market facilities.

43 **Demand 43:** The amendment of the Regulation should consider specific requirements for market facilities: in particular, the presence of shelter, safe animal accommodation (pens), slip-resistant flooring, bedding materials, passageways, lighting, hospital pens, watering facilities, fencing and equipment for animals with special needs should be legally required.

→ page 118/126

44 **Reason 44:** The Regulation does not lay down space allowances for markets.

44 **Demand 44:** To avoid animal suffering and the risk of injuries, and to ensure proper animal identification and inspection at markets, the Regulation should foresee minimum space allowances when animals are kept at markets, ensuring that all animals can lay down comfortably at once avoiding body contact, rest and reach food and watering devices easily and facilitating the inspection of the animals.

→ page 126/127

45 **Reason 45:** The Regulation does not lay down requirements for markets when animals stay longer than 8 hours or overnight at the market.

45 **Demand 45:** The Regulation should lay down specifications to protect animals staying at the market longer than 8 hours, ensuring that they are properly accommodated in a calm environment and provided with water, food, and bedding material.

→ page 128

46 **Reason 46:** The Regulation does not foresee any requirements for trading birds and small mammals at markets.

46 **Demand 46:** Introduce specific requirements for keeping birds and small mammals at markets, requiring specific container (cage) sizes depending on the animals' size, ensuring that the animals can stand, sit, and lie down comfortably in their natural position without touching the sides or top cover. Requiring that the containers in which the animals are kept in are protected from wind, sun, or precipitation and (except in case of ratite and waterfowls) are kept in table height. Ensuring that the animals are protected from instant access by market users, that only animals of the same size and compatible to each other are kept together, and that the animals always have access to fresh water.

→ page 128/130

47 **Reason 47:** The Regulation does not require markets to set up contingency plans nor any type of anomaly reporting.

47 **Demand 47:** The Regulation should require the existence of emergency response plans for markets as well as incident reporting.

→ page 131

48 **Reason 48:** The Regulation does not ban the commercialization of 'spent' animals such as 'dairy cull' cows via markets.

48 **Demand 48:** 'Dairy cull' cows and other 'spent' animals should be banned from the commercialization at markets.

→ page 132/133

49 **Reason 49:** The Regulation does not foresee the appointment of an animal welfare officer at markets.

49 **Demand 49:** The Regulation should foresee the mandatory appointment of animal welfare officers at markets.

→ page 133/134

50 **Reason 50:** The Regulation does not foresee any camera surveillance at animal markets.

50 **Demand 50:** The Regulation should foresee the mandatory installation of surveillance cameras in the areas where animals are kept and traded and especially in loading and unloading bays of animal markets.

→ page 134

51 **Reason 51:** The Regulation grants the possibility to consider markets as places of departure even though the animals had not been accommodated there during 48 hours prior to the time of departure.

51 **Demand 51:** The Regulation should only permit markets to be considered as places of departure if the animals had been properly accommodated, rested and supplied there with food and water for at least 48 hours prior to reloading, or if the distance travelled between the first place of loading and the market is less than 2 hours and the animals have been accommodated with sufficient bedding, untied, if possible, and watered for at least 6 hours prior to the time of departure from market, the journey to the final destination does not exceed 8 hours and

the final destination is a holding where the animals are accommodated, rested and supplied for at least 48 hours or a slaughterhouse where the animals are killed.

→ page 135/136

CHAPTER XI:
Transporters' authorisation

52 **Reason 52:** The Regulation does not require all applicants of a transporter authorisation to submit the certificate(s) of competence of their driver(s)/attendant(s) to the competent authority.

52 **Demand 52:** Article 10 must require all transporter applicants to submit the valid certificate(s) of competence of all their driver(s) and attendant(s) to the competent authority.

→ page 137/138

53 **Reason 53:** The Regulation does not require all transporters to develop contingency plans.

53 **Demand 53:** Contingency plans must be mandatory for all transporters (Type 1 and Type 2) and should be tailored route-specific.

→ page 138/140

54 **Reason 54:** The Regulation leaves too much leeway as to when transporter authorisations should be refused.

