

## **Animal Transport: Law Enforcement Failures**



### **Report on the implementation of Council Regulation 1/2005 on the protection of animals during transport**

**Compassion in World Farming**

## Summary

For over thirty years enforcement of EU law on the protection of animals has been poor. The main breaches of EU law that are regularly observed include:

- The transport of unfit animals
- Stocking densities often exceed the maximum densities permitted by Regulation 1/2005 on the protection of animals during transport
- Animals are frequently given too little headroom
- The Regulation's maximum permitted temperature is often exceeded
- The Regulation's requirements on feed and water are frequently breached. In some cases water tanks are empty or the drinking devices do not work or they are the wrong type for the species being carried or are positioned in such a way that the animals cannot reach them
- The Regulation's requirements on the provision of rest are often ignored
- In some cases insufficient bedding is provided; in other cases it becomes filthy in the later stages of the journey.

These breaches – often by the same transport companies - have been occurring for many years. While some Member States have improved enforcement, many continue to make little serious attempt to enforce Regulation 1/2005.

Regulation 1/2005 provides strong enforcement mechanisms which are expressly designed to prevent recurrence of breaches but these are poorly used by the Member States.

A key problem is that many long journeys involve several Member States (MS). The journey may pass through several MS. The MS of departure which must approve the journey log may be different from the MS that granted the transporter's authorisation. Yet another MS may have granted the certificate of approval for the vehicle while a different MS may have granted the driver's certificate of competence.

The involvement of several MS complicates enforcement. Regulation 1/2005 contains very helpful provisions requiring a MS that finds a breach of Regulation 1/2005 to notify the MS of departure and those that granted authorisations or certificates. The purpose is to prevent recurrence of these breaches. However, the required notifications are rarely given in a systematic way and even where they are, the MS who receive the information rarely act on them in such a way as to prevent recurrence of these breaches. As a result the same breaches are repeated year after year.

A recent Commission report confirms that animal welfare problems continue to be a significant and regular source of suffering during the export of cattle and sheep from the EU to Turkey. The report concludes: "On this route, there is a high risk of unnecessary pain and distress for transported animals and a high risk for transporters to breach EU rules". Lengthy delays are common at the border. During these delays animals are kept on board the trucks often in overcrowded conditions and with insufficient water and in summer in very high temperatures that cause extreme suffering.

The Commission has recently said that compliance on this route is "is very close to 100%". This is not an accurate statement. Investigations by animal welfare organisations consistently find high levels of non-compliance.

An area that until recently has largely escaped attention are the serious problems that arise when animals being exported to the Middle East and North Africa are transferred in EU ports from road vehicles to livestock vessels and the poor conditions on many livestock vessels. Regulation 1/2005 requires competent authorities to check before loading that the vessel is in a satisfactory state for the carriage of animals, that the animals are fit to continue their journey, and that loading is carried out in accordance with the Regulation. Competent

authorities often fail to discharge these duties properly leading to great suffering during loading and the sea journeys to the Middle East and North Africa.

## **Introduction**

This report examines:

- The failure of the Commission and many Member States to properly implement Council Regulation (EC) No 1/2005 on the protection of animals during transport
- The steps that should be taken to properly implement the Regulation.

The report looks both at journeys within the EU and exports to non-EU countries.

## **1. Failure of the Commission and many Member States to secure compliance with Regulation 1/2005**

1.1 As the European Parliament is currently preparing a report on the implementation of Regulation 1/2005 on the protection of animals during transport, Compassion in World Farming has looked at levels of compliance with, and enforcement of, the Regulation. We have considered reports by Directorate F of DG Sante of the Commission (previously called the Food and Veterinary Office) and the regular investigations carried out by animal welfare organisations. These investigations are recorded in great detail.

The overall level of enforcement and compliance remains poor.

A paper presented by several Member States to the Agriculture Council in November 2016 highlights the poor level of compliance and enforcement. It states: "Since the entry in to force of Regulation 1/2005, there have been numerous examples of infringements and lack of enforcement as described in official reports on inspections and in formal complaints and infringement proceedings. The Commission also highlighted lack of enforcement as a major problem in its report to the European Parliament and the Council on the impact of the Regulation on the protection of animals during transport (2011)." It stresses that "the continuing shortcomings in enforcement is simply not acceptable" and that "both Member States and Commission have to intensify their efforts to put an end to transports that are in obvious breach of the Regulation".

### **1.2 The main breaches of Regulation that are commonly reported and the steps need to improve implementation**

#### ***Journey logs incomplete and with unrealistically short estimated journey times***

Important parts of the journey log are often left blank. Also journey logs sometimes give unrealistically short journey times; as a result the stops at an approved control post for 24 hours rest, water and food that are obligatory for long journeys are neither planned nor carried out.

