



EUROPEAN COMMISSION
HEALTH & CONSUMER PROTECTION DIRECTORATE-GENERAL
Directorate F - Food and Veterinary Office

DG(SANCO)/3382/2001 - MR Final

FINAL REPORT OF A MISSION
CARRIED OUT IN GERMANY
FROM 26 TO 30 NOVEMBER 2001
CONCERNING THE INSPECTIONS OF ANIMAL WELFARE STANDARDS ON
PIG, CALF AND LAYING HEN HOLDINGS

*Please note that factual errors in the draft report have been corrected in bold, italic type.
Clarifications provided by the German authorities are given, at the relevant part of the report,
as footnotes in bold, italic type.*



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ABBREVIATIONS & SPECIAL TERMS USED IN THE REPORT

<i>c.</i>	Approximately (<i>circa</i>)
CA	Competent Authority
CCA	Central Competent Authority
CVO	Chief Veterinary Officer
DG SANCO	Directorate General for Health and Consumer Protection (<i>Santé et protection des Consommateurs</i>)
EEC	European Economic Community
EC	European Community
EU	European Union
FVO	Food and Veterinary Office
NI	Lower Saxony (<i>Niedersachsen</i>)
NRW	North Rhine Westphalia (<i>Nordrhein Westfalen</i>)
ST	Saxony-Anhalt (<i>Sachsen-Anhalt</i>)



1. INTRODUCTION

The mission took place in Germany from 26 to 30 November 2001. The mission team comprised two veterinary experts from the Food and Veterinary Office (FVO), and one Member State expert.

The mission was undertaken as part of the FVO's planned mission programme. The inspection team was accompanied during the whole mission by a representative of the Central Competent Authority (CCA), the *Bundesministerium für Verbraucherschutz, Ernährung und Landwirtschaft*.

At the opening meeting held on 26 November 2001, the objectives of the mission were confirmed by the inspection team and the role of the CCA in relation to animal welfare checks on farms was discussed.

2. OBJECTIVES OF THE MISSION

The objective of the mission was to evaluate the system of animal welfare inspections on holdings with pigs, calves and laying hens. The current mission forms part of a wider series of missions to all Member States to evaluate control systems and operational standards regarding checks of animal welfare in these three livestock sectors.

In pursuit of this objective, the following sites were visited:

VISITS			Comments
Competent Authorities	Central	2	Opening meeting with representatives from the federal level and closing meeting with representatives from the federal level and from 2 of the 3 <i>Länder</i> visited (<i>NI</i> and <i>ST</i>).
	Local	5	These meetings were attended by representatives of each level of the CA, including the Ministry concerned, in the <i>Länder</i> visited. Reports of previous inspections carried out were made available to the Commission team.
Pig holdings		2	During each visit, an inspection was carried out by an official from the local authority.
Calf holdings		2	
Holdings with laying hens		2	

3. LEGAL BASIS FOR THE MISSION

The mission was carried out under the general provisions of Community legislation and in particular:

Commission Decision 98/139/EC¹ of 4 February 1998 laying down certain detailed rules concerning on-the-spot checks carried out in the veterinary field by Commission experts in the Member States.

¹ OJL 38, 12.02.1998, p. 10;



Article 7 of Council Directive 88/166/EEC² of 7 March 1988 laying down minimum standards for the protection of laying hens in battery cages.

Article 9 of Council Directive 91/629/EEC³ of 19 November 1991 laying down the minimum standards for the protection of calves.

Article 9 of Council Directive 91/630/EEC⁴ of 19 November 1991 laying down minimum standards for the protection of pigs.

Article 7 of Council Directive 98/58/EC⁵ of 20 July 1998 concerning the protection of animals kept for farming purposes.

4. BACKGROUND TO THE CURRENT MISSION

A previous FVO mission to Germany DG(SANCO)/1057/2000 from 27 March to 7 April 2000 included visits to farms with laying hens in NI and ST. This report concluded that although no deficiencies were seen on the farms visited, inspections in one of the two *Länder* visited were not organised in a systematic way. The report also indicated that the existing legislation, which transposed Council Directive 88/166/EEC, had been annulled by a judgement of the Federal Constitutional Court. Recommendations were made to the CA to rectify the legislation and organise systematic controls. The full report of this mission is available at:

http://europa.eu.int/comm/food/fs/inspections/vi/reports/germany/vi_rep_germ_1057-2000_en.pdf

The statistics in the following tables were provided by the CCA (<http://www.verbraucherministerium.de>) and the CAs of the *Länder* visited.

