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FINAL REPORT OF A MISSION  
CARRIED OUT IN AUSTRIA  
FROM 14/10/2002 TO 18/10/2002 CONCERNING ANIMAL WELFARE  
DURING TRANSPORT AND AT THE TIME OF SLAUGHTER

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

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## ABBREVIATIONS & SPECIAL TERMS USED IN THE REPORT

BGBI	<i>Bundesgesetzblatt</i> (Federal Law Gazette)
BIP	Border Inspection Post
CA	Competent Authority
CCA	Central Competent Authority/Federal Government
DG SANCO	Directorate General of the European Commission for Health and Consumer Protection
DVO	District Veterinary Officer ( <i>Amtstierarzt</i> )
EC	European Community
ECJ	European Court of Justice
EU	European Union
FVO	Food and Veterinary Office
MS	Member State of the European Union
OV	Official Veterinarian
PM	Post Mortem

## 1. INTRODUCTION

The mission took place in Austria from 14/10/2002 to 18/10/2002. The mission team comprised two inspectors 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 from the central competent authority *responsible for animal welfare during transport*, The Federal Ministry of Traffic, Innovation and Technology (*Bundesministerium für Verkehr, Innovation und Technologie*).

An opening meeting was held on 14 October 2002 with the central competent authority (CCA). At this meeting, the objectives of, and itinerary for, the mission were confirmed by the inspection team.

## 2. OBJECTIVES OF THE MISSION

The objective of the mission was to evaluate the system for checks of animal welfare during transport and at the time of slaughter, in the framework of Council Directive 91/628/EEC<sup>1</sup> (as amended) and Council Directive 93/119/EC<sup>2</sup>. It formed part of a wider series of missions to all Member States (MS) evaluating control systems and operational standards in this sector.

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

COMPETENT AUTHORITY VISITS			Comments
Competent authority	Central	2	Opening and closing meetings
	Regional	1	Meeting held with CA in one Regional Office ( <i>Bezirkshauptmannschaft</i> )
	District	2	The local Police attended one of the meetings with CA at District level. The Other District office was responsible for a significant BIP/Exit point on the Austrian/Slovenian border.
<b>SITES VISITED</b>			
Slaughterhouses		3	One for cattle, one for pigs and one for turkeys
Livestock markets		1	Adult cattle and calves, mostly breeding animals, were present. There was also a quarantine station to facilitate consignments for export to third countries.

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<sup>1</sup> OJ L 340 of 11.12.1991, p. 17 (amended by Council Directive 95/29/EC, OJ L 148 of 30.06.1995, p. 52)

<sup>2</sup> OJ L 340 of 31.12.1993, p. 21

### 3. LEGAL BASIS FOR THE MISSION

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

- Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport
- Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing;
- Commission Decision 98/139/EC 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<sup>3</sup>.

### 4. BACKGROUND

#### 4.1. Summary of previous mission results

##### Animal welfare during transport

A previous FVO mission from 19 to 23 June 2000 included the welfare of animals during transport (see report 1099/2000). A recommendation was made in this report to the CCA to transpose those requirements of Council Directive 91/628/EEC, which are not already in national legislation. In a letter dated 16.3.01 the CCA stated that preparations for such an amendment have started. During the current mission, a representative of the CCA stated that due to limitations on resources it had not been possible to complete this legal transposition.

##### Animal welfare at the time of slaughter

A previous FVO mission on poultry production, also carried out in 2000, found that some of the Provinces had transposed Council Directive 93/119/EC either fully, partially or not at all (see report 1009/2000). A recommendation was made to the competent authorities of Austria in this report, to rectify the deficiencies concerning animal welfare at the time of slaughter.

An FVO mission on pig meat production carried out in 2001 also included aspects relevant to the current mission (see report 3189/2001).