#### ***Required Action***

Organisers should:

- complete all relevant sections of the journey log
- provide a realistic estimated journey time in Section 1 of the journey log. The length (kilometres) of the journey can be checked on a computer programme. However, transporters cannot rely on such programmes to tell them how long the journey will take as they are based on the travelling speed of cars. Transporters must estimate the journey time taking into account the speed at which a livestock truck can reasonably travel and allowing for heavy traffic, roadworks and unexpected delays.

Competent authorities (CAs) should:

- not approve journey logs with incomplete information
- check that the journey log is realistic and indicates compliance with the Regulation; this is a requirement of Article 14.1 of Regulation 1/2005.

### ***Failure to provide animals with adequate food, water and 24 hours rest at an approved control post***

Regulation 1/2005 requires that after 28 hours transport of cattle and sheep, 24 hours transport of pigs and horses and 18 hours transport of unweaned animals, the animals must be unloaded for 24 hours rest, feed and water at an approved control post.<sup>1</sup> Often this rest break is not given at all or it is only given after the maximum permitted travelling time has been exceeded or it is significantly shorter than the required 24 hours. The animals suffer significantly as a direct result through hunger, thirst and exhaustion.

#### ***Required Action***

- CAs should require that when a journey log is submitted it is accompanied by a written confirmation of a reservation at a control post
- CAs of the MS of departure should use drivers' records (tachographs) and satellite navigation systems to check whether the 24 hour rest was carried out.

### ***Inadequate water supply***

Regulation 1/2005 provides that in the case of journeys over 8 hours animals must have access to water on board the truck.<sup>2</sup> In combination with long journeys, often in high temperatures and with overcrowding, the lack of water can cause animals to suffer from extreme dehydration.

Sometimes the water tanks are empty or the drinking devices are switched off or are filthy with faeces, or are defective and fail to function. Animals are often unable to access the drinking devices. This may be because there is an insufficient number of watering devices or the drinking devices are on one side only of the vehicle; as a result many of the animals are unable to reach them particularly if the truck is overcrowded. In some cases the drinking devices are not appropriate for the species being transported. Sometimes the nipples are too high for lambs to reach.

#### ***Required Action***

Before the journey begins, transporters should check that:

- there are a sufficient number of accessible drinking devices that are functioning properly and that the water tank is full and that water troughs are clean
- the drinking devices are the right kind for the species being carried and are positioned in a way that is appropriate for the species and age of the animals.

### ***Overcrowding***

Overcrowding is common. It prevents animals from lying down and increases the likelihood of trampling and injuries. Overcrowding is particularly harmful when combined with high summer temperatures, inadequate ventilation and lack of water. This can lead to extreme exhaustion, heat stress and in severe cases to mortality.

#### ***Required action:***

Transporters and organisers must comply with the minimum space requirements set out in Chapter VII of Annex I to Regulation 1/2005. Chapter VII provides that stocking densities may need to "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". Accordingly, stocking densities should be lower in high temperatures. Transporters must also ensure that there is sufficient space for animals to reach watering devices and to be inspected.

### **Insufficient headroom**

Regulation 1/2005 requires sufficient space to be provided inside the animals' compartment to ensure adequate ventilation when the animals are standing in their natural position without hindering their natural movement.<sup>3</sup>

Many compartments have ceilings that are so low that animals touch them with their heads and/or backs when standing naturally. The lack of headroom is uncomfortable for the animals and can lead to them having to stand in a stooped position, sometimes for several days.

### **Required Action**

Transporters must ensure that there is sufficient headroom for animals to stand in a natural position and for there to be adequate ventilation above them.

### **High temperatures and insufficient ventilation in the vehicle**

Regulation 1/2005 provides that for journeys over 8 hours ventilation systems must at all times be able to maintain, whether the vehicle is stationary or moving, an internal temperature between 5 and 30°C with a +/- 5°C tolerance depending on the outside temperature.<sup>4</sup>

The 5°C tolerance does not permit regular transport at 35°C but is designed to address the situation where outside temperatures unexpectedly exceed 30°C after the journey has started. In a letter dated 28 June 2016 to Chief Veterinary Officers, the Commission said that "In practice, there is no possibility to lower the internal temperatures on vehicles travelling in ambient temperature conditions over 30°C."

### **Required action**

CAs should not approve journey logs when the forecast temperatures at the places of departure or destination or en route are expected to exceed 30°C.

### **Transport of unfit animals**

Animals that are injured, ill or heavily pregnant are unfit to travel. Yet we repeatedly see unfit animals transported and suffering significantly as a result. A 2015 DG Sante report stresses that "injured animals arrive on a daily basis to slaughterhouses in the European Union".<sup>5</sup>

### **Required Action:**

- Transporters must ensure that animals unfit to travel are not transported and are given immediate attention
- Transporters should refer to the *Practical Guidelines to Assess Fitness for Transport of Adult Bovines<sup>6</sup>, Pigs<sup>7</sup> and Equidae<sup>8</sup>* that have been produced by a multi-stakeholder initiative. These are available in several languages.
- Regulation 1/2005 provides that 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.<sup>9</sup> 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.