54 **Demand 54:** Clarify and strengthen the reasons upon which the authorisation of a transporter should be refused:

- As part of the application process, the applicant must proof and guarantee the absence of any committed violations of animal protection in the last five years.
- Any infringements of animal protection/welfare legislation(s) within at least five years preceding the application should be considered.
- Delete in Article 10 point 1 (c):
  - 'record'
  - 'serious'
  - 'This provision shall not apply where the applicant demonstrates to the satisfaction of the Competent Authority that it has taken all necessary measures to avoid further infringements.'

→ page 140/144

CHAPTER XII:
Drivers' and attendants' competence

55 **Reason 55:** The Regulation does not require all drivers or persons acting as attendants on road vehicles to hold a certificate of competence.

55 **Demand 55:** The revised Regulation should foresee that all drivers and attendants accompanying animals during transport must hold a certificate of competence, when transporting any kind of live animals for commercial purposes.

→ page 145/146

56 **Reason 56:** The Regulation does not lay down uniform rules for the training and education of animal transport drivers and attendants.

56 **Demand 56:** The revised Regulation must foresee:

- Specification on the nature and minimum duration of the training courses for drivers and attendants.
- Compulsory practical exercises during and practical exam after the training course.
- Requirement that persons with relevant background must proof their knowledge in a theoretical and practical exam, in relation to the animals (species) they are applying for.
- Limited duration of validity for certificates of competence, or
- Holders of certificates of competence must exert refresher courses and examinations at defined regular intervals, otherwise the certificate should be suspended.

→ **page 147/150**

CHAPTER XIII:
Road vehicle standards and authorisations

57 **Reason 57:** The template for the certificate of approval for road vehicles used for long journeys laid down by the Regulation is not detailed enough.

57 **Demand 57:** Improvement of the certificate of approval template for road vehicles:

- Obligation to specify the category of animals allowed to be transported (by description, age, or weight) and on how many decks each category can be loaded.
- Obligation to indicate outside temperature restrictions for each vehicle.
- Obligation to indicate the type of watering system installed and for which species and categories of animals it is suitable.
- Obligation to indicate whether mechanical ventilation or air condition system is used.
- Obligation to specify the type of vehicle, e.g., truck and trailer or semitrailer with or without gooseneck and to indicate the surface of each single deck in the main body and in the gooseneck; if applicable, obligation to indicate the surface of compartments with given size, for example if partitions can be fixed only to certain points.

→ **page 151/156**

58 **Reason 58:** The Regulation does not require a uniform navigation/ tracing system for means of transport by road.

58 **Demand 58:** Introduction of a uniform and harmonised tracing (navigation and temperature monitoring) system to be used in all road vehicles, with defined minimum standards, indications where temperature sensors must be placed, and incorporating further parameters such as humidity and total loaded weight. Competent authorities must be granted mandatory real-time access to relevant data.

→ **page 157/159**

59 **Reason 59:** The Regulation does neither lay down uniform construction standards for road vehicles nor instructions for the approval of vehicles used for long journeys.

59 **Demand 59:** Introduction of general construction standards for all road vehicles; mandatory detailed inspection report template for the approval of road vehicles used for long journeys.

→ page 160/161

60 **Reason 60:** The Regulation does not require means of transport by road used for short journeys to be inspected or approved by competent authorities.

60 **Demand 60:** Introduction of general construction standards for all road vehicles and mandatory detailed inspection report template for the approval of road vehicles used for short journeys. Extension of the certificate of approval template for road vehicles used for long journeys to all road vehicles, according to the more detailed specifications outlined in Reason 59 above.

→ page 161/162

61 **Reason 61:** The Regulation does not specify that road vehicles may not present any interstices where animals can get trapped.

61 **Demand 61:** Introduction of general requirement for all road vehicles that no interstices shall be present where animals or parts of their bodies could get trapped.

→ page 162/166

62 **Reason 62:** The Regulation does not specify how means of transport by road shall protect animals from extreme weather conditions.

