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signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
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the impact of Council Regulation (EC) No 1/2005 on the protection of animals  
during transport

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**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**

# 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

### 1. INTRODUCTION

The EU has had rules governing animal welfare during transport since 1977<sup>1</sup>. The rules aim 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.

The EU legislation was last updated by Council Regulation (EC) No 1/2005 on the protection of animals during transport<sup>2</sup> (hereinafter "the Regulation"), which was adopted on 22 December 2004. Article 32 of the Regulation states that *"the Commission shall present a report to the European Parliament and to the Council on the impact of this Regulation on the welfare of animals being transported and on the trade flows of live animals within the enlarged Community. In particular the report shall take into account scientific evidence on the welfare needs of animals, and the report on the implementation of the navigation system (...) as well as the socio-economic implications of this Regulation, including regional aspects"*. This report is the Commission's response to this request.

This report aims to provide a state of play as regards the impact of the Regulation on animal welfare and intra-Union trade; its socio-economic and regional implications as well as the implementation of the navigation systems, as requested in point 4.3 of Chapter VI of Annex I to the Regulation. Furthermore, the report contains information in relation to enforcement of the EU legislation.

The Regulation applies to the transport of vertebrate animals transported in connection with an economic activity. However, since the details of the Regulation mainly concern farmed animals such as cattle, pigs and horses, the content of this report mainly focuses on the transport of these animals. It does not take the transport of other species, such as dogs and cats, poultry, animals kept for scientific purposes, and exotic species, into account.

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<sup>1</sup> Council Directive 77/489/EEC of 18 July 1977 on the rules on the protection of animals during international transport; O J L 200, 8.8.1977, p. 10-16.

<sup>2</sup> 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 O J L 3, 5.1.2005, p. 1.

Specific problems and actions concerning the transport of fish - identified under the Commission Strategy for the Sustainable Development of European Aquaculture<sup>3</sup> - should also be examined in the context of the present report.

A glossary of technical terms is provided at the end of this Report.

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<sup>3</sup> COM (2009) 162 final.

## 2. IMPACT OF THE REGULATION

Council Regulation No (EC) 1/2005 entered into force in January 2005 and became applicable on 5 January 2007. To establish if, and if so to which extent, the adoption of the Regulation has had an impact on the factors mentioned in Chapter 1 (trade, animal welfare etc.) a comparison of the data from before and after the application of the Regulation (2007) has been made<sup>4</sup>. In addition to internal Commission data, the main sources of information for this report are the following.

- The "*Scientific Opinion Concerning the Welfare of Animals during Transport*", adopted by the European Food Safety Authority (EFSA) in December 2010<sup>5</sup>.
- Member States official reports on inspections<sup>6</sup>.
- Official information provided by EU stakeholders.
- Commission report on infringements against the social rules in road transport<sup>7</sup>.
- Information gained from formal complaints and infringements proceedings.

In 2010 the Commission commissioned an external study to assess the impact of the Regulation<sup>8 9</sup>. The final report of the study, including the scope and limitations of the study, is published on the Commission website<sup>10</sup>.

The findings of the study and the information received from the sources listed above have been analysed to identify the general tendencies and impacts that have occurred since the application of the Regulation in 2007<sup>11</sup> and in particular the following:

- (1) The impact on intra-Union trade in live animals;
- (2) The regional and socio-economic implications of the Regulation;
- (3) A comparison of the quality of animal welfare during transport before and after the application of the Regulation;
- (4) The assessment of the requirements of the Regulation taking into consideration the scientific opinion adopted by the European Food Safety Authority in December 2010.
- (5) An analysis of the use of the navigation systems.

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<sup>4</sup> Bulgaria and Romania entered the EU in 2007. According to Eurostat, those Member States account for approximately 2,5 % of the total EU-production of meat and the impact of this enlargement on the intra-Union transport in live animals other than horses, has therefore, in this report, been regarded as minor. EFSA Journal 2011; 9(1):1966 [125 pp.].

<sup>6</sup> According to Article 27 of the Regulation Member States shall submit annually a report on their inspections in relation to the Regulation.