### **Inadequate bedding**

Regulation 1/2005 provides that on journeys over 8 hours animals must be provided with appropriate bedding.<sup>10</sup> Bedding material is often either not provided or not replaced during long journeys. This results in filthy conditions which can cause discomfort and sometimes injury from slipping and trampling.

### **Required action:**

- Transporters must provide adequate bedding material on journeys over 8 hours.<sup>11</sup>
- Bedding must be replaced during longer journeys if it becomes dirty or insufficient in quantity.

### ***Unweaned calves and lambs***

The transport of unweaned calves and lambs poses particular problems as cold water is an inappropriate liquid for their digestive system. Unweaned animals should be given warm milk replacer or electrolytes during rests.

Regulation 1/2005 provides that, after nine hours of travel, calves must “be given a rest period of at least one hour sufficient in particular for them to be given liquid”.<sup>12</sup> This rest period is usually taken on board the vehicle. However, milk replacer cannot realistically be offered on board the vehicle.

#### ***Required Action:***

- The Commission says that before or during transport the CA should systematically investigate which arrangements have been made to ensure that unweaned animals are offered electrolytes or milk substitutes during the resting period.<sup>13</sup>
- As calves cannot be given appropriate liquid on board a truck, they should not be transported for longer than 8 hours (Regulation 1/2005 only permits transport over 8 hours if certain conditions are met and these cannot be met for unweaned calves). After this they must be unloaded at a control post and given warm milk replacer during the 24 hour rest period that is required by Regulation 1/2005.

### ***Inadequate partitions in the vehicle***

Regulation 1/2005 provides that in the case of journeys over 8 hours partitions must be fitted so that separate compartments may be created.<sup>14</sup> Partitions are necessary to stop animals from being thrown around in a moving vehicle. However, partitions often have large gaps between the bottom of the partition and the vehicle’s floor or between the side of the partition and the vehicle’s wall. Animals or their limbs can be trapped in such gaps causing significant pain and injuries.

#### ***Required Action:***

There must be no gaps between partitions and the vehicle’s floor or walls.

### **1.3 Journeys involving several Member States**

A key problem is that many long journeys involve several Member States (MS). The journey may pass through several MS. The MS of departure which must approve the journey log may be different from the MS that granted the transporter’s authorisation. Yet another MS may have granted the certificate of approval for the vehicle while a different MS may have granted the driver’s certificate of competence.

The involvement of several MS complicates enforcement and allows each MS to pass responsibility for enforcement failures in a particular journey on to one of the other MS involved in the chain. Regulation 1/2005 has helpful provisions designed to address enforcement where several MS are involved. However, these provisions are poorly used by the MS.

Article 26 (2) of 1/2005 requires that when MS of transit or destination find breaches of the Regulation they must notify these to the MSs that (i) authorised the transporter, (ii) granted the vehicle’s certificate of approval and (iii) where the driver is involved in the failure to observe the Regulation, to the MS that granted the driver’s certificate of competence. The purpose is to prevent recurrence of these breaches.

Article 26 (3) provides that when the MS of destination find breaches of the Regulation they must notify these to the MS of departure. Again, the purpose is to prevent recurrence of these breaches.

The notifications required by Article 26(2) & (3) are rarely given in a systematic way and even where they are, the MS who receive the information rarely act on them in such a way as to prevent recurrence of these breaches. As a result the same breaches (often by the same companies) are repeated year after year.

When a MS informs another MS of a non-compliance it is helpful to include photographic evidence. The Commission states “The use of photographic evidence to substantiate problems for which the legal requirements are vague helps impress on the corresponding contact point in the other Member State why certain standards have been considered insufficient or inappropriate”<sup>15</sup>

#### **1.4 Member States’ enforcement powers**

Article 26.4 gives MS who are informed of breaches a number of strong powers which if used effectively could prevent recurrence of these breaches. Regrettably, these powers are rarely used in an effective manner. Article 26.4 provides that competent authorities “shall, if appropriate

- (a) require the transporter concerned to remedy the breaches observed and establish systems to prevent their recurrence;
- (b) subject the transporter concerned to additional checks, in particular requiring the presence of a veterinarian at loading of the animals;
- (c) suspend or withdraw the authorisation of the transporter or the certificate of approval of the means of transport concerned.”

If these provisions were properly used, compliance with the Regulation could rapidly be improved.

#### **1.5 Checks at loading of the animals**

As indicated above, CAs may, in the event of breaches, require the presence of a veterinarian at loading of the animals. It would, however, be good practice for competent authorities to inspect a proportion of consignments at loading even where they have not been informed of breaches.