The full texts of the above reports are available on the Commission's website at:

[http://europa.eu.int/comm/food/fs/inspections/vi/reports/austria/index\\_en.html](http://europa.eu.int/comm/food/fs/inspections/vi/reports/austria/index_en.html)

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<sup>3</sup> OJ L 38 of 12.02.1998, p. 10

## 4.2. Production and trade information

The majority of animals are reared and slaughtered in Austria. From the following figures, it is roughly estimated that 93% of animals remain in Austria throughout their life:

Carcase weight of animals slaughtered (tonnes)	Bovine	Porcine	Sheep & Goats	Total
In 2000	203,520	502,000	8,590	714,110
In 2001	215,300	488,490	8,760	712,550

Animals exported Liveweight (tonnes)	EU	Third Countries	Total Export
In 2000	40,594	4,210	44,804
In 2001	25,602	4,447	30,049

Regarding poultry, there were 58,817,533 broilers, 2,241,509 laying hens and 1,773,772 turkeys in Austria in 1999. Parent and grandparent birds for broiler production are mainly imported from Germany and the Netherlands. Turkeys are mainly imported as day old birds (in 2001, 44% from Germany, 22% from the Netherlands, 20% from France, 9.8% from Italy and 3.2% from UK). Where older turkeys are imported, these are almost exclusively from Germany.

## 5. MAIN FINDINGS

### 5.1. Competent Authority

According to the Federal Constitution (*Bundesverfassungsgesetz*) animal welfare is the competency of the nine Provinces (*Länder*) in Austria. Animal welfare during transport is the only exception to this general principle. In this regard, The Federal Ministry for Traffic, Innovation and Technology (*Bundesministerium für Verkehr, Innovation und Technologie*), is responsible, at a central level, for the transposition and implementation of Council Directive 91/628/EEC (as amended). This authority has the competence to issue instructions on animal welfare during transport to the responsible bodies in the Provinces. A representative of the CCA reported that himself and another lawyer, working at the CCA, never spend more than 20% of their time dealing with the issue of animal welfare during transport. Their main task is connected with road user safety.

The Ministry for Social Security and Generations is responsible for issues concerning the certification of animals for intra-community trade and for checks at BIPs. The relationship between the Ministry for Social Security and Generations and the Ministry for Traffic, Innovation and Technology on the issue of animal welfare during transport is limited.

- The Ministry for Social Security and Generations organised a training course in 2000 on inspections taking place at BIPs and this included a presentation from a representative from the Ministry for Traffic.
- None of the representatives from the two Ministries, who were met during the mission, were aware that Commission Decision 2001/298/EC<sup>4</sup> had not been implemented. This concerns certification of fitness of animals for transport.
- While there is veterinary expertise available within the Ministry for Social Security and Generations to interpret aspects such as fitness for transport, no guidance has been produced on this issue. It is the Ministry for Traffic, Innovation and Technology, which is competent for issues arising from Council Directive 91/628/EEC (as amended). This Ministry does not have any veterinary expertise.

Various bodies carry out the actual checks of animal welfare during transport. Checks during transport are mainly carried out by police (*Gendarmerie*), customs officers (*mobiles Überwachungskommando*) and staff working at border posts. The District Veterinarians (DVO) provide veterinary advice to the Police when required and in certain Provinces have the assistance of private veterinarians (*Tiertransportinspektor*). Official veterinarians also carry out inspections of animals, documents and vehicles on their arrival at slaughterhouses.

Animal welfare at the time of slaughter follows the principle that the Provinces have the competency alone. There is, therefore, no CCA at the Federal level for animal welfare at the time of slaughter. However, The Ministry for Social Security and Generations (*Bundesministerium für Soziale Sicherheit und Generationen*) is the Competent Authority for all other veterinary legislation implemented at the federal level including operational procedures at slaughterhouses (see 5.2 applicable legislation).