4.1. Pig sector

	Germany	NRW	NI	ST
No. farms	175,711	2,204	26,010	4,110
No. pigs	25.7 million	754,344	7,504,889	864,229

4.2. Calf sector

	Germany	NRW	NI	ST
No. farms	192,941	2,616	35,667	3,557
	(710 specialist calf fattening)	(155 specialist calf fattening)	(341 specialist calf fattening)	
No. calves	2.3 million	60,522	531,435	117,254

² OJL 74, 19.03.1988, p. 83;

³ OJL 340, 11.12.1991, p. 28;

⁴ OJL 340, 11.12.1991, p. 33;

⁵ OJL 221, 08.08.1998, p.23;



4.3. Laying hen sector

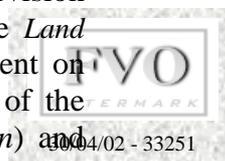
	Germany	NRW	NI	ST
No. farms	Not available	590	372	65
No. birds	40.6 million	1,125,127	13,051,369	2,209,695

5. MAIN FINDINGS

5.1. Competent Authority

Level	Name of authority	Functions
Federal (<i>Bund</i>)	The Federal Ministry of Consumer Protection, Nutrition and Agriculture (<i>Bundesministerium für Verbraucherschutz, Ernährung und Landwirtschaft</i>)	Power to propose, prepare and interpret national laws and to transpose EC Legislation into national law. The Federal level cannot order the <i>Land</i> authorities.
State (<i>Land</i>)	In <i>Nordrhein Westfalen</i> , Ministry for the Environment and nature protection, Agriculture and Consumer Protection (<i>Ministerium für Umwelt und Naturschutz, Landwirtschaft und Verbraucherschutz</i>) In <i>Niedersachsen</i> , Ministry for Nutrition, Agriculture and Forestry (<i>Ministerium für Ernährung, Landwirtschaft und Forsten</i>) In <i>Sachsen-Anhalt</i> , Ministry for Planning, Agriculture and the Environment (<i>Ministerium für Raumordnung, Landwirtschaft und Umwelt</i>)	Implement and enforce the national law. Responsibility for supervision, planning guidance, co-ordination and providing instructions for animal welfare checks within the respective land. This may be effected by the issue of an ordinance (<i>Erlas</i>) to the intermediate veterinary authorities.
Intermediate (<i>Regierungsbezirk</i>)	Each <i>Land</i> visited is divided into administrative districts (<i>Regierungsbezirk</i>) with responsibility for co-ordination, guidance and instruction and sometimes direct involvement in discharging tasks at the district level. They give orders to the local veterinary offices and check on the performance.	
Local (<i>Kreis</i>)	The veterinary authorities at the local level (<i>Kreis</i>) have responsibility for planning, organisation, administration, co-ordination of animal welfare checks as well as liaising with agricultural administrations and other offices concerned with animal holdings (e.g. <i>Hochbauamt</i>).	

The powers, duties and obligations in the field of legislation control and supervision of the welfare of animals on farms are divided between the CCA and the *Land* authorities. Co-ordination of the implementation of legislation and agreement on revisions to the national and EU legislation is achieved through meetings of the Federal Government and the *Land* authorities (*Bund-Länder-Besprechungen*) and



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working groups of the CVOs of the *Länder* (*Arbeitsgemeinschaft der Leitenden veterinärbaemten der Länder – ArgeVet*).

5.2. Applicable legislation in Germany

Council Directive 98/58/EC concerning the protection of animals kept for farming purposes and Council Directive 91/629/EEC laying down minimum standards for the protection of calves, as amended by Council Directive 97/2/EC, and by Commission Decision 97/182/EC are transposed into federal legislation by *Nutztierhaltungsverordnung vom 25.10.2001 (BGBl. I S. 2758)*. Council Directive 91/629/EEC was previously transposed by *Kälberhaltungs-VO vom 22.12.1997 (BGBl. I S. 3329)*, but this text has been adopted into the above Regulation. Certain requirements, which go beyond or are more specific than the requirements of Council Directive 91/629/EEC, were noted e.g.:

- Space allowances are applicable on all calf holdings without transitional periods for the older holdings.
- All calves over two weeks of age must have access to water at all times.
- All calves over eight days of age must have access to fibrous food at all times.
- An average blood haemoglobin level of at least 6 mmol/litre is required.
- Daylight must be provided in all animal accommodation (at least 80 Lux) from 1.1.2008.
- Limits for noxious gases, for temperature, for humidity and the maximum and minimum dimensions for slatted floors are laid down.

All the requirements of Council Directive 98/58/EC were not completely transposed until 25.10.2001. Point 1 of Article 10 of this Directive required Member *Länder* to transpose all the requirements into national legislation by 31.12.1999.

Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing is implemented by *Tierschutz-Schlachtverordnung vom 03.03.1997 (BGBl. I S. 405)*.