It is at loading that many of the common problems can be detected and remedied before the start of the journey. At loading the authorities could check that the Regulation’s requirements on floor space and headroom are being observed, that the ventilation and water systems are operating properly and that the drinking devices are appropriate for the species being carried, that no unfit animals are loaded, and that sufficient feed and bedding are being carried. Checking a proportion of consignments at loading would be a very time- and cost-efficient way of achieving improved enforcement.

#### **1.6 Animal Transport Guides**

Animal Transport Guides commissioned by DG Sante have been produced for cattle, sheep, pigs, horses and poultry. They include both ‘Good Practices’ and ‘Better Practices’. All those involved should carry out the transport of animals in accordance with these Guides and in particular with the ‘Better Practices’ sections. The Guides are available at <http://animaltransportguides.eu/>

#### **1.7 Penalties**

The Commission cannot tell MS what penalties they should impose. However, the Commission is responsible for ensuring that penalties conform to Article 25 of Regulation 1/2005. This requires penalties to be “effective, proportionate and dissuasive”. At present penalties are often too low and applied too infrequently to be effective or dissuasive.

## **1.8 Need to take a more rigorous approach in authorising transporters, means of transport and drivers**

Under Regulation 1/2005 three core elements of transport have to be approved and certified:

1. the transport company has to be authorised;
2. drivers transporting animals on journeys of over 65 km must undertake training, pass an examination and hold a certificate of competence;
3. livestock vehicles for long journeys and livestock vessels have to be inspected and hold a certificate of approval.

Transporter authorisation and certificates of approval for road vehicles and livestock vessels have to be renewed after a maximum of five years.

There is considerable variation among MS in how thorough they are in inspecting vehicles and vessels and examining drivers before deciding whether to grant the above authorisations and certificates. The less demanding MS should be more rigorous in determining whether to grant a certificate of competence to drivers and in inspecting livestock vessels and road vehicles when deciding whether to grant a certificate of approval.

Regulation 1/2005 provides that transport companies should not be authorised if they have a record of serious infringements of EU or national legislation on the protection of animals in the three years preceding the date of the application. In practice it can be difficult for CAs to determine if an applicant has such a record if the infringement took place in another MS. TRACES should include more detail about infringements by transport companies and drivers; these details should be available to all MS when considering whether to grant or renew authorisations or certificates.

## **2. Export of animals to non-EU countries**

### **2.1 Court of Justice ruling in the *Zuchtvieh* case**

In Case C-424/13, the Court of Justice of the EU ruled that the provisions of Regulation 1/2005 continue to apply even when a consignment has left the EU; they apply until the destination is reached.

Paragraph 41 of the Court's judgment states: "although Article 21(1) [checks at exit points from EU] of Regulation No 1/2005 provides for a specific check in which the competent authorities are responsible for checking, inter alia, compliance with a certain number of specific requirements thereunder, the fact remains that that provision also obliges the authorities to ensure 'that the animals are transported in compliance with [that regulation]', without restricting the scope of that check to compliance with certain provisions thereof."

Paragraphs 45 and 46 of the Court's judgment state:

"45 Similarly, nor do the provisions setting out the essential obligations to be complied with for a long journey, laid down in Articles 5(4), 6(3) and (4) and 8(2) of Regulation No 1/2005, draw a distinction between transport of animals taking place within the European Union and transport with a destination in a third country.

46 Lastly, regarding the obligation transporters have under Article 6(3) and (4) of Regulation No 1/2005 to transport animals in accordance with the technical rules set out in Annex I thereto and to entrust the handling of the animals to personnel who have received training on the relevant provisions of Annexes I and II thereto, it must be taken as established that those

provisions refer generally to the transport of animals without drawing any distinction according to place of destination.”

Article 6(3) and (4) states:

“3. Transporters shall transport animals in accordance with the technical rules set out in Annex I.

4. Transporters shall entrust the handling of the animals to personnel who have received training on the relevant provisions of Annexes I and II.”

Annex I contains many of the Regulation’s detailed provisions including, for example, those on water, feed, bedding, space allowance, height of animal compartments, fitness to travel, temperature and ventilation. The Court’s judgment makes it clear that the Annex I provisions must continue to be respected during the non-EU stage of the journey.

The Commission, the Member States and transporters make little attempt to implement the Court’s ruling.

## **2.2 Export of cattle and sheep to Turkey**

The Commission has published a report on a fact-finding mission it carried out in 2017 on live animal exports to Turkey.<sup>16</sup>

The Commission report confirms that animal welfare problems continue to be a significant and regular source of suffering during the export of live cattle and sheep from the EU to Turkey.

### ***Overall conclusion***

The report concludes: “On this route, there is a high risk of unnecessary pain and distress for transported animals and a high risk for transporters to breach EU rules”.