## **5.2. Applicable Legislation**

### Animal welfare during transport

The principal Federal legislation is the Federal Animal Transport Act (*Tiertransportgesetz-Straße* BGBl 1994/411, as amended by 134/1999). There is also an Animal Transport by Air Act (*Tiertransportgesetz-Luft* BGBl 1996/152, as amended by *BGBl I 1998/42*), and an Animal Transport by Rail Act (*Tiertransportgesetz-Eisenbahn* BGBl I 1998/43). In addition, there are the following implementing regulations:

- (1) Certification Order (*Tiertransportbescheinigungsverordnung* BGBl 1995/129)
- (2) Training Order (*Tiertransportausbildungsverordnung* BGBl 1995/427)
- (3) Care of animals Order (*Tiertransportbetreuungsverordnung* BGBl 1995/440)

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<sup>4</sup> OJ L 102 of 12.04.2001, p. 63

(4) Means of transport Order (*Tiertransportmittelverordnung BGBl 1996/679*)

A comprehensive check of the above legislation was not carried out, but it was noted that there is no legal basis for the following requirements of EU legislation:

- The system of route plans as required by Article 5 of Council Directive 91/628/EEC (as amended).
- The system of authorisation of transporters as required by Article 5 of Council Directive 91/628/EEC (as amended).
- “Place of departure” is not defined (Article 2(e) of Council Directive 91/628/EEC - as amended).

Certain consignments of animals do not have to comply with the requirements of Austrian legislation for journeys of less than 80 km, whereas the limit set by EU legislation is 50 km. In Austrian legislation, a maximum journey time of 6 hours is also laid down and animals destined for slaughter must be transported to the nearest slaughterhouse. Following a judgement of the European Court of Justice against Austria in 1997<sup>5</sup>, an amendment (1999/134) was made. Although this amendment refers to the journey times specified in Council Directive 91/628/EEC (as amended), the earlier requirements of Austrian legislation also remain in force, resulting in a contradiction in the legal requirements.

Animal welfare at slaughter

Federal legislation (*Frischfleisch-Hygieneverordnung BGBl 1994/396*), which is part of the transposition of Council Directive 64/433/EEC (as amended)<sup>6</sup> states that operations at slaughterhouses must comply with the requirements of Council Directive 93/119/EC. This, however, does not give a sufficient basis for imposing sanctions and each of the Provinces is responsible for independently making legislation on animal welfare at the time of slaughter. The following table indicates the legal position in each of the Provinces visited.

Applicable Provincial Legislation	Comments on Legislation
<b>Niederösterreich</b> Animal Welfare Act ( <i>Tierschutzgesetz</i> ) 1985 as last amended by 4610-3 of 28.6.2002 and implementing regulation ( <i>Verordnung</i> ) 4610/1-0 of 22.8.02	Basic principles in Act. Regulations in force since 22.8.02 provide more details than Directive in relation to criteria for electrical stunning and time of stun to bleeding.

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<sup>5</sup> The judgement of the ECJ (Case C-350-97) can be found on website, <http://europa.eu.int/cj/index.htm>

<sup>6</sup> Council Directive 64/433/EEC (as amended) of 26 June 1964 on health conditions for the production and marketing of fresh meat, OJ L121 of 29.7.1964 p. 2012.

Applicable Provincial Legislation	Comments on Legislation
<p><b>Burgenland</b></p> <p>Animal Welfare Act (<i>Tierschutzgesetz</i>) as last amended on 23 May 2002 and regulation (<i>verordnung</i>) of 30.5.95</p>	<p>Act and Regulations in force do not provide legal basis for all the requirements of Council Directive 93/119/EC, in particular the details of Annexes.</p>
<p><b>Steiermark</b></p> <p>Animal Welfare Act (<i>Gesetz über den Schutz und das Halten von Tieren</i>) as last amended by LGBl Nr. 45/1993</p>	<p>Act establishes general principles, however, the details of Annexes of Council Directive 93/119/EC have not been transposed.</p> <p>A representative of Steiermark stated that the political procedure has been completed for a revision of this Act, but this has not yet published. This together with prepared detailed regulations, will give sufficient legal basis to transpose the EU requirements.<sup>7</sup></p>

### 5.3. Control of animal welfare during transport

#### 5.3.1. Instructions and organisation of inspections

The CCA sent a circular to all Provinces on 19.8.99, in response to the judgement of the ECJ against Austria in 1997. This informed them not to implement those requirements of the Federal Animal Transport Act which were in conflict with EU legislation. A representative of the CCA was not aware of any incidents where sanctions had been imposed based on these legal requirements, since this instruction had been issued.