62 **Demand 62:** Specification on how animals shall be protected from inclement weather, extreme temperatures, and adverse changes in climatic conditions: all road vehicles should be equipped with side protections and ventilators, insulated roofs, and bedding.

→ page 166/167

63 **Reason 63:** The Regulation does not specify how access to the animals during transport shall be achieved.

63 **Demand 63:** Specification that each compartment on each deck must be accessible by at least one access door which is wide enough for an adult person to enter; requirement to carry a ladder in all road vehicles.

→ page 168/171

64 **Reason 64:** The Regulation does not lay down the nature/requirements for an anti-slip flooring.

64 **Demand 64:** Introduction of detailed requirements on the nature of floors to ensure anti-slip effect and requirement for bedding material for all road journeys.

→ page 172/173

65 **Reason 65:** The Regulation does not require road vehicles which transport animals in containers to be marked with an indication 'live animals'.

65 **Demand 65:** Road vehicles transporting containers with live animals must be required to be clearly and visibly marked indicating the presence of live animals.

→ page 173/174

CHAPTER XIV:
Containers and crates

66 **Reason 66:** The Regulation does not specify how animals transported in containers can be accessed.

66 **Demand 66:** Specify how to ensure that each container is accessible during road transport.

→ page 175/176

67 **Reason 67:** The Regulation does not require explicitly that special care must be taken with animals in containers to avoid trapping and subsequent injury/suffering/death.

67 **Demand 67:** Introduction of uniform and general standards/norms for the construction and design of containers, for all animals concerned: the design must reduce the risk of animals getting trapped with body parts to a minimum.

→ page 177/179

68 **Reason 68:** The Regulation does not specify how animals transported in containers shall receive water and feed.

68 **Demand 68:** Reduction of the journey time to 4 hours to avoid that animals transported in containers need to be supplied with water or feed during transport.

→ page 179/181

69 **Reason 69:** The Regulation does not prohibit the leakage of excrements from upper onto lower containers during transport in the case of poultry, rabbits, and fur animals.

69 **Demand 69:** Introduction of uniform and general standards/norms for the construction and design of containers, for all animals concerned. The design must ensure anti-slippery flooring and prevent excrements or liquids or other items leaking on animals placed in containers underneath.

→ page 181/182

CHAPTER XV:
Transport by sea: Roll-on/roll-off ferries

70 **Reason 70:** The Regulation does not clarify the responsibility during transports via roll-on/roll-off ferries.

70 **Demand 70:** The responsibilities for the animals during transports via roll-on/roll-off ferries must be clearly specified by the Regulation, for each involved party/stakeholder/person (organiser of the journey, road vehicle transport company, driver/attendant of the road vehicle/owner, operator, master, crew, or other natural or legal persons involved in the operation of the ferry).

→ page 183/186

71 **Reason 71:** The rules on journey times, resting periods and on watering and feeding intervals on roll-on/roll-off ferries are not clear.

71 **Demand 71:** Clearer rules for transports via roll-on/roll-off ferries:

- Roll-on/roll-off ferries may only be used save in the case the circumstances necessitate it and where there are no other means to reach the place of destination.
- The journey time at sea counts and must be included in total journey time calculations, and therefore added to loading and unloading operations and to the road journeys prior and after the sea leg of the journey.
- The journey time may only be exceeded if the sea leg itself is exceeding the maximum journey time, if there is no other means to reach the place of destination, and if the animals are unloaded from the road vehicle, watered, fed, and rested for 24 hours prior embarking the ferry and within 2 hours after disembarking the ferry.
- The watering and feeding intervals must be complied with during the sea journey.

→ page 186/190

72 **Reason 72:** The Regulation requires a resting period of only 12 hours after transports via roll-on/roll-off ferries.

72 **Demand 72:** The Regulation should be amended to require that the animals must be unloaded, fed, watered, and rested for 24 hours after a relevant transport on a ferry.

→ page 190/191

73 **Reason 73:** The Regulation leaves too much leeway as to what 'immediate vicinity' of the port of arrival means.

