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

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament[(1)],

Having regard to the Opinion of the European Economic and Social Committee[(2)],

Following consultation of the Committee of the Regions,

Whereas:

(1) The Protocol on protection and welfare of animals annexed to the Treaty requires that in formulating and implementing agriculture and transport policies, the Community and the Member States are to pay full regard to the welfare requirements of animals.

(2) Under Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport[(3)], the Council has adopted rules in the field of the transport of animals in order to eliminate technical barriers to trade in live animals and to allow market organisations to operate smoothly, while ensuring a satisfactory level of protection for the animals concerned.

(3) The Report from the Commission to the European Parliament and the Council on the experience acquired by Member States since the implementation of Council Directive 95/29/EC of 29 June 1995 amending Directive 91/628/EEC concerning the protection of animals during transport[(4)], as required under Directive 91/628/EEC, recommended amending current Community legislation in this field.

(4) Most Member States have ratified the European Convention for the protection of animals during international transport and the Council has given a mandate to the Commission to negotiate on behalf of the Community the revised European Convention for the protection of animals during international transport.

(5) For reasons of animal welfare the transport of animals over long journeys, including animals for slaughter, should be limited as far as possible.

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EC) No 1/2005. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) The Council invited the Commission on 19 June 2001[(5)] to submit proposals for ensuring effective implementation and strict enforcement of existing Community legislation, improving the protection and welfare of animals as well as preventing the occurrence and spread of infectious animal diseases, and putting in place more stringent requirements so as to prevent pain and suffering in order to safeguard the welfare and health of animals during and after transport.

(7) On 13 November 2001, the European Parliament called on the Commission to present proposals for amending existing Community rules on the transport of livestock, in particular with a view to:

— consulting the competent scientific committee on the duration of animal transport,

— presenting a harmonised European model certificate for transporters; harmonising route plans for long transport,

— ensuring that any member of staff handling livestock during transport has completed a training course recognised by the competent authorities, and

— ensuring that veterinary checks at Community border inspection posts include comprehensive inspection of the welfare conditions in which animals are transported.

(8) The Scientific Committee on Animal Health and Animal Welfare adopted an opinion on the welfare of animals during transport on 11 March 2002. Community legislation should therefore be amended to take into account new scientific evidence while giving priority to the need for its enforceability to be properly ensured in the immediate future.

(9) Specific provisions for poultry, cats and dogs will be set out in appropriate proposals when the relevant opinions of the European Food Safety Authority (EFSA) are available.

(10) In the light of experience gained under Directive 91/628/EEC in harmonising Community legislation on the transport of animals, and the difficulties encountered due to the differences in transposition of that Directive at national level, it is more appropriate to set out Community rules in this field in a regulation. Pending the adoption of detailed provisions for certain species having particular needs and representing a very limited part of the Community livestock, it is appropriate to allow Member States to establish or maintain additional national rules applying to transport of animals of such species.

(11) In order to ensure a consistent and effective application of this Regulation across the Community 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 interpreted and applied in accordance with the aforesaid principle and 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.

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(12) Transport for commercial purposes is not limited to transport where an immediate exchange of money, goods or services takes place. Transport for commercial purposes includes, in particular, transport which directly or indirectly involves or aims at a financial gain.

(13) The unloading and subsequent reloading of animals could also be a source of stress for them and contact at control posts, formerly referred to as staging points, could in certain conditions lead to the spread of infectious diseases. It is therefore appropriate to provide for specific measures safeguarding the health and welfare of animals when resting at control posts. As a result, it is necessary to amend the provisions of Council Regulation (EC) No 1255/97 of 25 June 1997 concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive 91/628/EEC[(6)].

(14) Poor welfare is often due to lack of education. Therefore, training should be a prerequisite for any person handing animals during transport and training should be provided only by organisations approved by the competent authorities.

(15) Welfare conditions of animals during transport result mainly from the day-to-day conduct of the transporters. Checks by competent authorities may be hindered as transporters can freely operate in different Member States. Therefore, transporters should be more accountable and transparent concerning their status and operations. In particular they should provide proof of their authorisation, systematically report any difficulty and keep precise records of their actions and the results.

(16) Animal transport involves not only transporters but also other categories of operators such as farmers, traders, assembly centres and slaughterhouses. As a consequence, some obligations regarding the welfare of animals should be extended to any operator involved in the transport of animals.

(17) Assembly centres play a critical role in the transport of some livestock species. Therefore, assembly centres should ensure that Community legislation on the protection of animals during transport is known and respected by their employees and visitors.

