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FINAL REPORT OF A MISSION
CARRIED OUT IN
AUSTRIA
FROM 20 TO 26 JANUARY 2011
IN ORDER TO EVALUATE THE IMPLEMENTATION OF CONTROLS ON ANIMAL
WELFARE ON FARMS AND DURING TRANSPORT

In response to information provided by the Competent Authority, any factual error noted in the draft report has been corrected; any clarification appears in the form of a footnote.

Executive Summary

This report describes the outcome of an audit carried out by the Food and Veterinary Office (FVO) in Austria, from 20 to 26 January 2011.

The objective of the audit was to evaluate the implementation of EU animal welfare legislation applicable to pig, broiler and laying hen farms and transport of animals, in particular the measures put in place to give effect to Council Directives 2008/120/EC, 98/58/EC, 1999/74/EC, 2007/43/EC, Regulation (EC) No 1/2005 and to follow up the recommendations from report DG SANCO/8049/2006 (hereafter: report 8049/2006) regarding animal welfare on farms and from report DG SANCO 8677/2002 regarding transport.

It is concluded that there is a good system of animal welfare controls in place, that most of the EU requirements were respected and some go beyond the minimum standards. The controls of farm welfare were generally well implemented; however, the system of verification of effectiveness of the checks needs to be enhanced so that the higher levels of the CA can ensure the effectiveness of checks carried out by the district CA.

Although the CA was delayed with guidance and check lists regarding welfare during transport, the system of transport checks was largely efficient and effective enforcement actions were taken when necessary.

The report makes recommendations addressed to the Austrian competent authorities aimed at rectifying the identified shortcomings and further enhancing the control measures in place.

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ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

CA(s)	Competent Authority (ies)
CCA	Central Competent Authority
DG (SANCO)	Health and Consumers Directorate-General
EC	European Community
EU	European Union
FVO	Food and Veterinary Office
OV(s)	Official veterinarian (s)
TRACES	Trade Control and Expert System

1 INTRODUCTION

The audit took place in Austria from 20 to 26 January 2011, as part of the planned audit programme of the Food and Veterinary Office (FVO).

An opening meeting was held with the competent authorities of Austria on 20 January 2011. At this meeting, the objectives of, and itinerary for, the audit were confirmed by the audit team and additional information required for the satisfactory completion of the audit requested.

The audit team comprised two auditors from the FVO, and was accompanied throughout the mission by representatives from the Central Competent (CCA), Ministry of Health (*Bundesministerium für Gesundheit*).

2 OBJECTIVES OF THE MISSION

The objective of the audit was to evaluate the implementation of EU animal welfare legislation applicable to pig, broiler and laying hen farms and transport of animals, in particular the measures put in place to give effect to Council Directives 2008/120/EC, 98/58/EC, 1999/74/EC, 2007/43/EC, Regulation (EC) No 1/2005 and to follow up the recommendations from report DG SANCO/8049/2006 (hereafter: report 8049/2006) regarding animal welfare on farms and from report DG SANCO/8677/2002 regarding transport.

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

Visits			Comments
Competent authority	Central	2	Opening and closing meetings with the CCA and CAs of Carinthia and Styria.
	Provincial	2	A Provincial office in each of the two Provinces (Carinthia and Styria) was visited.
	District	2	One district office in each of the two Provinces (Carinthia and Styria), where checks of means of transport and procedures for authorisation of transporters has been discussed, was visited.
Farms		4	A pig farm in each region and a laying hen farm with enriched cages in Styria were selected by the inspection team from a list of farms provided by the CAs. A broiler farm in Styria was selected by the CAs.

3 LEGAL BASIS FOR THE MISSION

The audit was carried out under the general provisions of the Union legislation, in particular Article 9 of Directive 1999/74/EC, Article 10 of Directive 2008/120/EC, Article 7 of Directive 98/58/EC, Article 28 of Regulation (EC) No 1/2005 and Article 45 of Regulation (EC) No 882/2004.

EU legal acts quoted in this report refer, where applicable, to the last amended version.

4 BACKGROUND

A previous mission concerning the welfare of farm animals took place in Austria from 4 to 8 September 2006. Report 8049/2006 of that mission concluded that significant progress had been made with the adoption of national legislation which provides a more significant role for the CCA with regard to areas where there have been significant non-compliances. In addition, where Provincial CAs have prioritised issues for enforcement effective measures have been imposed, but checks have not always been sufficient to ensure that all requirements were adequately assessed.