### ***Excessive heat***

The report points out that “Due to the inability of the livestock vehicles’ ventilation system to lower the temperatures in the animal compartment below the external environmental temperature and the limited opening hours of the veterinary control point, it is very difficult for transporters to ensure that animals inside the lorry are kept below 35°C when ambient temperatures are over 30°C.” Worryingly, the report states that temperatures at the border “had risen above 30°C on 80 and 96 days in 2015 and 2016 respectively, of which 33 and 34 days were above 35°C”.

This indicates that for around three months of the year the temperatures at the border are such that transporters cannot comply with the maximum temperatures laid down by Regulation 1/2005. The report concludes: “The limitations of the ventilation systems on the vehicles, combined with the lengthy waiting time and the working hours of the veterinary border control point would make it impossible for EU transporters using such vehicles to comply with EU requirements on days when temperatures are above 30°C (with a 5°C tolerance).”

The report concludes that “there is a high risk of causing unnecessary pain and distress to animals transported on this route during hot days”.

### ***Protracted waiting times at border while animals are confined in stationary vehicles***

The report concludes: “animals are likely to stay at least six hours in the vehicles just to cross the border”. This is a minimum time. The report points out that: “If consignments do not meet all [Turkey’s] requirements for animal health, identification and technical specifications, animals will be subject to unnecessary suffering by staying long periods in the vehicles. This unnecessary suffering is aggravated whenever the shortcomings take more than a few hours to be addressed.”

The report states that the lengthy delays “can be detrimental to the animals' welfare, particularly if the journey plan does not include the waiting times at the border”. The report stresses that “transporters have to accurately plan journeys passing through the Kapikule border by taking into consideration the limited opening times and the minimum six-hour stop at this border as otherwise they risk not complying with the requirements of Regulation (EC) No 1/2005”.

The report states that the veterinary authority at the border indicated that around 30% of all consignments received present shortcomings during the first inspection. The main shortcomings detected were related to animal health requirements: vaccination records, dates of vaccination, incorrect animal identification, and time of validity of health certifications. The process of addressing these shortcomings adds to the time animals have to spend at the border on board stationary vehicles. It is unacceptable that after many years of this trade many exporters are still failing to get simple administrative matters right thereby lengthening the border delays and exacerbating the suffering involved.

### ***Lack of facilities at border to protect the welfare of animals***

The report notes that:

- There is only one water source available for livestock vehicles waiting to undergo veterinary controls
- Shade is not available for vehicles waiting to undergo veterinary controls
- There are no facilities at the border to unload any animals. If the animals are detained due to shortcomings detected during controls, they have to remain in the vehicle.

The report concludes: “The scarce availability of facilities to address the needs of the animals and the lack of facilities to unload them is a high risk to the welfare of the animals transiting this border, in particular during the hotter periods of the year and/or when they have to be detained. This makes it difficult for transporters to comply with EU rules when travelling along this route.”

### **2.2.1 Commission’s failure to recognise the high level of non-compliance with Regulation 1/2005 on export journeys from EU to Turkey**

In his letter of 31 May 2018 to several MEPs, Commissioner Andriukaitis stated that the “rate of compliance [with Regulation 1/2005] when the animals cross the EU border [with Turkey] is very close to 100%”. This statement is very difficult to believe. Indeed the Commission report referred to earlier states that on this route there is “a high risk for transporters to breach EU rules”. Evidence shows continuing high levels of non-compliance. In light of the data set out below we do not think it is accurate to state that the rate of compliance with Regulation 1/2005 is close to 100% at the EU-Turkey border.

In August 2017 the Animal Welfare Foundation (AWF) AWF checked more than 100 trucks at the EU-Turkey border during temperatures exceeding 30 °C. Table 1 sets out AWF’s findings:

**Table 1 showing breaches of Regulation 1/2005 found by AWF at EU-Turkey border in August 2017**

<b>Breach of Regulation 1/2005</b>	<b>Number of trucks inspected</b>	<b>Number of trucks in breach of this aspect of Regulation 1/2005</b>	<b>Percentage of trucks inspected in breach of this aspect of Regulation 1/2005</b>
Insufficient headroom: in breach of Point 1.2 of Chapter II of Annex I to Regulation 1/2005	84	19	23%
Inadequate partitions: in breach of Points 1.1(a) and/or 1.4 of Chapter II of Annex I to Regulation 1/2005	99	44	44%
Inadequate bedding: in breach of Point 1.2 of Chapter VI of Annex I to Regulation 1/2005	99	25	25%
Inadequate ventilation system in breach of Point 3 of Chapter VI of Annex I to Regulation 1/2005	70	42	60%
Inadequate water system in breach of Point 2 of Chapter VI of Annex I to Regulation 1/2005	74	41	55%

Animals' Angels (AA) has submitted data to the Commission regarding their investigation at the EU-Turkey border from 7-16 January 2018.