(18) Long journeys are likely to have more detrimental effects on the welfare of animals than short ones. Hence specific procedures should be designed to ensure better enforcement of the standards, in particular by increasing the traceability of such transport operations.

(19) Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport[(7)] provides for maximum driving periods and minimum rest periods for road drivers. It is appropriate that journeys for animals are similarly regulated. Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport[(8)] provides for recording equipment to be installed and used to ensure effective checking on compliance with social legislation concerning road transport. It is necessary that such record data be made available and checked so as to enforce travelling time limits under animal welfare legislation.

(20) Insufficient exchange of information between competent authorities leads to inadequate enforcement of Community legislation for the protection of animals during transport.

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Accordingly, it is necessary to set up flexible procedures to improve the level of collaboration between the competent authorities in the different Member States.

(21) Registered Equidae, as defined in Article 2(c) of Directive 90/426/EEC[(9)], are frequently transported for non-commercial purposes and such transports must be carried out in line with the overall objectives of this Regulation. Having regard to the nature of such movements, it appears appropriate to derogate from certain provisions where registered Equidae are transported for competition, races, cultural events or breeding. However, it is not appropriate to apply such derogation to Equidae transported, directly or after transit through a market or marshalling centre, to a slaughterhouse for slaughter, which in accordance with Article 2(d) and 8(1), second indent of Directive 90/426/EEC, are to be considered as 'Equidae for slaughter'.

(22) Inadequate follow-up of infringements of legislation on animal welfare encourages non-compliance with such legislation and leads to distortion of competition. Therefore, uniform procedures should be established throughout the Community to increase checks and the imposition of penalties for infringements of animal welfare legislation. The Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive.

(23) A significant number of animals are transported by livestock vessels over very long journeys from and within the Community and transport by sea can be checked at the place of departure. Therefore, it is essential to set up specific measures and standards for this mode of transport.

(24) In the interests of consistency of Community legislation, Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine[(10)] should be amended so as to adapt it to this Regulation as regards the approval of assembly centres and the requirements for transporters.

(25) Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter and killing[(11)] should also be amended so as to adapt it to this Regulation as regards the use of electric prods.

(26) Rules and information procedures laid down by Council Directive 89/608/EEC of 21 November 1989 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of legislation on veterinary and zootechnical matters[(12)] should be applied to animal welfare during transport in order to ensure compliance with this Regulation.

(27) Commission Decision 98/139/EC[(13)] lays down certain detailed rules concerning on-the-spot checks carried out in the veterinary field by Commission experts in the Member States which should help to ensure that this Regulation is complied with in a uniform manner.

(28) This Regulation sets out provisions concerning ventilation in road vehicles transporting livestock on long journeys. Accordingly, Council Regulation (EC) No 411/98 of 16 February 1998 on additional animal protection standards applicable to road vehicles

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used for the carriage of livestock on journeys exceeding eight hours[(14)] should be repealed.

(29) It is appropriate to provide for a simple procedure for the Council to update certain important technical elements of this Regulation in particular in the light of an assessment of its impact on transport of live animals within an enlarged Community and establish the specifications of the Navigation System to be used for all means of transport by road in the light of the future technological developments in the area such as the coming into fruition of the Galileo system.

(30) It is appropriate to provide for a possibility to establish derogations to take account of the remoteness of certain regions from the mainland of the Community, in particular for outermost regions referred to in Article 299 of the Treaty.

(31) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(15)],

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE, DEFINITIONS AND GENERAL CONDITIONS FOR THE TRANSPORT OF ANIMALS

Article 1

Scope

1 This Regulation shall apply to the transport of live vertebrate animals carried out within the Community, including the specific checks to be carried out by officials on consignments entering or leaving the customs territory of the Community.

2 Only Articles 3 and 27 shall apply to:

a the transport of animals carried out by farmers using agricultural vehicles or means of transport belonging to them in cases where the geographical circumstances call for transport for seasonal transhumance of certain types of animals;

b transport carried out by farmers, of their own animals, in their own means of transport for a distance of less than 50 km from their holding.

3 This Regulation shall not be an obstacle to any stricter national measures aimed at improving the welfare of animals during transport taking place entirely within the territory of a Member State or during sea transport departing from the territory of a Member State.

4 This Regulation shall apply without prejudice to Community veterinary legislation.

5 This Regulation shall not apply to the transport of animals which does not take place in connection with an economic activity and to the transport of animals directly to or from veterinary practices or clinics, under the advice of a veterinarian.