Council Directive 88/166/EEC laying down minimum standards for the protection of laying hens was transposed by *Legehennenhaltungsverordnung vom 10.12.1987 (BGBl. I S. 2622)*. However, this legislation was declared null and void by the German Federal Constitutional Court (*Bundesverfassungsgericht*) on 6th June 1999. This judgement indicated that there had been a failure to refer to the Convention of the Council of Europe on the welfare of animals kept for farming purposes in the recitals of the federal legislation. The court also interpreted that birds kept in cages according to Council Directive 88/166/EEC would be unable to rest and this was incompatible with the requirements of federal legislation on this subject. In the absence of this legislation, the court decided that Article 2 of the Protection of Animals Act (*Tierschutzgesetz*) and the Council of Europe recommendations for domestic poultry should be applied.

Council Directive 91/630/EEC laying down minimum standards for the protection of pigs was transposed by *Schweinehaltungsverordnung vom 2.8.95 (BGBl. I S. 1016)*. The judgement of the German Federal Constitutional Court of 6th June 1999



also resulted in this legislation to be no longer in force, as there was a similar error in its recitals⁶.

Article 2 of the Protection of Animals Act does not cover all the requirements of Council Directives 88/166/EEC or 91/630/EEC. Federal legislation replacing the previous *Legehennenhaltungsverordnung* and transposing Council Directive 99/74/EC on laying hens is expected to be in force early in 2002. Similarly, the CCA has decided to wait for Council Directive 2001/88/EC and Commission Directive 2001/93⁷ before devising new federal legislation applicable to pigs.

Some of the *Länder* have issued administrative instructions (*Erlässe*) ordering which requirements (e.g. the EC requirements previously in force through *Schweinehaltungsverordnung vom 2.8.95* and *Legehennenhaltungsverordnung vom 10.12.87*) shall be applied by the responsible services on all new pig and laying hen holdings⁸.

5.3. System of supervision

In the three *Länder* visited, on farm checks of animal welfare are carried out at the same time as other inspections (e.g. certification for export, post import check, residue control etc). The system of integrated checks allows animal welfare requirements to be included when farms are visited for other purposes, but the number and results of these visits were not systematically recorded. A lower level of checks was carried out by the local services visited than had been set either as a target or indicated as the overall result of checks in the respective *Länder*.

Specific checks for animal welfare are made in response to a complaint or other information indicating a risk to animal welfare. In addition, the local veterinary services work closely with the office for building control (*Hochbauamt*) to ensure that installations are constructed according to the legal requirements⁹.

In all *Kreis* visited, checklists had been drawn up, which provided the inspectors with a framework for checking the relevant criteria.

⁶ *In their response to the draft report the Competent Authority indicated that as the Schweinehaltungsverordnung suffered from the same formal defects as the Hennenhaltungsverordnung, it was assumed that it would have been nullified as well if it had been examined by the Court. However, it never came to this. The Schweinehaltungsverordnung was formally repealed when the Tierschutz-Nutztierhaltungsverordnung of 25 October 2001 entered into force on 1 November 2001.*

⁷ Council Directive 2001/88/EC and Commission Directive 2001/93 amending Directive 91/630/EEC and laying down minimum standards for the protection of pigs (OJ L 316 1.12.01 pp 1-4 and 36-38)

⁸ *In their response to the draft report, the Competent Authority expressed the view that the judgement of the Federal Constitutional Court has not resulted in any regulatory gap because the requirements of the 1994 Schweinehaltungsverordnung and the 1987 Hennenhaltungsverordnung continue to be binding under the (still valid) authorisations issued for existing holdings.*

⁹ *In their response to the draft report, the Competent Authority pointed out that these checks are carried out not only for the approval of new installations, but also to inspect existing installations.*



Sanctions of increasing severity were used where deficiencies were detected:

- (1) Written/oral advice (*schriftliche und mündliche Anordnungen*)
- (2) Order for immediate corrective action (*Anordnungen mit sofortiger Vollziehung*)
- (3) Warning threatening an immediate punitive measure - fine (*Anwendung von Zwangsmitteln - Zwangsgelder*)
- (4) Administrative infringement procedure (*Ordnungswidrigkeitenverfahren - Verwarnung ohne und mit Verwarnungsgeld, Bußgeldbescheide*)
- (5) Prosecution (*Strafverfahren*)

The first three procedures were dealt with by the veterinary service of the *Kreis*. The veterinary service worked together with the administrative services of the *Kreis (Ordnungsamt)* regarding the 4th procedure and the case was referred to the state prosecutor for those cases where the 5th procedure was adopted.

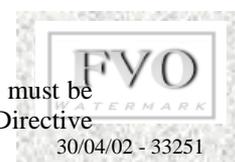
5.3.1. Administrative measures replacing federal legislation

A representative of the CCA reported that the consequences of the judgement of the Federal Constitutional Court had been discussed at a working group of the CVOs of the *Länder*. The Ministeries concerned in two of the *Länder* visited (*NRW* and *NI*) had issued administrative instructions (*Erlässe*) ordering the local services to ensure that new buildings complied with EC requirements. In *NI* a representative of *Ministerium für Ernährung, Landwirtschaft und Forsten* stated that ***administrative instructions could be implemented as animal welfare directions or as conditions in authorisations and that failure to comply with these requirements could be penalised as administrative offences. Failure to comply with such an administrative instruction was an offence carrying an administrative sanction.*** A representative of the CA in *Sachsen-Anhalt* stated that, following a meeting with all *Kreis* veterinarians in this *Land*, it was decided that the requirements of Council Directive 91/630/EEC and Council Directive 99/74/EC¹⁰ should be applied to any new holdings with pigs or laying hens respectively. No administrative instructions on this subject had been issued by the CA in *ST (Ministerium für Raumordnung, Landwirtschaft und Umwelt)*.

