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FINAL REPORT OF A MISSION  
CARRIED OUT IN GERMANY  
FROM 08 TO 12 MARCH 2004  
REGARDING ANIMAL WELFARE  
ON HOLDINGS WITH LAYING HENS,  
AND DURING LONG DISTANCE TRANSPORT

*Clarifications provided by the German Authorities are given as footnotes, in bold, italic, type to the relevant part of the report*



## TABLE OF CONTENTS

1.	INTRODUCTION .....	4
2.	OBJECTIVES OF THE MISSION .....	4
3.	LEGAL BASIS FOR THE MISSION.....	5
4.	BACKGROUND INFORMATION.....	5
5.	MAIN FINDINGS.....	5
5.1.	Competent authority .....	5
5.2.	Legislation .....	6
5.3.	Measures supplementary to checks .....	7
5.4.	Marketing standards .....	7
5.5.	Registration of farms .....	8
5.6.	System of inspections .....	8
5.7.	Controls of route plans .....	11
6.	CONCLUSIONS .....	12
6.1.	Legislation .....	12
6.2.	Measures supplementary to inspections .....	12
6.3.	Registration of farms .....	12
6.4.	System of inspections .....	12
6.5.	Controls of route plans .....	13
6.6.	Overall conclusion.....	13
7.	CLOSING MEETING.....	13
8.	RECOMMENDATIONS .....	13
	To the competent authorities of Germany .....	13
9.	ADDENDUM.....	14

## ABBREVIATIONS & SPECIAL TERMS USED IN THE REPORT

ANIMO	Animal Movement System adopted following Commission Decision 91/398/EEC of 19 July 1991, OJ L 221 of 9.8.1991, p. 30
BMVEL	Federal Ministry for Consumer Protection, Nutrition and Agriculture
BVL	Federal Office for Consumer Protection and Food Security
CA	Competent Authority
CCA	Central Competent Authority
EC	European Community
EEC	European Economic Community
EU	European Union
FVO	Food and Veterinary Office

## 1. INTRODUCTION

The mission took place in Germany from 8 to 12 March 2004, as part of the planned mission programme of the Food and Veterinary Office (FVO). The inspection team comprised two inspectors from the FVO and one Member State expert.

An opening meeting was held on 8 March 2004 with representatives of the central competent authority (CCA), central federal authorities Federal Ministry for Consumer Protection and Agriculture (*Bundesministerium für Verbraucherschutz, Ernährung und Landwirtschaft*, BMVEL ), Federal Office for Consumer Protection and Food Safety (*Bundesamt für Verbraucherschutz und Lebensmittelsicherheit*, BVL) and by representatives from the *Länder* visited. At this meeting, the objectives of, and itinerary for the mission were confirmed, and additional information required for the satisfactory completion of the mission requested by the mission team.

Throughout the mission, the mission team was accompanied by representatives of the CCA and the competent authority (CA) of the *Länder* visited.

## 2. OBJECTIVES OF THE MISSION

The primary objective of the mission was to evaluate the measures put in place, and their application giving effect to:

Council Directive 1999/74/EC<sup>1,2</sup> on the protection of laying hens;

Commission Directive 2002/4/EC<sup>3</sup> which establishes a system for registering all production sites in relation to the method of production;

Commission Decision 2000/50/EC<sup>4</sup>, which establishes a system for reporting the results of inspections.

The second objective of the mission was to evaluate controls of route plans for long distance transport of animals.

In pursuit of these objectives, the following meetings were held and sites visited:

CA meetings		Comments
Central	2	Opening and closing meetings
<i>Länder</i> and <i>Kreis</i> (local)	2	District Administration Office ( <i>Kreis</i> ) of Dingolfing-Landau in the <i>Land</i> of Bavaria and District Administration Office ( <i>Kreis</i> ) of Biberach in the <i>Land</i> of Baden-Württemberg Where documentation concerning previous checks was evaluated.
Live animal sites		Comments
Holdings with laying hens	4	Two farms with cage systems and two farms with alternative system, selected by the mission team before the mission.

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<sup>1</sup> Legal acts quoted in this report refer, where applicable, to the last amended version.

<sup>2</sup> Council Directive 1999/74/EC of 19 July 1999, laying down minimum standards for the protection of laying hens, OJ L 203, 3.8.1999, P.53 (hereafter: Directive 1999/74/EC).