73 **Demand 73:** The revised Regulation should clearly define 'immediate vicinity' in kilometres or driving time.

→ page 192

74 **Reason 74:** The Regulation excludes roll-on/roll-off ferry transports to non-EU countries from the requirements of point 1.7 (b) of Chapter V of Annex I.

74 **Demand 74:** The revised Regulation should require that the animals must be rested after arrival at the port of destination if the maximum journey time was reached or exceeded at sea, no matter if the port of arrival is within or outside the European Union.

→ page 192/193

75 **Reason 75:** The Regulation does not specify how to protect animals from exposure to weather or temperature extremes on roll-on/roll-off ferries.

75 **Demand 75:** Introduction of requirements on the positioning of road vehicles on roll-on/roll-off ferries:

- Road vehicles shall not be parked between objects that may impede airflow.
- On open decks: road vehicles shall be protected from precipitation, direct sun, and sea water.
- On closed decks: road vehicles shall be protected from exhaust gases. Access to the deck for attendants and fresh air supply must be guaranteed in any situation.

→ page 193/195

CHAPTER XVI:
Live animal exports to countries outside EU and EFTA Member States

76 **Reason 76:** The Regulation does not prohibit the export of live animals for commercial purposes to countries outside EU and EFTA Member States although these exports are not in line with EU policies and contradict Article 13 of the Treaty on the Functioning of the European Union (TFEU).

76 **Demand 76:** Article 13 TFEU must be finally put into practice when it comes to live export policies. The export of live animals to non-EU countries (except EFTA) causes excessive pain and suffering to the animals, and thus is not in line with Article 13 TFEU. Consequently, live export to non-EU destinations (excl. EFTA) must be banned EU-wide.

→ page 196/210

77 **Reason 77:** The Regulation does not require animal welfare prerequisites to be part of bilateral contracts between EU (and its Member States) and non-EU countries concerning the export of live animals.

77 **Demand 77:** Animal welfare prerequisites must be included in all bilateral agreements between the EU (and its Member States) and non-EU countries whereas the animal welfare standards in the non-EU countries should be comparable with EU standard. The compliance of these animal welfare standards should be monitored independently, and in case of non-compliance with the standards sanctions must follow accordingly. This demand must be put in place without further delay until the definitive ban of the export of live animals to non-EU (non-EFTA) destination.

→ page 210/212

78 **Reason 78:** The Regulation does not require the exchange of information (database) for safe animal trade between EU and non-EU countries ensuring best possible welfare conditions.

78 **Demand 78:** The Regulation should require a mandatory feedback procedure between EU and non-EU countries after every export transport. Also, national contact points for animal transport should be appointed for the involved non-EU country who are competent and trained in the field of animal protection during transport and committed to achieve improvements for the animals. This demand must be put in place without further delay until the definitive ban of the export of live animals to non-EU (non-EFTA) destination.

→ page 213

CHAPTER XVII:
Export by sea: Vessel transport

79 **Reason 79:** The Regulation does not clarify the responsibilities during sea transport via 'livestock' vessel.

79 **Demand 79:** Sea transport by vessel to non-EU countries must be banned on an EU-wide level as it systematically disrespects EU law and ECJ ruling. The responsibilities of the organiser, transporter and crew members during the sea transport and the subsequent transport in the non-EU country are not defined and described in detail and, above all, the competent EU authorities lack a comprehensive control possibility to actually hold the non-EU parties concerned accountable and to ensure that the welfare of the animals is maintained until arrival to final destination in the non-EU country.

→ page 214/221

80 **Reason 80:** The Regulation does not lay down the mandatory presence of a certain number of veterinarians in accordance with the number of animals loaded.

80 **Demand 80:** EU-wide ban of exports of live animals by sea as there are severe animal welfare problems reported for sea transports, and because of insufficient resources, a lack of veterinarians and time made available in the EU Member States it cannot be ensured that:

- during the loading of the animals on the vessel, in-depth veterinary inspections on the single animals are conducted,
- during the sea transport, a sufficient number of veterinarians accompanies the animals to take adequate care of sick, injured or moribund animals,
- during loading and sea transport, a proper documentation about sick, injured, and dead animals is carried out for each journey and reported to the competent EU authorities accordingly.