AA inspected 69 trucks during this period of which 67 had one or more non-compliances with Regulation 1/2005. Some of these non-compliances were detected on the EU side of the border while others were detected on the Turkish side of the border. However, many of the non-compliances found on the Turkish side of the border are likely to have arisen while the truck was still in the EU or to be due to failure to prepare properly for the journey which is in breach of Articles 3 and 4.3(a) of Regulation 1/2005. Moreover, under the Court of Justice ruling in the *Zuchtvieh* case transports must comply with Regulation 1/2005 even after they leave the EU. The detailed non-compliances are set out in Table 2:

**Table 2 showing breaches of Regulation 1/2005 found by AA at EU-Turkey border from 7-16 January 2018**

<b>Breach of Regulation 1/2005</b>	<b>Number of trucks out of the 69 inspected that were in breach of this aspect of Regulation 1/2005</b>
Temperature in excess of that permitted by Point 3 of Chapter VI of Annex I to Regulation 1/2005	9
Drinkers non-compliant with Point 2 of Chapter VI of Annex I to Regulation 1/2005	1

Inadequate partitions: in breach of Points 1.1(a) and/or 1.4 of Chapter II of Annex I to Regulation 1/2005	24
Feed non-compliant with Point 1.3 of Chapter VI of Annex I to Regulation 1/2005	20
Bedding non-compliant with Point 1.2 of Chapter VI of Annex I to Regulation 1/2005	38
Space allowance non-compliant with Chapter VII of Annex I to Regulation 1/2005	26
Insufficient headroom: in breach of Point 1.2 of Chapter II of Annex I to Regulation 1/2005	14
Animals of different sizes, ages, horn/unhorn, not separated as required by Point 12 of Chapter III of Annex I to Regulation 1/2005	1
Maximum permitted travelling times exceeded in breach of Chapter V of Annex I to Regulation 1/2005	14
Transport of unfit animals in breach of Chapter I of Annex I to Regulation 1/2005	5
Unnecessary delay in breach of Article 3(f) of Regulation 1/2005	13
Journey log non-compliant with Article 14 and/or Annex II of Regulation 1/2005	9

### **2.2.2 Steps required to improve enforcement of Regulation 1/2005 in respect of exports to Turkey**

The Commission's report makes it clear that long delays at the border are mainly caused when consignments fail to meet Turkey's requirements. CAs should not approve journey logs for exports to Turkey until they have seen evidence that Turkey's import duties have been paid and that all the animals in the consignment satisfy Turkey's requirements on health, gender, age and identification and, where the animals are being sold to Turkey's Meat and Milk Marketing Board, that they comply with the Board's specifications.

The Court of Justice has ruled that, in the case of live exports, many aspects of Regulation 1/2005 must be complied with during the stages of the journey that take place in the territory of non-EU countries. Accordingly, CAs should not approve journey logs where Regulation 1/2005 requires animals to be unloaded for a 24 hour rest in a non-EU country unless the organiser has identified a place for that rest that provides facilities equivalent to those of a control post. Moreover, official veterinarians at exit points from the EU must check, as required by Article 21 of Regulation 1/2005, that vehicles are not overcrowded, provide sufficient headroom, provide bedding, are carrying sufficient feed and water and that the ventilation and water devices are functioning correctly.

### **2.2.3 Good practice for Member States identified by Commission audit reports on live exports to Turkey**

- Require transporters, when submitting journey logs, to provide updated and detailed contingency plans that drivers must have with them during the journey. These plans should include adequate arrangements to meet the animals' needs in the case of unexpected long delays at the border including how to obtain and provide bedding, feed and water for the animals. The plans should also include information on what to do in case of emergencies such as vehicle breakdown, sick or injured animals, traffic accidents, etc;<sup>17</sup>

- Require transporters, when submitting journey logs, to provide declarations concerning how the provision of food, water and bedding throughout the journey will be achieved;<sup>18</sup>
- Check the plausibility of the proposed journey plan using an online route planner, with proper consideration of the speeds achievable by a heavy vehicle;<sup>19</sup>
- The timing of the journey should be organised in order to have the animals rested and present for the border controls before the opening time of the Turkish controls (as indicated in the letter to the CVOs of June 2016). The Commission considers this to be a good practice that provides for more time for these checks and attempts to avoid the hottest part of the day;<sup>20</sup>
- Require transporters, when submitting journey logs, to provide proof of reservations at control post(s) to unload and rest the animals;<sup>21</sup>
- Take drivers social hours requirements into account by requiring organisers to provide certificates of competence for two drivers when journeys exceed 8 hours;<sup>22</sup>
- Vehicles should carry additional portable drinkers;<sup>23</sup>
- The official in charge of the Bulgarian exit point considered that insufficient driver training was actually the root cause of many of the problems detected. This indicates that competent authorities need to be more thorough in ensuring that drivers are properly trained before granting a certificate of competence;<sup>24</sup>
- Competent authorities should require stocking densities to be reduced by 30% if temperatures are high at the point of departure or are forecast to be high during the course of the journey;<sup>25</sup>
- Put in place a system to ensure transporters return the completed journey logs and carry out retrospective checks on returned journey logs.<sup>26</sup>

### **2.3 Breaches of Regulation 1/2005 during sea transport from EU to Middle East and North Africa**

Animals being transported from the EU to the Middle East and North Africa are taken by road from the Member State of departure to a port in a southern Member State. There they are transferred to a livestock vessel for the sea journey to the Middle East or North Africa.