Regarding the organisation of checks, none of the CAs visited had interpreted what number of checks constitutes an “adequate sample of the animals transported each year” (Article 8 of Council Directive 91/628/EEC as amended). A rough estimate made in one District during the mission indicated that reported checks accounted for 1.6% of animal movements.

Two of the Provinces visited had organised checks in co-operation with the Police in 1997, but this experience led the CA to conclude that this was not an effective use of resources. The Police, in one District in Burgenland, estimated that less than 5% of vehicles stopped during a roadside check involved animal transport. The CA in this case, had provided the Police with checklists listing the criteria which could be checked without necessarily obtaining veterinary advice. These included: stocking density, tethering by the horns and separation of different categories of animals. Arrangements had also been made so that the Police could contact an Official Veterinarian (OV) when required.

It was reported that Police activity in this area depends on the significance of international transport routes through their District. During the mission, the following examples of actions taken were discussed:

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<sup>7</sup> *In the response to the draft report, the Ministry of Transport indicated that new legislation has come into force in Steiermark, which would fully transpose all the requirements of Council Directive 93/119/EC.*

- In the last four years, Police in the District visited in Burgenland had initiated action in one case where a vehicle was found to be in a poor state of repair. It was reported that this resulted in a fine of €30 and the vehicle was no longer allowed to transport animals.
- In 2001, Police in one region of Niederösterreich had detected one case of the transport of an unfit animal. This resulted in a €36 fine. Another case where there was insufficient documentation accompanying the animals, a €36 fine was imposed. Guidelines available to the Police indicated the appropriate fine for some of the more common deficiencies.
- In 2002, Police had assisted the veterinary officials at a BIP in Steiermark, where a “security” of €1000 was obtained in the case of an incident involving a foreign transporter, to ensure against non payment of an eventual fine.

### 5.3.2. *Training*

The CCA does not co-ordinate training. Some initiative for co-ordinating training at the federal level had taken place by The Ministry for Social Security and Generations. Most of the initiatives to improve the performance of the inspections were taken by the Provinces, although this was primarily focused on checks at slaughterhouses. In 1996 and in 2001, a veterinary representative of Steiermark had organised training for DVOs and *Tiertransportinspektors* including the preparation of reports in cases where it was intended to prosecute. It was reported that issues relating to animal welfare are also discussed, among other veterinary issues, at twice yearly meetings with all DVOs in each Province.

### 5.3.3. *System of reporting*

Regarding the collection of information on checks carried out, as required by Article 8 of Council Directive 91/628/EEC (as amended), the CCA has requested the Provinces each year to provide the following information:

- (1) Number of checks at BIPs
- (2) Other checks during transport
- (3) Number of resulting infringements.

However, details of reported infringements were not requested. This information is required by Article 8 of Council Directive 91/628/EEC (as amended). Information to CCA is not complete, in particular regarding checks at slaughterhouses or markets and “other checks” are not classified by location.

At the livestock market visited, checks of vehicles were carried out by an OV using a checklist. Every quarter a summary report of these checks was sent to the CA of the Burgenland. In Steiermark, there was a system for reporting incidents of animal welfare from slaughterhouses. None of this information is collected by the CCA.

There was no evidence of any formal communication between the CCA and MSs of departure in cases of infringements involving foreign transporters. Neither of the responsible staff of The Federal Ministry for Traffic were aware of who to contact in many of the MSs which send animals to Austria.<sup>8</sup>

#### *5.3.4. Fitness for transport*

No formal written instructions were seen on this topic. It has been, however, a subject for discussion during training courses. In practice, fitness is assessed on a case by case basis sometimes involving discussion between private veterinarian, OV in the slaughterhouse and DVO.

Occasionally unfit animals are transported to slaughter. In two Districts, the transport of a pig with a large excoriated hernia was the subject of a follow-up action. In one of these cases, a prosecution had resulted in a fine of €43, however the judgement indicated that this had not been an infringement of transport legislation as the animal did not have a fever and could walk. Instead, it was considered as an offence against legislation relating to the keeping of animals on farm.