5.3.2. Results of previous inspections

The most recent report of the CCA to the Commission regarding checks carried out, indicated that, in Germany, 7.1% of calf holdings (80.7% of specialist calf fattening units) and 11.9% of pig holdings had been checked for the period 1998-99. Some of the more commonly occurring deficiencies in these two livestock sectors included structural problems with animal accommodation, insufficient care for the animals and overstocking.

¹⁰ Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for laying hens must be transposed into the national legislation of all Member States by 1.1.2002 and Council Directive 88/166/EEC repealed with effect from 1 January 2003.

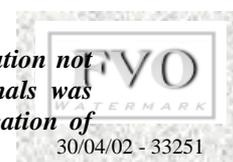


In NRW, according to a representative of *Ministerium für Umwelt und Naturschutz, Landwirtschaft und Verbraucherschutz*, an inspection target of 20% of holdings had been set. However, in one *Kreis* **10% of all calf holdings, which included all veal calf holdings were inspected every year. Farm checks also covered calf holdings where calves were kept for beef production and stock replacement.** In another *Kreis* c. 2% of pig holdings had been inspected in each of the last three years. In relation to calves, a representative of the CA explained that this was a region with significant veal production and that the checks had concentrated on this sector. There was a lack of checks on calves on holdings kept for beef or dairy replacements. From reports seen, deficiencies detected were generally corrected on the spot, or a follow-up visit scheduled. In relation to checks of laying hens, systematic overstocking had been detected on one holding with laying hens. The veterinarian explained that the birds were allowed to remain until the end of the production period and that any stricter enforcement action was not possible because of the annulment of the federal legislation. On one pig holding, where the care for the animals was totally inadequate, several animals, which were in a very poor condition, were euthanised on the spot and the remainder of the animals were seized and slaughtered the following day.

In NI, no target had been set for the number of inspections. The CA (*Ministerium für Ernährung, Landwirtschaft und Forsten*) had reported that 69% of specialist calf holdings and 8.7% of pig holdings had been checked in the period 1998-99. A representative of the CA explained that in addition to the building control and the follow-up of complaints, official veterinarians would check animal welfare requirements when visiting farms for other purposes. In the two *Kreis* visited, figures indicate that a lower percentage of farms were checked in these *Kreis* than the average in NI. The CA (*Ministerium für Ernährung, Landwirtschaft und Forsten*) had recently written to the *Bezirksregierung* responsible for the *Kreis* visited, asking them to intensify checks of animal welfare. In one *Kreis*, it was acknowledged that there were insufficient personnel to undertake all their obligations for veterinary checks. In both of these *Kreis*, the documented checks seen related to building approval and reports of detected infringements¹¹. Regarding the latter, cases of inappropriate care for the animals or mutilations carried out using an inappropriate method had resulted in sanctions being imposed, ranging from warnings through to administrative fines to a prohibition on the keeping of animals.

In ST, the CA (*Ministerium für Raumordnung, Landwirtschaft und Umwelt*) indicated that 30% of cattle holdings and 100% of holdings with pigs and laying hens were the subject of checks each year. Regarding checks on laying hens, the CA had ordered all *Kreis* to check the ventilation equipment, back-up and alarm systems on all holdings with laying hens following an incident on a holding with laying hens. There had been a high

¹¹ *In their response to the draft report, the Competent Authority indicated that the documentation not only covered building approval but also showed that the health and care of the animals was inspected and deficiencies recorded. The mission team was also informed of the rectification of deficiencies in specific cases.*



mortality on one holding due to failure of the ventilation equipment. In the *Kreis* visited, the level of checks carried out on holdings with pigs and calves was less than that reported by the CA for all of *ST*. In the *Kreis* visited, the largest holdings had been checked as a priority (almost all large pig holdings had been inspected and c. 10% of holdings with calves). Council Directive 91/629/EEC (as amended) is applicable to all holdings with more than six calves and Council Directive 91/630/EEC is applicable to all holdings with more than six pigs or five sows and their offspring. Checks of the small and medium sized holdings together with residue controls on these premises had been recently started. The format provided in the Annex of Commission Decision 2000/50/EC was used in this *Kreis* to record the results of inspections carried out. As in the other *Länder* visited, a range of measures had been taken where deficiencies had been detected.