<sup>7</sup> COM (2009) 225 final Report from the Commission, Analysing the penalties for serious infringements against the social rules in road transport, as provided for in the legislation of the Member States.

<sup>8</sup> Study on the impact of Regulation (EC) No 1/2005 on the protection of animals during transport, SANCO/2010/D5/116733.

<sup>9</sup> <http://www.ibf.be/animalstransport/>

<sup>10</sup> [http://ec.europa.eu/food/animal/welfare/index\\_en.htm](http://ec.europa.eu/food/animal/welfare/index_en.htm)

<sup>11</sup> The Regulation, except for Article 6(5), applies as of 5 January 2007, cf. Article 37 of the Regulation.

(6) The level of compliance and enforcement.

Please find a further description of the items listed above in the following subchapters; 2.1 – 2.6.

## 2.1. The impact on intra-Union trade in live animals

Each year large numbers of live animals are transported between Member States, and to and from third countries<sup>12</sup>. There are several reasons for this trade and the trade patterns have been maintained after the application of the Regulation and the EU-enlargement 2007<sup>13</sup>. Movements of animals within Member States are not subject to a compulsory declaration, and therefore there is no data on the total number of animals transported within the individual Member States of the EU.

Data on intra-Union trade and import to/export from the EU in live animals shows that the total number of live animals transported was roughly the same in 2005 as in 2009. However, there are some differences between species as shown in **Table 1**, and notably the number of horses transported for more than 24 hours decreased significantly while the number of pigs transported increased by 70 % during the same period. The reasons for these changes have not been analyzed within the framework of this report and therefore no firm conclusions can be established.

**Table 1: Total number of live animals transported (intra Union trade and import to/export from EU) per species 2005 and 2009.**

**Source: External report (using data from Traces)**

		2005	2007	2009	% change 2005 - 2009
<b>Cattle</b>	<b>Total</b>	3,973,008	4,222,859	4,299,255	+ 8 %
<b>Pigs</b>	<b>Total</b>	16,438,637	21,696,563	27,802,500	+ 70 %
<b>Sheep</b>	<b>Total</b>	4,209,196	9,112,233	4,335,078	+ 3 %
<b>Horses</b>	<b>Total</b>	176,348	224,449	147,122	- 17 %
Horses	> 24 h	58,224	67,739	39,371	- 33 %

The analysing of data on production costs and market movements provided by the external report have confirmed that one of the main reasons for this trade is still to exploit price differentials between Member States. The cost of feed is one of the most important cost factors in animal production, and this cost varies between Member States and regions. Furthermore, a limited slaughter or processing capacity in some Member States as well as the fact that regional production of meat within the EU does not equal regional consumption, may also encourage intra-Union trade in live animals. However, it should be noted that most of the intra-Union transport in

<sup>12</sup> According to the external report, approximately 37 million live cattle, pigs, sheep, goats and horses were transported within Member States and to and from third countries in 2009. In addition, the same year more than 1 billion poultry was transported.

<sup>13</sup> Bulgaria and Romania entered the EU in 2007.

live animals takes place between a few Member States. Seven Member States<sup>14</sup> account for 60 % of the intra-Union trade in cattle and almost 70 % of pigs are transported from Denmark or the Netherlands while Germany receives more than 50 % of all transported pigs.

There has been an increase in the total number of consignments of live animals between 2005 and 2009 for the import/export and intra-Union trade. The number of consignments for both short and long distance transport increased during this period while those carrying out very long transport, that require unloading and 24 hours rest of the animals before continuing the journey, remained roughly the same. As shown in **Table 2**, approximately 65-70 % of cross-border animal transportation is made up by short journeys. 25 – 30 % of the consignments carry out long journeys while the very long journeys make up 5 %. Those proportions have remained approximately the same when comparing 2005 and 2009. It should be pointed out that even though the total intra-Union trade in live animals has not been affected by the introduction of the Regulation, no in-depth assessment has been made to measure possible impact on individual Member States.