<sup>3</sup> Commission Directive 2002/4/EC of 30 January 2002 on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC, OJ L 30, 31.1.2002, p.44 (hereafter: Directive 2002/4/EC).

<sup>4</sup> Commission Decision 2000/50/EC of 17 December 1999 concerning minimum requirements for the inspection of holdings on which animals are kept for farming purposes, OJ L 19, 25.01.2000, p. 51 (hereafter: Decision 2000/50/EC)

### **3. LEGAL BASIS FOR THE MISSION**

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

- Art. 9 of Directive 1999/74/EC;
- Art. 10 of Council Directive 91/628/EEC<sup>5</sup>;
- Commission Decision 98/139/EC<sup>6</sup>.

### **4. BACKGROUND INFORMATION**

The previous FVO mission in Germany to evaluate checks of laying hens was carried out from 26 to 30 November 2001 as part of a mission on animal welfare on farms (reference number: DG SANCO/3382/2001, hereafter: report 3382/2001). At this time, only battery cage systems were covered by specific EU animal welfare requirements for laying hens, as set out in Council Directive 88/166/EEC<sup>7</sup>. The report concluded that the inspections covered most of the requirements of EC legislation and were carried out in a systematic way. However, measurements taken of certain cage dimensions were still not made in a reliable way and the reliance on the approval procedure for installations prior to their construction and use, meant that inspectors did not routinely take measurements of cages in situ.

Another previous FVO mission concerning animal welfare during transport and at the time of slaughter (DG SANCO 9038/2003, hereafter: report 9038/2003) is relevant to the control of route plans and concluded that the CAs generally have a satisfactory system for the control of route plans.

The reports of these missions are available under their reference number on the DG Health and Consumer Protection website, at:

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

### **5. MAIN FINDINGS**

#### **5.1. Competent authority**

Report 9038/2003 gives a general outline of the structure of the Competent Authority.

The working group of top-level veterinary officials mentioned in report 9038/2003 has been replaced by a regional working group for consumer

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<sup>5</sup> Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Council Directive 90/425/EEC and 91/496/EEC, OJ L 340 of 11.12.1991, p. 17 (hereafter: Directive 91/628/EEC)

<sup>6</sup> 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 OJ L 38 of 12.02.1998, p. 10

<sup>7</sup> Council Directive 88/166/EEC of 7 March 1988 complying with the judgement of the Court of Justice in Case 131/86 (annulment of Council Directive 86/113/EEC of 25 March 1986 laying down minimum standards for the protection of laying hens kept in battery cages). OJ L 74 of 19.3.1988, p. 83

health protection (*Länderarbeitsgemeinschaft Gesundheitlicher Verbraucherschutz*, LAGV).

In **Bavaria** there are three tiers of administration. The regional (*Land*) CA for veterinary affairs, including animal welfare, is the Bavarian State Ministry for the Environment, Health and Consumer Protection (*Bayerisches Staatsministerium für Umwelt, Gesundheit und Verbraucherschutz*). The subministerial authorities are the seven local governments responsible for the administrative districts. Lower level administrative authorities are the 71 county councils (*Landratsämter*) of the districts (*Kreis*), each of which has a veterinary medicine department. Seven urban districts are also responsible for implementing veterinary law in their capacity as the local administrative authorities. The Regional Office for Health and Food Safety, which is immediately subordinate to the regional CA, has a technical working group on animal welfare. This body produces instructions for the *Landratsämter* and is responsible for developing policy as well.

In **Baden-Württemberg** there are also three tiers of administration. The regional CA is the Ministry for Food and Rural Affairs (*Ministerium für Ernährung und Ländlichen Raum*). The sub-ministerial authorities are the four executive bodies, which are responsible for the administrative districts. Lower level administrative authorities are the 35 county councils (*Landratsämter*) of the districts (*Kreis*) and nine local councils (*Bürgermeisterämter*) of the urban districts which each have a veterinary office. The Freiburg chemical and veterinary testing office (*Chemische und Veterinäruntersuchungsamt*), which has a technical working group on animal welfare, is responsible for producing instructions for the *Landratsämter* and developing policy and is directly subordinate to the regional CA.