5.4. Farms visited during the mission

The farms visited during the mission were all located in regions with a significant pig, calf or laying hen sector. All farms were selected by the competent authority in advance of the mission. During the farm visits, an official from the local services carried out an inspection.

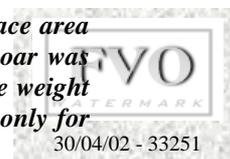
5.4.1. Pig holdings visited

There were 340 and 150 breeding sows on the holdings visited and the majority of offspring on both holdings were sold when they reached c.30kg. In *NRW*, a veterinarian from the *Kreis* carried out the inspection of the holding and in *NI*, a technical officer performed the check. The FVO mission team's evaluation of the performance of these inspections is provided in the following table.

Evaluation of inspections of pig holdings.			
Criteria	Checked ¹²		Comments
	<i>NRW</i>	<i>NI</i>	
Competence and training of staff	+	+	
Inspection frequency	+	+	
Space allowance	+	+	In <i>NRW</i> , the veterinarian detected that there was overstocking in several pens of growing pigs, but accepted that this systematic overstocking could continue until the completion of the planned extension of the animal accommodation. No remarks were made regarding a recently purchased boar ¹³ , which was in a pen obviously smaller than 6m ² .
Weaning age	+	+	
Floors and fixtures	+	+	In <i>NRW</i> , the veterinarian pointed out that some of the floors were not optimal for piglets.

¹² + = Checked, IC = Inconsistently Checked, NC = Not Checked

¹³ *In their response to the draft report, the Competent Authority noted that the pen, with a surface area of 4.6m², was holding a recently purchased young boar for the quarantine period. The boar was then to be transferred to a sufficiently large boar pen. As a young boar with an average live weight of 140 kg is only half the weight of a fully grown boar and as the criticised pen was used only for quarantining, this situation was tolerated by the NRW veterinary administration.*



Evaluation of inspections of pig holdings.			
Criteria	Checked ¹²		Comments
	NRW	NI	
Environmental enrichment	IC	+	On both holdings, the stockman had sought to provide the minimal requirements by providing chains in the pens. In <i>NRW</i> , not all of the pens for growing pigs were fitted with chains. The veterinarian did not make any remarks on this.
Mutilations	+	NC	In <i>NI</i> , the inspector did not check whether the age limits for tooth-clipping or castration were respected and did not discuss the necessity of tail-docking or tooth clipping.
Access to feed	+	+	
Feed quality	IC	NC	In <i>NRW</i> , the inspecting veterinarian discussed the provision of roughage in the feed.
Access to water	+	IC	In <i>NI</i> , the functioning of the drinkers was checked in the dry sow accommodation, but not in the other houses.
Light (for animals)	+	+	In both <i>NI</i> and <i>NRW</i> a luxometer was used to check if the requirement of national legislation (50 Lux) was respected.
Light (for inspection)	+	+	
Air quality	+	+	In <i>NRW</i> draeger tubes to measure the concentration of NH ₃ gases. These were also available in <i>NI</i> .
Back-up systems	+	+	In <i>NI</i> , there was no back-up system in place and the inspector instructed that this should be addressed.
Alarm system	+	+	
Care for sick or injured animals	+	NC	In <i>NI</i> , after the mission team brought up this subject, the inspector stated that he would normally have checked this accommodation, but was aware that these pens were empty at the time of the visit.
Medicine records	+	NC	
Mortality records	+	NC	
Euthanasia	NC	NC	The methods for killing sick or severely injured pigs was not addressed by either inspector.

Regarding environmental enrichment, a representative of the *Ministerium für Ernährung, Landwirtschaft und Forsten* in *NI* explained that legal provisions had to be specific enough so that farmers knew what they were legally obliged to provide. Chains fitted to the pens for the pigs to manipulate was interpreted by the CA to meet the requirements of Council Directive 91/630/EEC Annex, Chapter I, point 16¹⁴.

Following the visits, a representative of the CCA explained that, regarding the killing of sick or injured pigs, a farmer, with the appropriate knowledge and skill, could kill small pigs in such a condition. For all other categories of pig, a veterinarian was required. Information on this subject was included in a training booklet for farmers been published in *NI*.

¹⁴ *In their response to the draft report, the Competent Authority again provided their interpretation, which indicates that this requirement is fulfilled by other objects that the animals could manipulate to keep them busy for more than an hour.*

5.4.2. Holdings with calves visited

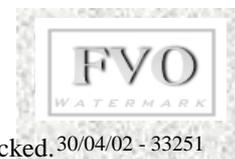
In *ST*, a holding, with some 12,000 calves, specialising in bull beef production was visited. In *NRW* a holding with 590 calves, specialising in veal production was visited. In *NRW* and *ST*, the inspection the holding was carried out by a veterinarian from the local services. The FVO mission team's evaluation of the performance of these inspections is provided in the following table:

Evaluation of inspections of calf holdings.			
Criteria	Checked ¹⁵		Comments
	<i>NRW</i>	<i>ST</i>	
Competence and training of staff	+	+	
Inspection frequency	+	+	
Space/ social contact	+	+	
Tethering	N/A	+	In <i>ST</i> , tethering was used for certain calves. The veterinarian remarked that these calves were tethered during milk feeding, which was never longer than one hour.
Floors and fixtures	IC	IC	In <i>NRW</i> , the veterinarian made no remarks regarding some of the slatted floors for the younger calves, which were slippery. In <i>ST</i> , no remarks were made regarding a few potentially injurious fittings.
Cleaning and disinfection.	+	+	In <i>NRW</i> , the veterinarian requested greater attention to cleaning and disinfection.
Access to feed	+	+	
Feed quality	+	+	
Access to water	+	+	
Light (for animals)	+	+	In <i>NRW</i> , the veterinarian stated that to ensure the national requirement, additional natural light would be needed in rooms with insufficient windows.
Light (for inspection)	+	+	
Air quality	+	+	
Back-up system	+	+	
Alarm system	+	+	On the holding in <i>ST</i> , the veterinarian stated that the animals did not depend on the ventilation system for their welfare and accepted that an alarm was not necessary.
Care for sick or injured animals	+	IC	In <i>ST</i> , there was no separate bedded area for sick calves.
Medicine and mortality records	+	NC	In <i>ST</i> , the inspecting veterinarian explained that he had recently carried out an audit on the use of medicines and the maintaining of herd records. This was part of a programme for the control of residues and he therefore did not include this check as part of his check for animal welfare.

Additional comments

Floors

¹⁵ N/A = Not applicable as no tethering, + = Checked, IC = Inconsistently Checked, NC = Not Checked. 30/04/02 - 33251



On the holding visited in *NRW*, some groups of young calves were in pens with straw bedding. In the pens for some of the older calves, battens across the slats reduced the slipperiness of these surfaces. In the pens where calves were seen to slip, there were no cross battens on the slats. Point 10 of Council Directive 91/629/EEC requires that floors are smooth but not slippery.

On the holding in *ST*, rubber mats, which covered a proportion of the slatted floor, provided a more comfortable lying area for the calves. One calf in a pen with other calves had a serous nasal discharge. The pen had a slatted floor and the inspecting veterinarian did not make any remarks that this calf should be isolated in a bedded pen. After the inspection, the mission team discussed with the inspecting veterinarian the possibility of creating a sick bay with a comfortable lying area within a slatted floor system. Point 6 of Council Directive 91/629/EEC requires that, where necessary, sick calves have accommodation with dry comfortable bedding.

Mutilations

Calves were not castrated or dehorned on either farm visited. In *NRW*, a representative of one of the *Kreis* visited stated that the CA had issued authorisations permitting tail docking of calves to be carried out on 14 farms. He explained that before such an authorisation was given, the necessity of this procedure had to be justified. In *ST*, c. 4% of bulls had been tail docked. A representative of the CA reported that this was always performed as a surgical procedure by a veterinarian.

5.4.3. Holdings with laying hens visited

There were 122,000 laying hens on the holding visited in *NI* and 72,000 birds on the holding in *ST*. In *NI* and *ST*, a veterinarian from the *Kreis* carried out the inspection of a holding with laying hens in cages. The FVO mission team's evaluation of the performance of these inspections is provided in the following table.

Evaluation of inspections of holdings with laying hens.			
Criteria	Checked ¹⁶		Comments
	<i>NI</i>	<i>ST</i>	
Competence and training of staff	+	+	
Inspection frequency	+	+	In <i>NI</i> , there were more than three tiers of cages in the house inspected and a moveable platform was provided for inspection of the upper tier.
Space allowance	IC	+	In <i>NI</i> , cage height and floor slope were not measured. In <i>ST</i> , the inspecting veterinarian had difficulties in taking these measurements.

¹⁶ + = Checked, IC = Inconsistently or not fully checked, NC = Not Checked



Evaluation of inspections of holdings with laying hens.			
	Checked ¹⁶		
Floors and fixtures	+	+	These checks were generally satisfactory, however birds were not removed from any of the cages, which would have allowed a closer inspection of the cages and would have made it easier to measure the dimensions of the cage.
Access to feed	+	+	In <i>ST</i> , in a small number of cages each bird did not have 10cm of trough space. The inspecting veterinarian gave an order for this to be rectified immediately. However, he did not check more cages to assess the extent of the problem.
Feed quality	NC	NC	The veterinarians did not check on the wholesomeness of the diet to satisfy the birds nutritional needs.
Access to water	+	+	
Light (for animals)	+	+	
Light (for inspection)	+	IC	In <i>NI</i> , the inspecting veterinarian carefully used an additional source of light to inspect the lowest tier of cages. In <i>ST</i> , the inspector did not have an additional source of light.
Air quality	+	+	
Back-up ventilation system	+	+	
Alarm system	+	+	
Facility for isolation or treatment	NC	NC	Point 10 of Council Directive 88/166/EEC requires the possibility of isolation facilities. Spare cages also facilitate the replacement of escaped birds without the risk of overstocking other cages.
Medicine records	NC	+	
Mortality records	+	+	
Euthanasia	NC	+	

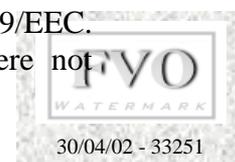
Regarding the killing of sick or injured birds, a representative of the CA explained that a farmer with the appropriate knowledge is permitted to do this by the Animal Protection Act.