Cases of the transport of certain animals, which were either chronically injured or had obvious fractures were also reviewed. In one case, a bovine animal with a broken leg was transported in the same vehicle together with other cattle. The OV stated that if such an animal is transported on its own he would accept it, but not where it is together with other animals. Article 12 of Council Directive 93/119/EC states that transport should not entail further suffering for such animals. The OV notified the DVO but no action was taken.

Records at the turkey slaughterhouse visited also indicated that infrequently there are problems with the transport of unfit animals. In one consignment 15% of turkeys were injured and in another an incidence of bruising of 2-3% of birds was discovered PM. The OV stated that a telephone call to the private veterinarian is made in such cases, but no official follow-up is carried out.

#### *5.3.5. Handling of animals and stocking densities*

Handling of animals was carried out in a satisfactory way at the locations visited. Records in one District in Steiermark, indicated that bad handling was one of the most frequently recorded deficiencies. In one case, where pigs had been beaten excessively with a slap-marker for identifying the animals, a fine had been imposed.

At the market, a few individually transported cattle had been fitted with blindfolds for the journey to the market. There is no specific EU legislation on the use of blindfolds, but Article 5A 1(b) of Council Directive

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<sup>8</sup> *In the response to the draft report, the Ministry of Transport stated that the Commission has not asked for any list to be made of contact points in the Member States. They also stated that they have on several occasions informed the German authorities about transport shortcomings discovered during border checks on export consignments.*

91/628/EEC (as amended), which indicates that animals should not be transported in a way that suffering is likely, would be applicable for journeys of more than 50km. In this case, the journey was less than 50km.

OVs had made calculations of the maximum loading densities for the means of transport used to deliver pigs and turkeys to slaughter. The vehicles seen met these requirements. Records in a District office in Steiermark, indicated a prosecution had been initiated in one case where pigs were overloaded and were unable to lie down at the same time.

#### *5.3.6. Means of transport*

In general, appropriate means of transport were used at the locations visited. It was reported that the vehicles transporting animals for more than eight hours to slaughterhouses were appropriately equipped. Repairs were made to a few broken cages while the birds were still in them during the visit to the turkey slaughterhouse. This has been an on going problem for the CA, who monitored that repairs were carried out.

A veterinary representative of Burgenland reported that at the same time as vehicles were checked for roadworthiness their suitability to transport animals was checked. This procedure was not followed in the other two Provinces visited.

Several incidents involving foreign vehicles had been detected at a BIP/exit point.

- One case involved the export of pigs without functioning equipment to provide water. Following this incident, and although not a requirement of EU legislation, The Ministry for Social Security and Generations had requested checks on all consignments of pigs exiting Austria.
- Another case involved the importation of 20 dogs in eight boxes. In this case, it was the opinion of the veterinarian that the dogs were overloaded, and that the space above their heads did not allow the dogs to stand in their natural position. Chapter III and point 2(b) of Chapter I of the Annex of Council Directive 91/628/EEC (as amended) requires that there is adequate space above the animals when they are in a naturally standing position. There are neither EU nor Austrian legal requirements for loading densities for dogs.

#### *5.3.7. Approval and facilities at assembly centre/market*

The OV had approved the market according to the requirements of Article 11 of Council Directive 64/432/EEC (as amended)<sup>9</sup>. He acknowledged that the unloading ramp, which was a grass mound surrounded by concrete,

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<sup>9</sup> Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine, OJ L 121 of 29.7.1964, p. 1977, in particular as amended by Council Directive 97/12/EC (OJ L 109 of 25.4.1997 p.1)

might not strictly comply with these requirements but, on balance, had allowed it as it was beneficial for the easy unloading of the animals.

Animals at the market had access to drinking water and feed, as necessary. A consignment of pregnant heifers was in a part of the market designated as a quarantine station. Here a system of auto-control by the market operators guaranteed regular feeding, watering and cleaning out of the animals.

#### *5.3.8. Documentation and journey times*

Animal transport certificates (*Tiertransportbescheinigung*) indicating date and time of departure accompanied animals at all the locations visited. This met the requirements of Article 4 of Council Directive 91/628/EEC (as amended). In addition, there was a book for each vehicle, where the floor area of each deck (m<sup>2</sup>) was indicated and cleaning and disinfection recorded.