The *Länder* are the Competent Authority for the full implementation of Directive 1999/74/EC, Regulation (EC) No. 2295/2003 and Directive 2002/04/EC. In Bavaria registration of farms is under the responsibility of the Bavarian Ministry for Agriculture and Forestry which delegates this task to the Regional Office for Agriculture, whereas in Baden-Württemberg it is the Offices attached to the Regional Chamber and the mayoral offices of the urban districts (*Stadtkreise*).

Co-ordination meetings on animal welfare issues are held between the CCA and the CA of the *Länder* at least twice a year. These meetings have the aim of informing and updating on EU matters such as proposals for new legislation and results of FVO inspections. Guidelines can be proposed and discussed at these meetings, although the *Länder* are not obliged to follow them. Bavaria has a leading role in relation to the implementation of Directive 1999/74/EC. The *Länder* or the intermediate levels have not yet developed a uniform procedure or a policy to deal with common deficiencies detected on laying hen farms.

## 5.2. Legislation

Although a comprehensive review of legislation was not carried out, it was noted that for some issues German legislation goes beyond EU requirements. The length of the feed trough, which can be used without restriction per hen,

must be at least 12 cm, whereas 10 cm is the EU requirement. There is a ban of unenriched cages after 2006, whereas the EU requirement is to ban them from 2012. Enriched cages are only permitted until 2012, whereas in the EU requirements no prohibition is laid down.

The EU legislation relevant for this mission has been transposed in different legal texts, mainly:

- The first Order amending the *Tierschutz-Nutztierhaltungsverordnung* (Animal Welfare Livestock Order). Approved by the *Bundesrat* on 26.10.2001, subject to amendments and implemented on 12.3.2002, fully transposes Directive 1999/74/EC into national law.
- The Law on the registration of establishments for laying hens (*Gesetz über die Registrierung von Betrieben zur Haltung von Legehennen, LegRegG*) of 12 September, Federal Law Gazette (BGBI) I, p. 1894 of 18 September 2003 and the Order implementing the laying hen establishment registration law (*Verordnung zur Durchführung des Legehennenbetriebsregistergesetzes, LegRegV*) of 6 October 2003, BGBI. I, p. 1969 of 14.10.2003, fully transpose Directive 2002/4/EC into national law.

Although Directive 1999/74/EC entered into force two months after the deadline, representatives of the *Länder* stated that they were aware of the new requirements for the holding of laying hens from 26.10.2001 onwards. Therefore, it was laid down that the approval of new building projects after that date were issued either with additional provisions to ensure that the new requirements were met, or were deferred until after the announcement of the first Order during the period for amendment of the Animal Welfare Livestock Order (*Tierschutz-Nutztierhaltungsverordnung*).

### **5.3. Measures supplementary to checks**

Both the CCA and all the levels of *Länder* visited had provided general information to the egg producing sector.

In Bavaria and Baden-Württemberg, laying hen farmers were informed of the legal situation at events organised by the associations and by articles in the relevant press. Moreover, there are close contacts between the competent *Länder* Ministries, the poultry industry association and the agricultural authorities, which ensure that information is exchanged. A representative of the Ministry regularly attends the meetings of the poultry industry association and the farmers association to liaise on veterinary issues, and amendments to the law are raised in this context.

In addition in Baden-Württemberg, the CA stated that for the purpose of implementing the Directive 1999/74/EC in establishments, the competent offices involved in authorisation of new buildings and conversions ensure that they comply with the legislation.

### **5.4. Marketing standards**

EU marketing requirements provide a means whereby the consumer is informed of the farming method for all purchases of eggs. Although

Commission Regulation (EC) No. 2295/2003<sup>8</sup> was not evaluated during this mission, in all the farms visited the eggs were labelled on the shell with the farming method and pack. Each Land is responsible for the enforcement of marketing regulation of eggs.

Marketing inspectors perform mostly documentary checks of the animal rearing system insofar as required by Regulation (EC) No 2295/2003 concerning the requirements to be satisfied by animal rearing systems and the packing stations but they do not check the farms in relation to animal welfare, which is the exclusive responsibility of the veterinary services. However, “egg marketing inspectors” do not usually visit every farm. The information supplied for registration is used by egg marketing inspectors to note deficiencies. A risk evaluation could result in a check on the spot if necessary and in case of serious deficiencies these would be referred to the competent veterinary services<sup>9</sup>.