Regarding checks on space allowance, the CA of both *Länder* relied more on the measurements from the plans of installations, which were submitted to the authorities prior to their use, rather than measuring cages in situ during their use. A representative of the CA in *ST* stated that cases of gross overstocking would come to their attention, as an official veterinarian reconciled the number of birds sent to the slaughterhouse with the number of birds, which had arrived originally on the farm.

6. CONCLUSIONS

6.1. Applicable legislation in Germany

Council Directive 91/629/EEC (as amended) and Council Directive 98/58/EC have been transposed into federal legislation. Certain requirements for calves go beyond the requirements of Council Directive 91/629/EEC. However, certain requirements of Council Directive 98/58/EC were not completely transposed until 25.10.2001, which was 22 months late.



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Although federal legislation replacing the legislation for laying hens declared null and void in July 1999 and transposing Council Directive 99/74/EC is expected to be in force in early 2002, procedures have not yet started to transpose federal legislation applicable to pigs. The CCA has waited for the latest EC requirements applicable to pigs (Commission Directive 2001/93 and Council Directive 2001/88) to begin this procedure. There has therefore been no federal legislation since July 1999 transposing all the EC requirements applicable to pig holdings, and with 1.1.2003 set as the deadline for transposing the latest amendments, this situation is unlikely to be corrected before this date.

In each *Land* visited, the Ministeries concerned had responded to the judgement of the Federal Constitutional Court, but an administrative instruction to continue to apply EC requirements had not been given in every *Land*. In those *Länder* where such an order had been given, there was still uncertainty in the field regarding enforcement of certain requirements of Council Directives 88/166/EEC and 91/630/EEC.

6.2. System of supervision

The selection of farms may not meet the requirement for “a statistically representative sample” (article 7 of Council Directive 91/629/EEC and 91/630/EEC), as the main criteria for selection is to integrate the checks with other inspections¹⁷. The system of integrated checks used allows animal welfare requirements to be checked in a wider number of holdings, but it did give rise to inconsistencies with recording and reporting of the results of inspections. The omission of small/medium holdings (i.e. those with more than six calves or six pigs) from the statistics on which the report to the Commission is based, does not comply with the reporting requirements of Council Directive 91/629/EEC and 91/630/EEC. Equally excluding those holdings with calves, which do not specialise in veal production, does not comply with the requirements of Council Directive 91/629/EEC. Recording of inspection results in the format laid down in the Annex of Commission Decision 2000/50/EC was a good way of ensuring that the reporting requirements of this Decision will be met.

In all *Kreis* visited, checks were generally conducted in a competent manner. Where severe animal welfare problems had been detected, powers to enforce the requirements had been promptly used. The Ministeries concerned were also responsive to any serious incidents and, on occasions, had required checks to be intensified. The failure to consistently check records of medicinal treatments and mortalities may have arisen from the late transposition of Council Directive 98/58/EC. In addition, the following conclusions are made regarding the areas not adequately addressed during the inspections seen.

¹⁷ *In their response to the draft report, the Competent Authority disputed the validity of this conclusion, as the possibility of carrying out integrated checks is also foreseen by Article 7 of Council Directive 91/629/EEC and 91/630/EEC.*



6.2.1. Inspections of pig holdings

The hesitation to take stronger corrective action regarding overstocking may have been due to uncertainty over the legal basis, since the relevant legislation (*Schweinehaltungsverordnung*) had been declared null and void. Although no sick pigs were seen during the visits, the method of killing sick or injured animals is an important issue on intensive pig units, which was not included during animal welfare checks.

The failure in *NI* to seek justification for the routine mutilations carried out does not comply with point 4 of part III of Chapter II of the Annex of Council Directive 91/630/EEC. The provision of chains for pigs to satisfy the behavioural needs of pigs was considered to meet the requirements of point 16 of Chapter I of the Annex of Council Directive 91/630/EEC. This does not fully address the behavioural needs of pigs, in particular for rooting in friable or deformable material¹⁸.

6.2.2. Inspections of holdings with calves

The inspections covered most of the requirements of EC legislation, but the inherent difficulties in meeting all the requirements in slatted floor systems were not fully addressed.