The vast majority of exports are of calves and cattle to Northern Italy, a journey of less than 5 hours and no route plans were necessary. Route plans were seen for exports of cattle to Kosovo. These did not indicate a mid-journey rest and the estimated time for the same journey varied from 13 hours to 24 hours. Route plans were never returned.

The animals seen at the quarantine station were destined for Russia. First, they would travel to another assembly centre where the final health certificate and route plan would be drawn up. This arrangement would not comply with Article 5A(2)(b) of Council Directive 91/628/EEC (as amended), which states that a route plan will have to be drawn up to cover the whole period of the journey.

The CA demands route plans for imports of live animals regardless of whether the journey is less than 8 hours. Route plans for imports to slaughter, where the journey was more than 8 hours, were seen and several had not been completed correctly. Although it was reported that, in certain cases, a telephone call had been made to the issuing veterinarian, the CCA of MSs of departure were never notified of such deficiencies.

### **5.4. Control of animal welfare at slaughter**

#### *5.4.1. Instructions and organisation of inspections*

There were no written instructions to Official Veterinarians working in slaughterhouses apart from some documents, which provided ease of reference to legal requirements such as stocking densities<sup>10</sup>. Checklists were used for recording the results of inspections. DVOs worked together with OVVs to obtain improvements and in certain cases, in particular where inappropriate stunning was a problem, a veterinarian from the provincial level had also been involved.

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<sup>10</sup> *In the response to the draft report, the Austrian Authorities stated that detailed notes and written instructions are available in Steiermark to official veterinarians working in slaughterhouses.*

#### *5.4.2. Training*

Since 1999, the CA in all Provinces visited had invited outside consultants to provide advice and training. Several reports, which had been completed by outside consultants during 2001 had indicated deficiencies regarding animal welfare at slaughter. The Ministry for Social Security and Generations indicated that improved implementation of EU requirements on animal welfare at the time of slaughter was a priority for the first half of 2002. In response, the Provincial Chambers of Commerce and Governments had organised training for OVs and licensed slaughtermen.

#### *5.4.3. System of reporting*

In all three Provinces visited, there was a system of monthly reports from OV to DVO on the results of checks carried out.

#### *5.4.4. Handling and lairage facilities*

In the cattle, pig and turkey slaughterhouses visited, handling and facilities were generally adequate. Monitoring of compliance with animal welfare provisions from unloading to bleeding were part of the ante-mortem checks carried out by the OV. Where cattle and pigs were not taken directly to slaughter there were watering facilities and arrangements were in place to feed animals staying longer than 12 hours. The raceway for pigs leading to the CO<sub>2</sub> stunner, which had been modified following proposals by the CA, facilitated the easy movement of pigs to the point of killing. The following problems however had not been adequately addressed:

- Inadequate ventilation in one part of lairage of the slaughterhouse for cattle resulting in a strong smell of ammonia. The OV had previously recorded inadequate cleaning as a problem in this lairage. Although better cleaning would contribute to a better environment, no specific recommendations had been made to improve ventilation.
- Sick turkeys, on occasion, were detained for more than two hours before being slaughtered. Point 6 of Chapter I of Annex A of Council Directive 93/119/EC requires such animals to be slaughtered immediately and, if this is not possible, at least within the following two hours.

#### *5.4.5. Stunning and killing*

In the cattle slaughterhouse visited, stunning and killing was carried out in compliance with EU requirements. The following points in relation to controls in Niederösterreich were noted:

- Previously a veterinarian from the provincial CA had detected that the interval between stunning and bleeding was too long. This veterinarian explained that this had been improved through training and supervision by the CA.
- There had been a general problem with inaccurate stunning following the ban on pithing. This had been improved through further training of the slaughtermen.

- Following the initiative of the CA, stunning immediately after the throat is cut is accepted by the Muslim groups in Niederösterreich. Rotation crates were used to restrain animals at the place of killing in the cattle slaughterhouse for animals undergoing ritual slaughter.