## **5.5. Registration of farms**

Registration according to Directive 2002/04/EC had been completed in both *Länder*. The administrative procedure is uniform at federal level. Relevant data of the registration are kept at *Länder* level, and if necessary can be sent to central level.

The local authority (*Kreis*) collects the information which is then registered at *Länder* level. In both *Länder* computerised registers included all data required regarding the establishments, the owners and the keepers as set out in point 1 of the Annex to Directive 2002/04/EC. The CAs allocated a distinguishing number to the farms inclusive of the code indicating the farming method (point 2 of the Annex to Directive 2002/04/EC).

As regards the registration of holdings with laying hens, 36 infringements have been recorded since November 2003 in Baden-Württemberg (e.g. infringements relating to overcrowding, lack of claw shortening devices, insufficient feeders length).

## **5.6. System of inspections**

### *5.6.1. Training and guidance*

Although at federal level, meetings with the *Länder* are held regularly twice a year, no specific guidelines have been given regarding laying hens.

The guidelines given in Bavaria were general, and none were provided in Baden-Württemberg. The *Kreis* CA had not issued detailed instructions in

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<sup>8</sup> Commission Regulation (EC) No. 2295/2003 of 23 December 2003 introducing detailed rules for implementing Council Regulation (EEC) No. 1907/90 on certain marketing standards for eggs, OJ L 24.12.2003, p. 16

<sup>9</sup> *In their response to the draft report the CA of Bavaria stated that at the time of the mission it was not possible to assess all registered holdings by the staff of the regional agricultural office responsible for monitoring marketing standards as the annual inspection only became mandatory since the entry into force of Regulation (EEC) No 2295/2003 on 01.01.2004.*

either *Länder*. Comprehensive checklists for the farm inspections were provided only in Bavaria. The veterinary inspectors met during the mission were fully aware of the requirements. However, the measurement of the cages in one of the farms visited was not adequate.

Veterinary inspectors received training for most of the issues related to animal welfare for laying hens. However, no specific training on measurements of cages and alternative systems was provided and, in particular, no training was provided in Baden-Württemberg on how to carry out comprehensive checks.

The *Länder* have set up a working group on animal welfare under the chairmanship of Bavaria in which questions of standardised implementation are discussed at regular meetings. This working group has directed a project group to prepare a risk assessment for the monitoring of livestock holdings. In the medium term, a livestock quality manual, standardised for the whole of Germany, like the existing manual on animal transport (see report 9038/2003), is to be prepared, to ensure uniform implementation of monitoring of livestock holdings. This manual is to be made available to producers once it is ready.

**- In Bavaria:**

The *Kreis* visited received from the *Land* the instructions, guidelines and checklist for monitoring the various systems for keeping laying hens following a specific training exercise in May 2003.

The inspection team found that, although no training on the measurement of cages was given, the results of the inspections performed during the visit on the two farms indicated that, the inspectors of the *Kreis* had measured the cages accurately.

A representative of the CAs stated that a test protocol regarding alternative systems was sent out in 2002, which the Bavarian Institute of Agriculture, the body monitoring marketing standards for eggs, completes under the arrangements for administrative cooperation.

**- In Baden-Württemberg,**

In December 2003, a training course on “Animal welfare in laying hen and chicken farms” was held for veterinary and agricultural officials.

So far, local authorities had not used standardised checklists. The *Land* CA indicated that preparations are now being made to provide operating instructions and checklists under the quality management system currently being set up in Baden-Württemberg.

*5.6.2. Selection of farms*

Although a control plan was foreseen at *Länder* level for 2004, it is not yet in place. Currently the veterinary inspectors of each *Kreis* select the laying

hen farms and determine the inspection frequency based on several parameters without an adequate risk evaluation<sup>10</sup>.

The target in the two *Kreise* visited was to inspect 100% of the registered laying hen farms each year, but it had not been met.