6.2.3. Inspections of holdings with laying hens

The inspections covered most of the requirements of EC legislation and were carried out in a systematic way, which represents an improvement on the procedures seen during the previous mission on this subject (DG(SANCO)/1057/2000). However, measurements taken of certain cage dimensions were still not made in a reliable way. The reliance on the approval procedure for installations prior to their construction and use, meant that inspectors do not routinely take measurements of cages in situ¹⁹. The reconciliation of slaughterhouse data and mortality records with the number of birds which arrived on the farm represents surveillance for gross overstocking. However, there is a risk that cages, which are not manufactured exactly to the measurements in the plan, may be used without an adequate check of their compliance during their use.

6.3. Overall assessment of the competent authority

The situation regarding the federal legislation is not satisfactory and has not been rectified since the judgement of the Federal Constitutional Court. The

¹⁸ *In their response to the draft report, the Competent Authority stated that Directive 91/630/EEC (regrettably) does not specifically require pigs to be provided with opportunities for rooting in friable or deformable material and that Member States cannot be blamed for deficiencies in the formulation of Directives, particularly where scientific assessments of the behavioural needs of animals, such as rooting, are still not conclusive.*

¹⁹ *In their response to the draft report, the Competent Authority pointed out that the stocking of individual cages is checked for compliance during inspections, at least on a sample basis.*



CCA has taken a pragmatic approach to correcting this problem by awaiting the publication of the latest EC Directives regarding pigs and laying hens. In the interim, the CCA have relied on the authorities of the 16 *Länder* to take additional measures to ensure that EC legislation is respected. The services in the *Länder* visited had made efforts to deal with the difficulties arising from the annulment of the federal legislation relating to pigs and laying hens. *Administrative instructions ensuring full compliance with the EU requirements for pigs and laying hens had been issued by the CA in NI and NRW.* The measures taken in the remaining 14 *Länder* were not assessed during this mission.

Regarding the inspections seen, the inspectors in the field were competent in carrying out these checks. The services met also took appropriate follow-up action when necessary, although this was not always satisfactory for some of the requirements, which had been declared null and void, applicable to pigs and hens.

7. CLOSING MEETING

A closing meeting was held on 30 November 2001 with the CCA and representatives of *NI* and *ST*. At this meeting, the main findings and conclusions of the mission were presented by the mission team.

Regarding the annulment of federal legislation regarding pigs and laying hens, a representative of the CCA considered that the administrative actions taken by the *Länder* were sufficient interim measures, pending the transposition of the latest EC requirements for pigs and laying hens into German federal legislation.

Regarding the selection of farms to provide a “statistically representative sample”, the CCA reminded the mission team that Commission guidelines on these checks had not been forthcoming.

The mission team acknowledged the good co-operation given by the CCA and the CAs of all the *Länder* visited during the mission. However, it was pointed out that *NRW* had not provided certain information before the mission as requested.

8. RECOMMENDATIONS

To the competent authorities in Germany

The competent authorities are requested to inform the Commission Services of the actions taken and planned to address the following recommendations and to provide a timetable for the completion of these actions. This should be done within one month of the receipt of the final mission report.

- 8.1. The Central Competent Authority should indicate their timetable for transposing the requirements of 91/630/EEC (as amended by Council Directive 2001/88/EC and Commission Directive 2001/93/EC).
- 8.2. The Central Competent Authority should evaluate the current measures in place in the 13 *Länder*, which have not been visited during this mission, to implement Council Directives 88/166/EEC and 91/630/EEC.



- 8.3. The Competent Authorities of the *Länder* should ensure that an appropriate number of farms are checked and that the selection of these farms meets the requirements of Article 7 of Council Directive 91/629/EEC and Council Directive 91/630/EEC.
- 8.4. The Competent Authorities of the *Länder* should ensure that records of medicinal treatments and mortalities (Council Directive 98/58/EC, Annex, point 5) and the practice of killing sick or injured animals on farm (Council Directives 93/119/EEC, Article 12 and 98/58/EC, Article 3) are included in checks of animal welfare on farm.

To the Commission Services

The Commission Services should further assess the situation regarding the lack of federal legislation transposing Council Directive 88/166/EEC and 91/630/EEC and consider appropriate action, as necessary.

9. ADDENDUM TO MISSION REPORT DG (SANCO)/3382/2001

Competent Authority response to the recommendations in the report

- (1) In relation to recommendation 8.1, the Central Competent Authority provided a timetable for transposition of the EU requirements for pig farming. This indicated that the relevant federal law will enter into force, not earlier than 20.12.2002 and not later than 07.03.2003.
- (2) In relation to recommendation 8.2, the Central Competent Authority stated that all the *Länder* have issued instructions requiring the locally responsible authorities to enforce the law and that from the standpoint of enforcement, therefore, no "gap in the system" is discernible.
- (3) In relation to recommendations 8.3 and 8.4, the Central Competent Authority noted this with reference to the *Tierschutz- Nutztierhaltungsverordnung*.