It should also be noted that according to this data, a number of consignments appear to have been carried out without specific indications of travelling time and that this number increased five-fold (in comparison to the total number of consignments) when comparing 2005 and 2009.

**Table 2: Number of consignments of live animals<sup>15</sup> (Intra-Union trade and import to/export from the EU-27) in 2005 and 2009 shown in duration of transport.**

**Source: External report (using data from Traces)**

	2005	% of consignments	2009	% of consignments	% difference 2005 – 2009
<b>Total</b>	315,237	100 %	399,988	100 %	+ 27 %
<b>Travelling time</b>					
<b>&lt;8 hours</b>	214,831	68 %	261,387	65,5 %	+ 21 %
<b>8-19/24/29 hours</b>	83,513	26,5 %	114,820	28,5 %	+ 37 %
<b>&gt;19/24/29 hours</b>	15,731	5 %	16,619	4 %	+ 5 %
<b>Time not available</b>	1, 162	< 0,5 %	7, 162	< 2 %	

As shown in **Table 3**, the number of consignments carrying horses increased by 31 % while at the same time the number of transported horses decreased, as shown in **Table 1**. This might be an effect of the requirement introduced by the Regulation to separate horses during transport, which would have led to a reduction in the average number of animals transported per truck. However, there is not sufficient data to confirm this conclusion.

<sup>14</sup> Belgium, France, Germany, Poland, Italy, the Netherlands and Spain.

<sup>15</sup> Cattle, pigs, sheep, goats, poultry and horses.

**Table 3: Total number of consignments (Intra-Union trade and import to/export from the EU) per species 2005 and 2009.**

**Source: External report (using data from Traces)**

Species	2005	2009	% difference
Cattle	118,142	127,685	+ 8 %
Pigs	85,336	125,889	+ 47.5 %
Horses	29,740	38,930	+ 31 %

## **2.2. The regional and socio-economic implications of the Regulation**

Data suggests that the Regulation has had no particular impact on animal husbandry in remote areas, including the outermost regions<sup>16</sup>, of the European Union. In most of the remote areas, animal production remains at the same level as before the introduction of the Regulation. For example, based on data on the sheep populations in certain remote regions of the EU, such as Scotland and Sicily, no major variation in the number of farmed sheep could be found when comparing 2005 and 2009.

As shown in Chapter 2.1, there has not been any major change in the number of animals transported cross-border and it could therefore be assumed that there has not been any major impact on the industry. However, the Regulation has had economic implications, mainly for transport companies. The costs are related to administrative measures and to investments for upgrading vehicles for long journeys. (A detailed description of those measures and the related costs is presented in subchapters 2.2.1 and 2.2.2.) It appears that transport companies have not been able to pass these costs on to other actors in the food business. It could be assumed that this is due to the fact that the animal transport sector is highly competitive. Market prices for live animal transport have remained constant or even fallen in the period between 2005 and 2009. Consequently, the profit margins for transport companies have been reduced. As further explored in Chapter 2.6.1, differences between Member States in interpretation and enforcement of the Regulation have led to some market distortions. When this is considered in connection with the reduced profit margins, we could assume a negative impact on animal transport businesses.

While acknowledging the increased costs for the animal transport industry, it should be pointed out that the predominant factors that have an impact on costs for transporting animals, such as vehicle purchase and costs for labour and fuel, are not related to the Regulation. Costs directly related to animal transport are also imposed by animal health legislation, such as costs for cleaning and disinfecting of vehicles as well as costs for administrative measures, which are described in subchapter 2.2.1.

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<sup>16</sup> Listed in Article 349 TFEU (i.e. Guadelupe, French Guiana, Martinique, Réunion, Saint-Barthélemy, Saint-Martin, the Azores, Madeira and the Canary Islands).

According to the High Level Group of Independent Stakeholders on Administrative Burdens (the High Level Group)<sup>17</sup>, the Regulation has created significant administrative costs<sup>18</sup>. However, according to the external report, for most species the increase in costs due to the Regulation is estimated at less than 1 % of the total cost for transporting animals. For transport of horses, which represent the highest increase in costs, the contractor has estimated the raise to be no more than 3 % of the total increase of the costs.