→ page 222/224

81 **Reason 81:** The Regulation does not lay down that the veterinarians accompanying the animals during a journey must compile a daily log concerning sick, injured and dead animals.

81 **Demand 81:** As there is no reliable system in place to report sick, injured, or dead animals on vessels, such sea transports should be banned EU-wide without further delay.

→ page 225

82 **Reason 82:** The Regulation fails to ensure a uniform and proper certification system for the approval of 'livestock' vessels according to its Article 19.

82 **Demand 82:** During the last decades the EU has proven to be unable to implement a uniform and proper certification system for the approval of 'livestock' vessels. Considering the complexity of the problem, the lack of personnel in the administration in many countries and the lack of funds necessary to improve the system, everything speaks in favour of banning animal transports by 'livestock' vessel to and from the EU and no longer granting EU licences for 'livestock' vessels.

→ page 225/228

83 **Reason 83:** The Regulation does not adapt the journey log template for sea transports.

83 **Demand 83:** Considering that one of the aims of the revised Regulation is that it should be easier to enforce, not adding, unfulfillable control tasks to the authorities, transports by 'livestock' vessel from and to the EU should be banned.

→ page 229

CHAPTER XVIII:

Clear legal concepts and harmonized interpretation within the EU

84 **Reason 84:** The use of vague terms in the Regulation, unclear and contradictory provision and legal gaps, cause uncertainty and give rise to different interpretations, arbitrary and discriminatory enforcement and lack of harmonization in the application of the Regulation.

84 **Demand 84:** In the revised Regulation, vague terms and unclear provisions must be substituted with definite, precise, clear, and measurable indications. Loopholes and contradictions must be eradicated.

→ page 230/231

85 **Reason 85:** The Regulation does not lay down clear legal provisions for the transport of aquatic 'farm' animals.

85 **Demand 85:** The revised Regulation must consider the species-specific needs of fishes during transport and set up species-specific rules accordingly. Due to the complexity and differing needs of fishes, it is advisable to draw up a separate regulation specifically for aquatic 'farm' animals.

→ page 232

CHAPTER XIX:

Official controls and accompanying documents

86 **Reason 86:** The Regulation (EU) 2017/625 will abrogate parts of the Regulation (EC) 1/2005 concerning official controls.

86 **Demand 86:** In any case, under no circumstances should official controls on animal transports become weaker than in the current Regulation.

→ page 233/234

87 **Reason 87:** The Regulation does not foresee the mandatory presence of an official veterinarian at the time of loading.

87 **Demand 87:** The presence of an official veterinarian at the time of loading must be mandatory. This has to be taken into account when adopting delegated acts according to Article 20 (2) of the Official Controls Regulation in order to ensure that official checks on animal welfare prior to journey approval are carried out on EU-wide comparable and high level.

→ page 234/237

88 **Reason 88:** The Regulation does not define the average speed to be used to calculate the journey time.

88 **Demand 88:** Define a realistic average speed for future calculation of journey times.

→ page 237/238

89 **Reason 89:** The Regulation does not lay down that the organiser, transporter, and official veterinarian must consider the social regulation for drivers when planning, approving and executing animal transports.

89 **Demand 89:** Introduce an absolute journey time limit to 8 hours to ensure compatibility with drivers' hours according to social legislation relating to road transport.

→ page 238

90 **Reason 90:** The Regulation does not foresee that the completed journey log must always be automatically returned to the place of departure.

90 **Demand 90:** Introduce to the revised Regulation that copies of the completed journey log and corresponding records have to be returned to all competent authorities involved in the transport in question on a mandatory basis within two weeks after completion of the journey. Furthermore, the competent authority should have the possibility and obligation, respectively, to deny issuing new transport documents if a transporter/organiser did not return the documents of a previous journey hindering retrospective checks.

→ page 239/240

91 **Reason 91:** The Regulation does not foresee routine post-festum checks.