In the pig slaughterhouse, stunning and killing was carried out in compliance with EU requirements. However, the following deficiencies with equipment were noted:

- The CO<sub>2</sub> stunner worked effectively, however, there was no clearly audible and visible device to indicate if the concentration of CO<sub>2</sub> fell below the required level (Council Directive 93/119/EC, Annex C II, 4, point 3). Slaughterhouse operator had plans to correct this deficiency.
- There was inadequate maintenance of captive bolt pistols in the slaughterhouse for pigs.
- Back-up equipment was not at the place of killing for sows and gauges for the equipment for electrical stunning did not meet the requirements of (Council Directive 93/119/EC, Annex C II, 3A, point 2c)<sup>11</sup>.

In the turkey slaughterhouse, where deficiencies had previously been detected during FVO mission 1009/2000, the CA had sought advice from outside consultants and had made improvements to ensure effectiveness of stunning. However, the birds' wings came into contact with the electrified water before their heads entered the waterbath, resulting in the birds experiencing pre-stunning shocks<sup>12</sup>

## 6. CONCLUSIONS

### 6.1. Competent Authority

6.1.1. Regarding animal welfare during transport, the Ministry for Traffic, Innovation and Technology (CCA)

- (1) has no veterinary expertise and does not consult adequately with other Ministries where such expertise is available. As a result, interpretation, guidance and training by the CCA on certain requirements of Council Directive 91/628/EEC (as amended) has been inadequate.

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<sup>11</sup> *In the response to the draft report, the Austrian Authorities indicated that the operator has been given until 30 June 2003 to install a visual and acoustic warning device to indicate if the CO<sub>2</sub> concentration falls below the required level as well as gauges for electrical stunning equipment and to immediately ensure adequate maintenance of captive bolt pistols and the provision of back-up equipment at the place of killing for sows.*

<sup>12</sup> *In the response to the draft report, the Austrian Authorities indicated that the official veterinarian has been instructed to check that steps promised by the operator to remedy the deficiencies have been taken and to report on these.*

- (2) did not inform other MSs of infringements by their transporters, as required by Article 18 of Council Directive 91/628/EEC (as amended) and Article 8 of Council Directive 89/608/EEC<sup>13</sup>.
- (3) has only partly fulfilled the requirements of Article 8 of Council Directive 91/628/EEC (as amended) for collecting information on checks carried out. Much information was available at the Provincial level, which was not collected by the CCA.

6.1.2. Regarding animal welfare at the time of slaughter,

- (1) there is little co-ordination of the transposition or implementation of the EU requirements, as each Province is independent for this issue.

## **6.2. Applicable Legislation**

Although a comprehensive review of the legislation was not carried out, the following conclusions are made on certain aspects of the applicable legislation:

6.2.1. The legal situation for animal welfare during transport as described in report 1099/2000 remains unchanged. There are contradictory legal requirements in force and no legal basis for several important aspects of EU legislation.

6.2.2 Regarding animal welfare at the time of slaughter, two out of the three Provinces visited, have either recently transposed or about to transpose all the requirements of Council Directive of 93/119/EC. This legislation should have been transposed into national legislation by 1.1.1995 and all the requirements should have been applicable in all slaughterhouses from 1.1.1996.

## **6.3. Control of animal welfare during transport**

The checks and documents seen indicated a satisfactory level of enforcement when serious infringements were detected. The system for documentation accompanying the animals has ensured that journey times can be monitored and the requirements of Article 4 of Council Directive 91/628/EEC (as amended) are respected. Although there is no legal basis for a system of control of route plans, approval of route plans takes place. However, there was no system to assess the feasibility of the planned journey or to ensure the return of route plans after the completion of the journey.

Regarding certification of fitness for transport, Commission Decision 2001/298/EC has not been implemented.

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<sup>13</sup> Council Directive 89/608/EEC of 21 November 1989 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of legislation on veterinary and zootechnical matters. (OJ L 351 2.12.1989, p. 34)

#### **6.4. Control of animal welfare at slaughter**

Considerable efforts have been made to implement EU requirements for animals at slaughter in all three Provinces visited. Several non-compliances were however seen, with the problem where turkeys received systematic pre-stunning shocks and the transport of certain unfit animals being the most significant. Although the other findings relating to the stunning equipment had less direct impact on the welfare of the animals seen during the visits, these deficiencies nevertheless need to be addressed. The failure to adequately address these problems may be partly due to insufficient details in the applicable provincial legislation.