### 2.2.1. *Costs derived from administrative requirements*

As the external report reveals, and as shown in **Table 4**, there is a large variation between Member States in administrative costs to comply with the Regulation. One example is the estimated cost to obtain authorisations for transporters<sup>19</sup>. The discrepancy as regards the estimated administrative costs caused by the Regulation could possibly partly be explained by the fact that the costs calculated by the High Level Group appear to include other costs than those related to Regulation (EC) No 1/2005 on the protection of animals during transport<sup>20</sup>, while the estimation made by the contractor only contains costs incurred by this Regulation.

**Table 4: Average costs for administration. Source: External report<sup>21</sup>**

Item	Administrative costs (EU average)
<b>Costs applying approximately every fifth year<sup>22</sup></b>	
Vehicle approval	€ 26 (range € 1.65 - € 30)
Obtaining authorisation for transporters	€ 515 (range € 33 – € 605)
<b>Costs per cargo</b>	
Costs such as drawing up and submitting journey logs to the competent authority	€ 22 (range € 1.37 – € 25.21)

To decrease the administrative costs, the High Level Group recommends "a move to electronic technology, so that Member States can make life easier for businesses by facilitating storage and communication of data required by administrations"<sup>23</sup>. One reason for introducing requirements for navigation systems in the Regulation was

<sup>17</sup> Cf. Commission Decision C(2007) 4063 of 31 August 2007 setting up the High Level Group of Independent Stakeholders on Administrative Burdens.

<sup>18</sup> "Two information obligations – "Drawing up and keeping available transport and planning information" and "Drawing up of a disinfection register" – alone account for € 1.6 bn. in administrative costs, representing 30% of the total administrative cost arising from EU information obligations. Both stem from Regulation (EC) No 1/2005 on animal health during transport and related operations", cf. Opinion of the High Level Group on administrative burden reduction in the priority area food safety, 4 March 2009, page 3.

<sup>19</sup> A transporter will pay 605 Euros in France and 33 Euros in Bulgaria to obtain the same authorisation (18 times more).

<sup>20</sup> One example is that there is no requirement in Regulation 1/2005 to draw up a disinfection register.

<sup>21</sup> The sources of information used by IBF to evaluate administrative impacts are Eurostat and an IBF inquiry.

<sup>22</sup> Cf. Articles 6 and 7 of the Regulation.

<sup>23</sup> Opinion of the High Level Group on administrative burden reduction in the priority area food safety, 4 March 2009, page 3.

indeed to make it possible for the transport industry and competent authorities to reduce administrative burdens related to the use of journey logs. However, in practice neither industry nor authorities appear to have taken full advantage of the opportunities to reduce administrative burden provided by the navigation systems, as will be further evaluated in Chapter 2.5. As already mentioned there are also administrative costs incurred under the animal health legislation. Those include costs for carrying out animal health checks as well as certification and notification of the animals' movements for traceability purposes<sup>24</sup>.

The possibility to further integrate the administrative obligations stemming from animal health and animal welfare legislation will be further discussed also in the course of the current review of EU animal health legislation<sup>25</sup>.

### 2.2.2. *Costs for upgrading vehicles*

Apart from administrative costs, the Regulation introduced costs for upgrading vehicles. A summary of the major costs related to the upgrading of vehicles is shown in **Table 5**. These costs also vary, depending on different factors. According to the external report, the costs for installing the satellite navigation system vary between 250 and 6.000 euro. No in-depth assessment of the reasons for these differences was carried out in the framework of this report. However, one reason for those differences seems to be that in some cases a navigation system more sophisticated than required by the Regulation is installed.