Two recent reports by the Animal Welfare Foundation (AWF) have revealed serious breaches of Regulation 1/2005 as regards the poor quality of the livestock vessels and during the transfer of the animals from road vehicles to livestock vessels.<sup>27 28</sup>

#### ***Approval of livestock vessels***

Most livestock vessels were originally car ferries or cargo ships and have been converted for the transport of animals. As a result many are unsuitable for animal transport as animal behaviour and needs were not sufficiently incorporated into the ship design.

Many livestock vessels that have been approved under Article 19 of Regulation 1/2005 should not have been approved as they are poorly designed and maintained and have constructions posing many risks for the safety of the animals; for example, many have very steep internal ramps leading to the pens on lower decks, and pens and passageways with sharp edges, protrusions and gaps that risk causing injuries. Moreover, Member States have different criteria for granting approvals which leads to inconsistencies.

#### ***Pre-loading inspections of livestock vessels***

In addition to the inspection that is required under Article 19 in deciding whether to grant an approval to a livestock vessel, Article 20 requires CAs to inspect livestock vessels before each loading to ensure that the vessel is suitable for the type and number of animals to be transported, animal pens are in a good state of repair, and equipment for ventilation, water provision, lighting and fire-fighting remains in good working order. These pre-loading inspections are often carried out in a cursory manner.

### ***Lengthy delays at ports***

AWF's report on their investigation at the port of Cartagena in Spain in 2018 reveals that lengthy delays occurred after arrival at the port and before loading onto the ship. During these delays the animals were left on board stationary trucks in very high summer temperatures.

Trucks often have to wait outside the port before being allowed to enter the port. During AWF's investigation, the minimum waiting time at the parking lot outside the port was one hour, but many vehicles spent over four hours there with the animals on board the vehicle. Some animals waited for hours in the sun, without shade and without water or the mechanical ventilation system being turned on.

Once inside the port vehicles had to wait for their turn to load the animals on to the vessel. Again there was no shade and animals were left on board stationary trucks in extremely hot conditions. At times, there were more than fifteen vehicles waiting at the same time to start the unloading of their animals.

### ***Inspection of animals to ensure they are fit to continue their journey***

CAs are often not properly carrying out the requirement in Article 20.2 of Regulation 1/2005 that they must inspect animals before loading onto livestock vessels to ensure that they are fit to continue their journey. This is often due to a lack of suitable facilities, such as pens where animals can rest after the road journey, to enable the CA to properly inspect the animals. As a result they are often inspected when they are already in the passageway leading from the truck to the ship. Here they may be moving too quickly for the veterinarian to properly inspect them; moreover the veterinarian may only be able to see one side of the animal, and it may not be possible to remove an unfit animal from the passageway.

### ***Loading onto livestock vessels***

Loading of animals onto livestock vessels is often carried out roughly with the use of sticks and electric prods; in some cases loading ramps are steeper than the maximum slope permitted by Regulation 1/2005. This can cause animals to struggle or even fall down.

The entry to vessels (at the end of the loading ramp) often appears like a black hole for the animals, especially during loading in bright daylight. Animals often balk in front of the vessel entry because they refuse to walk from light into dark areas.

## **2.3.1 Steps needed to ensure that sea transport from EU is carried out in compliance with Regulation 1/2005**

CAs should follow the guidance in the 'Network Document on Livestock Vessels' which is intended to support good practice for official controls regarding the transport of animals on livestock vessels.<sup>29</sup>

CAs must carry out the pre-loading inspections required by Article 20 thoroughly to ensure that nothing in the vessel or its pens is harmful to the animals and that the major systems needed to ensure the animal's well-being are operating effectively in all areas of the vessel.

Organisers should not use, and CAs should not approve journey logs that plan the use of, ports that do not have facilities that enable proper pre-loading inspection of animals as required by Article 20.

CAs should properly inspect loading operations as required by Article 20.

## **Conclusion**

The Federation of Veterinarians of Europe (FVE) stresses that "Animals should be reared as close as possible to the premises on which they are born and slaughtered as close as possible to the point of production." Compassion in World Farming fully agrees with this

principle. In order to translate this principle into practical reality, a maximum limit of eight hours should be placed on journeys for slaughter or fattening. The export of animals to non-EU countries should be brought to an end both because of the length of the journeys and because in many destination countries animals are slaughtered inhumanely in ways that breach the international standards on welfare at slaughter of the OIE (World Organisation for Animal Health).