91 **Demand 91:** Routine post-festum checks must be carried out on a mandatory basis whereas the frequency of the checks must be adjusted to the transport route, animal species and number of animals and transports concerned. This has to be taken into account when adopting implementing acts according to Article 21 (9) of the Official Controls Regulation in order to ensure that retrospective checks on the compliance of animal transports are carried out routinely, used for risk analyses and uniformly conducted among the EU Member States.

→ page 240/241

92 **Reason 92:** Journey logs accompanying transports to non-EU countries are often only filled in with the information regarding the part of the journey taking place in the EU.

92 **Demand 92:** Journey logs accompanying transports to non-EU countries via sea, air or road, must be filled in with details about the entire journey up to the final destination in the non-EU country.

→ page 242

93 **Reason 93:** The template of the journey log does not indicate sufficient details for the veterinary office at departure to check that the journey is realistic and complies with the Regulation.

93 **Demand 93:** Revise the template of the journey log, in order to indicate all the necessary information describing the entire transport from departure to destination, even when it takes place with different means of transports and outside the EU.

→ page 243

CHAPTER XX:

The sanctioning system and enforcement of the Regulation

94 **Reason 94:** The rules on penalties applicable to infringements of the provisions of the Regulation are uneven and inconsistent, differing immensely from Member State to Member State and giving rise to market distortion.

94 **Demand 94:** Following corresponding legal studies, the revised Regulation should introduce a harmonized sanctioning system.

→ page 244/246

95 **Reason 95:** The penalties applicable to infringements of the provisions of the Regulation are not effective, dissuasive, and proportionate in all EU Member States.

95 **Demand 95:** On the base of a comparative study, the revised Regulation should provide uniform and common categories of offences and sanctions which must be effective, dissuasive, and proportionate.

→ page 247/248

96 **Reason 96:** The authorities competent to enforce the Regulation differ from Member State to Member State.

96 **Demand 96:** The revised Regulation should give the competence to carry out animal welfare checks on animal transports to the state veterinary services, road police and border customs in all EU Member States.

→ page 248

97 **Reason 97:** The Regulation does not specify the entities empowered to levy fines on violations of the Regulation.

97 **Demand 97:** The revised Regulation should ensure that all field inspectors are empowered to levy fines on violations of the Regulation on the spot.

→ page 249

98 **Reason 98:** There is ongoing lack of coordination and exchange of information among the EU Member States, concerning violations of the Regulation.

98 **Demand 98:** The revised Regulation should establish and implement an electronic database for the notification of infringements that allows an easy access for analysis and statistics.

→ page 249/250

99 **Reason 99:** The emergency measures laid down in the Regulation have economic implications, among others, which weaken their application.

99 **Demand 99:** The revised Regulation should specify subjects to be charged of the costs of emergency measures. Organiser and transporter should be held responsible, in solidum. Payment on the spot should be provided.

→ page 250/251

100 **Reason 100:** The Regulation inflicts sanctions for the infringement of its provisions to the transport companies only.

100 **Demand 100:** The Regulation must specify which parties of the transport chain will be liable for which category of offence, separately or jointly and severally. Authorities approving transports violating the Regulation must be held responsible, too.

→ page 251/252

CHAPTER XXI:

Translation problems

101 **Reason 101:** Translation errors in the Regulation lead to legal uncertainties and cause differences in implementation and enforcement.

101 **Demand 101:** The regulatory text should be substantially simplified to keep mistranslations to a minimum.

→ page 253/254

CHAPTER XXII:

Our responsibility as caring humans

102 **Reason 102:** Because we are not only responsible for our actions but also the things we accept without a word of protest.

102 **Demand 102:** We call for a strict revision of the Regulation in favour for the animals and aiming their best possible protection during transport. But above all, we call for a rethink. Article 13 TFEU recognises animals as sentient beings. It is high time to do justice to this recognition.
The revised Regulation on the protection of animals during transport has to reflect a morally acceptable treatment of animals that respectfully considers their life and their suffering as sentient beings.

→ page 255


ANIMALS' ANGELS
we are there with the animals