**Table 5: Costs for upgrading a truck with trailer. Source: External report<sup>26</sup>**

<b>Requirement in the Regulation</b>	<b>Estimated costs (EU average)</b>
Insulated roof and drinking devices with tank	€ 5 000
Satellite navigation system, including temperature monitoring and recording system	€ 3 800
Ventilation system	€ 2 300
<b>Total costs for upgrading vehicle</b>	<b>€ 11 900</b>

### 2.3. **A comparison of the quality of animal welfare during transport before and after the application of the Regulation**

Although no firm conclusions can be established, available data indicate that since 2005 the overall quality of animal transport on long journeys has improved, notably due to improved vehicles and better handling of the animals. The latter appears to be

<sup>24</sup> TRACES – (TRAdE Control and Expert System) a trans-European network for veterinary health which notifies, certifies and monitors imports, exports and intra-Union trade in animals and animal products.

<sup>25</sup> The EU-legislation on animal health is currently being reviewed and certain costs for controls and administration related to this legislation may be revised.

<sup>26</sup> The contractor used the following sources of information as regards these costs: Literature, case studies, IBF inquiry, information from The European Livestock And Meat Trading Union (UECBV), Eurostat.

the result of the proper implementation of the stricter training obligations for personnel handling animals, which was introduced by the Regulation<sup>27</sup>.

The data<sup>28</sup> supporting these conclusions also show that the percentage of transported animals with lameness, injuries, dehydration and exhaustion decreased, or remained unchanged, between 2006<sup>29</sup> and 2009.

Concerning the animals reported "dead on arrival", the numbers decreased significantly from 2005 to 2009. The difference was greater for long transport than for shorter transport. There has also been a significant decrease in the number of animals "observed unfit for travel upon arrival at destination".

Even though animal welfare in general has improved after the introduction of the Regulation, the available information shows that severe animal welfare problems during transport persist. Most of these problems appear to be related to poor compliance of some requirements of the Regulation. These issues are further discussed in Chapter 2.6.

#### **2.4. The assessment of the requirements of the Regulation taking into consideration the scientific opinion adopted by the European Food Safety Authority in December 2010**

In general, the Regulation is based on a scientific opinion on the welfare of animals during transport adopted by the Scientific Committee on Animal Health and Welfare on 11 March 2002. However, provisions in the Regulation which apply to transport time, resting time and space allowances were taken from the previous Directive<sup>30</sup>. In 2010, in order to receive updated scientific evidence and to compile the present report, the Commission requested the European Food Safety Authority (EFSA) to provide a scientific opinion on the welfare of animals during transport.

The EFSA opinion was adopted on 2 December 2010<sup>31</sup>. In the conclusions of the opinion, scientists recognise that parts of the present Regulation are not in line with current scientific knowledge, and point out specific areas where future research is recommended.

In particular, scientists recommend that transport time for horses for slaughter should be shorter than that provided in the Regulation. Concerning other species, and in particular sheep, scientists found that under very good transporting conditions regarding stocking density, straw, feed, water and ventilation, the welfare of the animals is more dependent on driving quality than on transport time.

The findings of the opinion suggest that the space allowances provided by the Regulation should be recalculated, using a formula that considers the animals' size in comparison to their weight. Furthermore, according to the opinion, it would be

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<sup>27</sup> According to Article 6(4) of the Regulation.

<sup>28</sup> Based on a questionnaire developed by the contractor. Farmers, slaughterhouses, trade and transport companies, control post owners, national competent authorities, animal welfare groups and scientists working in the field of live animal transport replied to the questionnaire.

<sup>29</sup> The data gathered by the contractor on this question does not include information from 2005.

<sup>30</sup> Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC; OJ L 340, 11.12.1991, p. 17.

<sup>31</sup> Scientific Opinion Concerning the Welfare of Animals during Transport", adopted by the European Food Safety Authority (EFSA) in December 2010, EFSA Journal 2011;9(1):1966 [125 pp.].

appropriate to define specific requirements for certain elements of the legislation such as the internal height of the compartments in road vehicles.