#### **6.5. Overall conclusion**

The Ministry for Traffic, Innovation and Technology has not provided a sufficient legal basis to meet the EU requirements for animal welfare during transport. It also has not met its legal requirements in relation to Article 8 and Article 18 of Council Directive 91/628/EEC (as amended). The Provincial CAs have delivered a satisfactory level of enforcement for those EU requirements which have been transposed into Austrian legislation.

In the Provinces visited, there is an improving situation regarding transposition of Council Directive 93/119/EC and real efforts had already been made to practically implement the EU requirements for animal welfare at slaughter.

### **7. CLOSING MEETING**

A closing meeting was held on 18 October 2002 with a representative from The Federal Ministry for Traffic, Innovation and Technology, a representative from The Ministry for Social Security and Generations and a representative from the Province of Steiermark. At this meeting, the main findings and conclusions of the mission were presented by the inspection team. Apart from some minor clarifications by those representatives present, no reaction was given.

### **8. RECOMMENDATIONS**

#### **8.1. To the competent authorities of Austria**

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 receipt of the final report.

8.1.1. The competent authorities should consider ways of improving the control systems for animal welfare during transport and at the time of slaughter. In particular so that EU legislation is correctly transposed and that there is an effective co-ordination of its subsequent implementation.

8.1.2. In addition, the competent authorities should ensure that:

- (1) There is a complete transposition of the requirements of Council Directive 91/628/EEC (as amended).
- (2) Information is provided to other MSs as required by Article 18 of Council Directive 91/628/EEC (as amended) and Article 8 of Council Directive 89/608/EEC.
- (3) Information is collected annually for the report to the Commission, which satisfies all the requirements of Article 8 of Council Directive 91/628/EEC (as amended).
- (4) Commission Decision 2001/298/EC is implemented.
- (5) All the requirements of Council Directive 93/119/EC are transposed into the Provincial legislation of Burgenland.
- (6) An update is provided on the state of transposition of Council Directive 93/119/EC in the six provinces, which were not visited during this mission.
- (7) Injured animals are not transported if this entails further suffering for the animals (Article 12 of Council Directive 93/119/EC).
- (8) Sick or injured animals, which have experienced pain or suffering during transport or on arrival at a slaughterhouse, are slaughtered immediately or at least within the following two hours (point 6 of Chapter I of Annex A of Council Directive 93/119/EC).
- (9) Equipment for stunning meets the requirements of Article 6 of Council Directive 93/119/EC. In particular, to ensure turkeys do not receive pre-stunning shocks.

## **8.2. To the Commission Services**

- (1) The Commission Services should consider initiating infringement procedures against Austria due to the failure to transpose all the provisions of Council Directive 91/628/EEC (as amended).
- (2) Taking into account the response of the CA to recommendations 8.1.2 (5) and 8.1.2 (6) above, The Commission Services should also consider what measures to take regarding the failure to adequately transpose Council Directive 93/119/EC.

## **9. ADDENDUM TO MISSION REPORT DG (SANCO)/8677/2002**

Competent Authority response to the recommendations in the report.

In relation to recommendations contained in 8.1.2 of the draft report, the Central Competent Authority for animal welfare during transport, The Federal Ministry of Transport, Innovation and Technology, indicated

- (1) With regard to recommendations 1 and 3, that work has now begun to amend the Animal Transport Act.
- (2) With regard to recommendation 2, that the Commission has not asked for any list of contact points in the different Member States.
- (3) With regard to recommendation 4, 6 and 9 that these areas are not in the competence of the Federal Ministry of Transport, Innovation and Technology. However, it is indicated that some deficiencies detected in the slaughterhouses visited during the mission have already been corrected, and clear deadlines have been established for others.
- (4) With regard to recommendation 5, that new legislation has been adopted in Burgenland, that, once published, will ensure the full transposition of Council Directive 93/119/EC.