### 5.6.3. *Inspections of farms*

During the farm visits the inspection team noted that:

- In Bavaria inspectors' performance in detecting deficiencies was adequate.
- In Baden-Württemberg during the farm visit the inspector used a new check list which covered all essential aspects. However, the previous checks available in the Kreis office were carried out either with a checklist or with the annex of Decision 2000/50/EC neither of which comprehensively covered the requirements of Directive 1999/74/EC. In at least one case the veterinary inspectors had recorded the light period but had not realized that it did not comply with point 3 of the Annex of Directive 1999/74/EC, as the uninterrupted period of darkness lasted less than 8 hours<sup>11</sup>.

Caged systems:

- Follow up action after the visit to the cage farm in Bavaria was insufficient. Although previous checks had already found deficiencies such as overstocking, insufficient feeder space and lack of claw shortening devices, the only action taken by the CA was to issue a verbal caution<sup>12</sup>.
- Most of the records seen in the Kreis office of Baden-Württemberg indicated that the surface area had been checked, but not the requirements for height and slope.
- The veterinary inspector of Baden-Württemberg did not detect that the height of cages was less than 40 cm in 65% of the cage area, which is not in compliance with Article 5.1 (4) of Council Directive 1999/74/EC. For other cages the measurement during a previous inspection included an

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<sup>10</sup> *In their response to the draft report the CA of Bavaria stated that risk evaluation in laying hen farms in Kreis districts is undertaken on the basis of experience gained during earlier inspections. In view of the small number of laying-hen farms in Kreis districts the veterinary officers have very detailed information concerning the risk factors in individual farms.*

<sup>11</sup> *In their response to the draft report the CAs stated that in accordance with §14(1)(2) of the German Regulation governing protection of animals and domestic animals there is a requirement that artificial light should be faded for at least eight hours at night, but this provision stipulates nothing concerning the interruption of the period of darkness, which means that under national law this practice is not illegal.*

<sup>12</sup> *In their response to the draft report the CAs stated that in the experience of the office concerned verbal instructions are reliably followed by this farm and any deadlines are respected.*

area which provided less than 35 cm height, which is not in compliance with Article 5.1. (1) and (4) of Directive 1999/74/EC<sup>13</sup>.

#### Alternative systems

- There was no effective system in place to avoid loss against predators on a free-range farm in Bavaria<sup>14</sup>.
- The measurement of the light was not adequately performed on an alternative holding in Baden-Württemberg. The intensity of light was less than 20 lux, which is the minimum required in the German legislation.

#### 5.6.4. Reporting system

In Bavaria a “computerised inspection system” is in place, in which the inspections performed are registered, also follow-up and the corrective actions are traceable. Whilst in Baden-Württemberg it is foreseen but not in place.

Decision 2000/50/EC requires that a report on the results of certain farm inspections, including laying hens should be submitted to the Commission every two years. The CCA submitted a report of checks in 2000 and 2001, which included checks of hens in battery cages. The deadline for the submission on the outcome of checks made in 2002 and 2003, which include for the first time those on the basis of Directive 1999/74/EC, is April 2004.

By the end of the mission, ten CAs out of sixteen had sent the results of the inspections carried out in 2002-2003 to the CCA. These results should give an overview of the level of compliance with Directive 1999/74/EC by 30.3.2004, complying with Article 2 of Decision 2000/50/EC. The summary of reports from the *Länder* contained, at least, the information required by Decision 2000/50/EC.

In Baden-Württemberg 3.16 % of the total number of laying hens farms including those with less than 350 hens, have been inspected in 2003, while in Bavaria only 5.65 % were checked. In both *Länder* the four major non compliances were in relation with construction, records, internal controls and space allowances.

### 5.7. Controls of route plans

The FVO team selected a random sample of consignments at the *Kreis* offices of each *Land* and noted that in both *Länder*:

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<sup>13</sup> *In their response to the draft report the CA indicated that this farm will soon be converting laying hen operations to free range.*

<sup>14</sup> *In their response to the draft report the CAs of Bavaria stated that as yet no effective system for protecting against all credible predators exists. Fencing offers no protection against martens, stoats or birds of prey.*

- All the route plans seen were kept with a copy of the health certificate. However, in both *Länder* the existence of the route plans was not notified via the ANIMO system, in the “comments” field<sup>15</sup>.
- 100% of the route plans were returned after completion of the journey and in the route plans examined details of the proposed itinerary were in place indicating that the feasibility of the journey had been checked before departure. The CA indicated that in case of doubt the route planners available on internet are consulted.