## **2.5. An analysis of the use of the navigation systems**

The Regulation introduced a requirement for vehicles approved for long journeys to be equipped with a navigation system. When adopting this particular requirement, the Council mandated the Commission to perform a specific detailed analysis of the implementation of this new technology. In particular the intention was to improve the quality of the controls on travelling times and resting periods while at the same time reducing administrative burden. The legislation requires that the system records the following information; the transporter's name and authorisation number; opening/closing of the loading flap and the time and place of departure and destination. The recorded data shall be made available to the competent authority upon request.

Information available<sup>32</sup> shows that despite the fact that the Regulation has been applied for more than four years, there are still important differences between Member States as regards the implementation of the requirements related to navigation systems. Most Member States do not yet have a comprehensive approach on how to check whether the systems installed comply with the Regulation, and few controlling authorities use the data collected via the navigation system to carry out checks in accordance with the Regulation. In many cases the data is only considered after the competent authority has detected an infringement during a physical control before or during transport or at the place of destination. It is therefore concluded that the navigation systems are not used in a wide perspective to improve controls.

## **2.6. The level of compliance and enforcement**

Member States are responsible for the enforcement of the Regulation. The Commission inspection service of Directorate General for Health and Consumers (FVO, Food and Veterinary Office), located in Grange, Ireland, audits the work of competent authorities of the Member States. Reports<sup>33</sup> from these audits are the main source of information for the Commission's evaluation of the state of play on enforcement throughout the EU.

In addition, pursuant to Article 27 of the Regulation, Member States submit an annual report to the Commission on their inspection activities as well as information on what actions the Member States take to address major deficiencies. Upon agreement with each individual Member State, these reports are published on the Commission's website<sup>34</sup>.

The reports from the FVO and from the Member States show that the level of enforcement varies significantly between Member States. This correlates with the information gathered by several non-governmental animal welfare organisations<sup>35</sup> and presented to the Commission via official reports. Some major deficiencies and problems highlighted by these reports are described in the following Chapters.

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<sup>32</sup> Mainly based on a survey amongst the Member States, carried out by the Commission during the first semester of 2011; SANCO D5 AN/oj (2011)441562.

<sup>33</sup> Reports from FVO audits are published on: [http://ec.europa.eu/food/fvo/ir\\_search\\_en.cfm](http://ec.europa.eu/food/fvo/ir_search_en.cfm)

<sup>34</sup> [http://ec.europa.eu/food/animal/welfare/transport/inspections\\_reports\\_reg\\_1\\_2005\\_en.htm](http://ec.europa.eu/food/animal/welfare/transport/inspections_reports_reg_1_2005_en.htm)

<sup>35</sup> Such as Eurogroup For Animals; Animal Angels; Compassion in World Farming; Eyes on Animals.

### 2.6.1. *Market distortions and other difficulties for operators due to differences in interpretation and enforcement*

The information available confirms that there are significant differences in the way Member States interpret some of the provisions of the Regulation. The Commission often intervenes to provide clarifications of and guidance on certain provisions of the Regulation. While the Regulation applies to the transport of all live vertebrate animals, most of the detailed rules refer to livestock. For the transport of animals belonging to other categories of animals, in particular farmed fish as identified under the Commission Strategy for the Sustainable Development of European Aquaculture<sup>36</sup>, the implementation of the Regulation has therefore encountered some difficulties.

Diverging interpretations of rules may result in market distortions which, combined with reduced profit margins and different administrative costs, could put a transport business operator in a difficult situation. Furthermore, lack of vigour in enforcement, may put compliant transporters at disadvantage. It is thus important to ensure a level playing field for the operators.

### 2.6.2. *Poor compliance and improper enforcement lead to poor animal welfare*

While acknowledging the importance of a level playing field for the operators, the main risk associated with poor compliance and improper enforcement is the risk that the welfare needs of the animals are compromised.

Lack of enforcement and respect of the legal requirements can have severe negative impact on animal welfare, and available information shows there are some recurring examples of poor compliance such as:

- (1) transport of unfit animals;
- (2) overstocking of vehicles;
- (3) transport of animals in vehicles in which the internal height of the compartments is inappropriate;
- (4) animals not receiving enough water during the journey and
- (5) animals being transported longer than the maximum allowed travelling time.