Until long journeys come to an end it is essential for Member States to implement Regulation 1/2005 properly. The Regulation provides effective enforcement mechanisms but they are poorly used by most Member States. As a result, serious breaches of the Regulation occur on a regular basis.

Many Member States, the Commission and exporters make little serious attempt to comply with the Court of Justice ruling that in the case of live exports, many of the provisions of Regulation 1/2005 continue to apply even once the consignment leaves the EU; they apply until the destination in the non-EU country is reached.

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<sup>1</sup> Paragraphs 1.4 & 1.5 of Chapter V of Annex 1 to Regulation 1/2005

<sup>2</sup> Paragraph 2 of Chapter VI of Annex 1 to Regulation 1/2005

<sup>3</sup> Paragraph 1.2 of Chapter II of Annex 1 to Regulation 1/2005

<sup>4</sup> Paragraph 3 of Chapter VI of Annex 1 to Regulation 1/2005

<sup>5</sup> European Commission, 2015. Systems to Prevent the Transport of Unfit Animals in the EU: Overview report

<sup>6</sup><https://www.agriculture.gov.ie/media/migration/animalhealthwelfare/transportofliveanimals/GuidelinesAssessFitnessTransportBovines050716.pdf>

<sup>7</sup><https://www.agriculture.gov.ie/media/migration/animalhealthwelfare/transportofliveanimals/GuidelinesAssessFitnessTransportPigs050716.pdf>

<sup>8</sup><https://www.agriculture.gov.ie/media/migration/animalhealthwelfare/transportofliveanimals/GuidelinesAssessFitnessTransportEquidae050716.pdf>

<sup>9</sup> Paragraph 4 of Chapter I of Annex I to Regulation 1/2005

<sup>10</sup> Paragraph 1.2 of Chapter VI of Annex I to Regulation 1/2005

<sup>11</sup> Paragraph 1.2 of Chapter VI of Annex I to Regulation 1/2005

<sup>12</sup> Paragraph 1.4 of Chapter V of Annex 1 to Regulation 1/2005

<sup>13</sup> SANCO D5 DSdj D (2009) 450351.

<sup>14</sup> Paragraph 1.7 of Chapter VI of Annex I to Regulation 1/2005

<sup>15</sup> European Commission, 2017. Final report of a fact-finding mission carried out in Bulgaria from 06 June 2017 to 09 June 2017 on animal welfare during transport to non-EU countries. DG(SANTE) 2017-6109

<sup>16</sup> Final report of a fact-finding mission carried out in Turkey from 05 September 2017 to 08 September 2017 on animal welfare during transport to non-EU countries; DG(SANTE) 2017-6110

<sup>17</sup> Final report of an audit carried out in the Czech Republic from 20 November 2017 to 24 November 2017 in order to evaluate animal welfare during transport to non-EU countries; DG(SANTE) 2017-6217

<sup>18</sup> Final report of an audit carried out in Hungary from 19 June 2017 to 23 June 2017 in order to evaluate animal welfare during transport to non-EU countries; DG(SANTE) 2017-6099

<sup>19</sup> Final report of an audit carried out in Germany from 26 June 2017 to 30 June 2017 in order to evaluate animal welfare during transport to non-EU countries; DG(SANTE) 2017-6107

<sup>20</sup> *Ibid*

<sup>21</sup> *Op. Cit.* Final report of an audit carried out in Germany

<sup>22</sup> Final report of an audit carried out in France from 09 October 2017 to 13 October 2017 in order to evaluate animal welfare during transport to non-EU countries; DG(SANTE) 2017-6108

<sup>23</sup> *Op. Cit.* Final report of an audit carried out in Hungary

<sup>24</sup> Final report of an audit carried out in Bulgaria from 06 June 2017 to 09 June 2017 in order to evaluate animal welfare during transport to non-EU countries; DG(SANTE) 2017-6109

<sup>25</sup> *Op. Cit.* Final report of an audit carried out in Czech Republic

<sup>26</sup> *Op. Cit.* Final reports of audits carried out in Czech Republic, Germany and France

<sup>27</sup> Animal Welfare Foundation, 2017. Animal Welfare Overboard <https://dossier.tierschutzbund-zuerich.ch/de/animal-welfare-overboard.html>

<sup>28</sup> [https://www.tierschutzbund-zuerich.ch/en/investigation-reports/project/select\\_category/22.html](https://www.tierschutzbund-zuerich.ch/en/investigation-reports/project/select_category/22.html)

<sup>29</sup><https://circabc.europa.eu/webdav/CircaBC/SANTE/ANWELNETDOC/Library/Network%20Document%20on%20Livestock%20Vessels/Network%20Doc%20on%20Livestock%20Vessels%20Rev%202027%2005%202014%20EN.pdf>