## 6. CONCLUSIONS

### 6.1. Legislation

Although a comprehensive revision of German legislation has not been carried out, it was noted that German legislation on protection of laying hens goes beyond the minimum EU requirements for certain criteria.

### 6.2. Measures supplementary to inspections

In both regions, measures such as meetings, workshops, training courses and direct contact with the farmers have provided adequate information to the laying hen sector.

### 6.3. Registration of farms

The registration of laying hen farms (Directive 2002/4/EC) had been completed in the two *Länder* visited.

### 6.4. System of inspections

- (1) There is not yet a standardised approach to inspections. A working group under the leadership of Bavaria is expected to deliver a manual with guidelines and instructions which should address this issue.
- (2) The control programme of the veterinary services of the *Kreis* had been established without guidance from higher level and adequate risk evaluation<sup>16</sup>. However, the egg marketing inspectorate had already a system for targeting farms.
- (3) Although in Bavaria the checks were mostly adequate, in Baden-Württemberg the checks performed previously in the farms were not comprehensive and did not cover all the points of Directive 1999/74/EC, in particular the system of checking cages was

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<sup>15</sup> *In their response to the draft report the CAs of Baden-Württemberg stated that the competent authorities have already been shown the legal basis and invited to take this into account in future when completing ANIMO notifications.*

<sup>16</sup> *In their response to the draft report the CA of Baden-Württemberg indicated that the checks are geared to the size of the holding, its economic importance and any deficiencies detected on previous occasions*

unreliable. Therefore, deficiencies may be under-detected. Unreliable cage measurements was also a problem reported in the previous mission on this subject (report 3382/2001). Training in this regard has been insufficient.

- (4) Reporting system in Bavaria was clearer and allowed better follow up than in Baden-Württemberg where deficiencies such as overstocking and defective buildings and installations were not always adequately follow up<sup>17</sup>.
- (5) The CCA do not yet have an overall picture of the level of compliance as so far ten *Länder* of sixteen have sent the results of the inspections carried out in 2002-2003. This is expected by 30.3.2004, complying with Article 2 of Decision 2000/50/EC.

#### **6.5. Controls of route plans**

In the two *Länder* visited, controls on route plans and the measures to ensure their return were mostly adequate.

#### **6.6. Overall conclusion**

Although German legislation goes beyond EU requirements, implementation and surveillance are not yet adequate, particularly in Baden-Württemberg. The project for standardising guidelines and instructions should lead to a more effective system of control. Controls on documentation regarding long distance transport of animals were mostly adequate.

### **7. CLOSING MEETING**

A closing meeting was held on 12 March 2004 with the Federal and *Länder* authorities. At this meeting, the representatives did not express disagreement with the main findings and conclusions of the mission presented by the inspection team and provided some further clarifications.

### **8. RECOMMENDATIONS**

To the competent authorities of Germany

The competent authorities should ensure that regarding animal welfare on holdings with laying hens:

- (1) The animal welfare working group delivers a manual with guidelines and instructions for animal welfare of laying hens, in particular providing:
  - (a) more detailed guidance on checking measurements of cages (points (1) and (4) of Art. 5(1) of Directive 1999/74/EC),

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<sup>17</sup> *In their response to the draft report the CA indicated that in future, the documents will be produced electronically in a uniform way throughout Baden-Württemberg.*

- (b) guidance on how to utilise information available to egg marketing inspectors to target farms and ensure that requirements are respected.
- (2) When deficiencies are detected, a policy is adopted by each Länder so that adequate, timely and proportionate corrective measures are taken as necessary.
- (3) Ensure that all Länder submit results of inspections in compliance with Decision 2000/50/EC.

## 9. ADDENDUM

The CA provided the following initial reaction to recommendations in the draft report:

- 9.1 Regarding recommendation 1 and 2, Bavaria, the federal *Land* that chairs the working group, indicated that at the next meeting of the working group the conclusions and the recommendations in particular paragraphs 1a, 1b and 2 will be discussed.
- 9.2 Regarding recommendation 1b, the CA indicated that in accordance with Article 28 of Regulation (EC) No 2295/2003 and in accordance with statutory provisions governing data protection the information exchange proposed by the FVO is not possible.