Often, poor compliance appears to be related to improper enforcement. For example, according to the Regulation, competent authorities are responsible for checking and approving the journey logs before long journeys, to ensure that they are realistic and indicate compliance with the Regulation. However, on several occasions unrealistic journey logs have been approved. Some such journeys logs unrealistically assume an average speed of over 100 km/hour in order to reach the destination as indicated in the journey log. This may lead to journeys lasting for several hours more than the limits provided for in the Regulation. When this occurs along with lack of space and lack of water, the outcome has been proven to be detrimental to the welfare of the animals.

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<sup>36</sup> COM (2009) 162 final.

If the Regulation had been properly enforced through the rigorous application of the journey planning and travelling time requirements, its impact on the welfare of animals would have been greater than is shown in Chapter 2.3.

The above analysis indicates specific and different control needs and responsibilities in Member States from which the animals are sent, and those mainly responsible for controls on transit or at destination.

### 2.6.3. *Penalties and sanctions*

The competence to decide on penalties for private individuals rests solely with the Member States. They shall, according to Article 25 of the Regulation, lay down penalties that are effective, proportionate and dissuasive and notify information about these penalties to the Commission.

The information provided from the Member States is usually referring to the national penal codes. An in-depth comparison of the level of penalties in the Member States would therefore be meaningful only if linked to a precise infringement or offence, and contrasted against the gravity of the infringement or offence. Such a comparison has not been carried out by the Commission. However, estimation based on the information available shows significant variations when it comes to the level of penalties for infringements of the Regulation across the European Union.

In this regard it should be highlighted that the issue of differences in penalties is not limited to the area of animal transport, but correlates to the findings of the Commission report on infringements against the social rules in road transport<sup>37</sup>. In the report the Commission analyze penalties such as those applied for infringements of EU-legislation on maximum driving time, and those related to the tachograph. The Commission considered the situation to be unsatisfactory and encouraged Member States to provide for more harmonised application of the rules, while "*...taking into account the limits of the competence that Member States and the legislators have decided to give to the Commission.*"

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<sup>37</sup> COM (2009) 225 final Report from the Commission, Analysing the penalties for serious infringements against the social rules in road transport, as provided for in the legislation of the Member States.

### 3. CONCLUSION

Based on the information presented in the report, the following main conclusions can be drawn regarding the issues described and analysed in Chapter 2 of the report:

- (1) The Regulation has had beneficial impacts on the welfare of animals during transport.
- (2) The Regulation introduced the requirement for vehicles approved for long journeys to be equipped with navigation systems. However, it appears that the full potential of the systems to decrease the administrative burden for the industry or to improve official controls is not being utilised.
- (3) According to the available data, the Regulation has not had any impact on the volume of the intra-Union trade in live animals.
- (4) The Regulation appears not to have provoked any impact on the animal production in remote regions. The introduction of the Regulation has led to an increase of transport costs but, likely due to competition in the transport sector, this increase has not been evenly distributed along the food chain and transport operators are mainly bearing the extra costs.
- (5) According to the EFSA opinion<sup>38</sup> it appears that parts of the Regulation are not fully in line with the current scientific knowledge.
- (6) Enforcement of the Regulation remains a major challenge, partly because of differences in interpretation of the requirements and because of lack of controls by the Member States. Furthermore, the quality of monitoring data, submitted to the Commission by Member States, is often insufficient to provide a clear analysis of the situation and to allow planning of specific corrective measures at EU level.

As mentioned above, the Regulation has had beneficial impact on the welfare of animals during transport. However, it appears that there is room for improvement of the situation. Those improvements could be achieved by different actions and it should be emphasized that for the vast majority of animals falling under the scope of the Regulation, the Commission does not see that an amendment would be the most appropriate approach to address the identified problems. A steady legal situation will allow Member States and stakeholders to focus on enforcement within a stable legal framework. As regards the gap between the requirements of the legislation and available scientific evidence, the Commission sees that, for the time being, this is best addressed by the adoption of guides to good practices.

As regards live fish, the Commission will launch a study on the welfare of fish during transport, with a view to determining the appropriateness of a revision of the provisions of the Regulation to improve the clarity of the legal framework on the

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<sup>38</sup> EFSA Journal 2011; 9(1):1966 [125 pp.].

transport of live fish for aquaculture operators, in accordance with the Commission Aquaculture Strategy.

To correct the identified problems, the appropriate enforcement of existing rules should remain the priority. For that purpose, the Commission will consider the following actions for the near future:

- (a) Adopt implementing measures concerning navigation systems as provided by Article 6(9) of the Regulation, and establish a simplified version of the journey log, in accordance to point 8 of Annex II to the Regulation. Furthermore it should, in close co-operation with the European GNSS Supervisory Authority (GSA)<sup>39</sup>, be ensured that drivers are informed on how to take the best profit of the device.

Objective: Improved harmonisation of the implementation of the Regulation, and improved animal welfare through increased possibility to control the journey times, space allowance etc. of animal transports. This action should also contribute to a reduced administrative burden for the transporters, but may increase the administrative burden for Member State authorities. However, this should result in better enforcement of animal transport legislation.

- (b) Adopt implementing measures concerning the controls to be performed by the competent authorities of the Member States, in accordance to Article 27(1) of the Regulation. At the same time, the structure of the reporting system should be further harmonized.

Objective: An increase in the number of inspections, where needed, should lead to improved enforcement. The information received from the Member State's reports would provide better and more comparable data when based on the same structure and would then offer more useful information for the FVO when auditing the Member States.

- (c) The Commission will commence a study on the welfare of fish during transport. The current work to launch a study on the welfare of fish during stunning will continue.

Objective: To receive an overview of the current situation regarding the welfare of fish during transport, with a view to identifying and addressing possible shortcomings of the EU legal framework in this context, in accordance with the commitments undertaken under the Commission Aquaculture Strategy.

- (d) Increased co-operation and communication with the competent authorities of the Member States and stakeholders, including Non Governmental animal welfare Organisations. The contact points for the Regulation<sup>40</sup>, and existing

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<http://www.gsa.europa.eu/>

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Contact points for the purpose of the Regulation have been communicated to the Commission in accordance to Article 24(2) of the Regulation.

working groups such as the Advisory group on the Food Chain and Animal and Plant Health<sup>41</sup>, could be used for this purpose.

Objective: Collect and analyse information on difficulties and share experiences on possible solutions related to the implementation of the Regulation.

- (e) Dissemination of Commission guidance on the interpretation of the Regulation and support of the development of guides to good practice, as foreseen in Article 29 of the Regulation. Guides could focus on different aspects of day-to-day management that may be problematic and would encourage best practice that considers the latest scientific knowledge.

Objective: Would cover some ambiguities and inefficiencies in the current animal welfare legislation and would improve harmonisation of the implementation of the rules. At the same time it would encourage industry and other relevant parties to exceed the minimum welfare standards for transporting animals.

Based on the elements above, the Commission invites the European Parliament and the Council to discuss the issues highlighted in this Report.

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<sup>41</sup> A description of the Advisory group on the Food Chain and Animal and Plant Health can be found on [http://ec.europa.eu/food/committees/advisory/index\\_en.htm](http://ec.europa.eu/food/committees/advisory/index_en.htm)

## GLOSSARY OF TECHNICAL TERMS USED IN THIS REPORT

**Consignment:** Animals of the same species, covered by the same veterinary certificate, conveyed by the same means of transport and grouped from same place of departure to same place of destination.

**Journey:** The entire transport operation from the place of departure to the place of destination, including any unloading, accommodation and loading occurring at intermediate points in the journey.

**Short (distance) transport:** A journey that does not exceed 8 hours.

**Long (distance) transport:** A journey that exceeds 8 hours but is shorter than a *Very long transport*.

**Very long transport:** A journey that exceeds 19 hours for young animals, 24 hours for horses and pigs and 29 hours for adult cattle (described as 19/24/29 in the text).

**Intra-Union trade:** Trade between EU Member States.