A previous mission concerning animal welfare during transport took place in Austria from 14 to 18 October 2002. Report 8677/2002 of that mission concluded that the CCA (at the time of the mission this was the Ministry for Traffic, Innovation and Technology) had not provided a sufficient legal basis to meet the EU requirements for animal welfare during transport. The Provincial CAs had delivered a satisfactory level of enforcement for those EU requirements which have been transposed into Austrian legislation.

5 FINDINGS AND CONCLUSIONS

5.1 COMPETENT AUTHORITY

5.1.1 Organisation and responsibilities

Legal requirements

Article 4(1) of Regulation (EC) No 882/2004 requires Member States to designate the competent authorities responsible for official controls.

Findings

The organisation of the CAs and the control system for animal welfare is described in report DG(SANCO)/2009-8116. Further information on the CAs can be obtained at the website: <http://www.bmg.gv.at>

In addition to the Animal Welfare Council (*Tierschutzrat*), two other advisory bodies to the Minister of Health have been established; the Animal Welfare Commission (*Tierschutzkommission*) and the Advisory Committee on Enforcement (*Vollzugsbeirat*).

The Animal Welfare Commission comprises two experts appointed by the Ministry of Health, two experts appointed by the Ministry of Agriculture and one representative from each of the parties represented in the Austrian Parliament.

The Advisory Committee on Enforcement comprises one representative from the Ministry of Health, one representative from the Ministry of Agriculture, the heads of the provincial veterinary services and the animal welfare ombudsman of the province which is chairing the conference of provincial governors.

5.1.2 Guidance and training of CA staff

Legal requirements

Article 6 of Regulation (EC) No 882/2004 requires competent authorities to ensure that staff receive appropriate training, and are kept up-to-date in their competencies.

Article 8 of Regulation (EC) No 882/2004 requires that competent authorities carry out their official controls in accordance with documented procedures, containing information and instructions for

staff performing official controls.

Findings

In response to the recommendation from report 8048/2006 that inspectors should be familiar with the requirements of national legislation, the CCA have produced handbooks and check-lists for animal welfare of cattle, pigs, sheep, goats and poultry (including laying hens and broilers) in 2006 to assist the Provinces in this respect. Both, handbooks and check-lists are very comprehensive and include necessary information for the OV's to perform effective controls. Although in response to a recommendation from report 8049/2006 the CCA stated that it has been decided by all heads of Provincial veterinary services that these check lists and handbooks on farm animals should be used by the OV's in all Provinces, in Carinthia the OV did not use the check list during the farm visit and did not detect that there was a lack of litter in the sick pen and sows were kept in individual stalls at a time when they should have been moved to group housing and sows were kept in farrowing crates for a week longer than allowed. In Styria the OV used the check-lists and most deficiencies were detected.

The CCA in March 2010 produced a comprehensive guidance on animal welfare during transport. It provides necessary information on all aspects of animal welfare during transport, such as on authorisation of transporters, approval of vehicles, and information on how to assess specific technical details and on how to perform checks. The CCA also prepared a check list, but it is not compulsory to use this as it serves as guidance for the Provincial CA and in both Provinces the CA adapted the check lists to serve their specific needs. In Carinthia a District OV stated that before the guidance has been produced, no specific information or training on the procedures for authorisation of transporters had been provided and as a result the only transporter authorised for long journeys in his District was authorised without presenting all necessary documentation, which is required by Articles 10 and 11 of Regulation (EC) No 1/2005.

Several training events for OV's had been organised by the Provincial CA visited which covered major topics of animal welfare on farms and during transport. The CA stated that due to the fact that there are no precise standard minimum requirements which apply throughout the EU for satellite navigation systems has caused problems with respect to the organisation of training courses for the OV's. Nevertheless, a workshop on animal transport was held in Styria during which OV's received instruction about satellite navigation systems; no training on how to assess the appropriateness of the navigation system, which is required for long journeys in accordance with Article 6.9 of Regulation (EC) No 1/2005 has been provided to the OV's who approve means of transport in Carinthia.

5.1.3 Verification of the effectiveness of the checks

Legal requirements

Article 8 of Regulation (EC) No 882/2004 states that CAs must have procedures in place to verify the effectiveness of official controls, to ensure effectiveness of corrective action and to update documentation where needed.

Findings

Report 8049/2006 recommended that the CA should ensure adequate verification of the effectiveness of inspections and that corrective actions are taken as required by Art.8 3 of Regulation (EC) No 882/2004.

In both Provinces verification of the effectiveness of inspections is based on checking if the number of inspections planned has been achieved and on an analysis of the results of previous inspections which are kept in a computer database. The outstanding issues are discussed at Provincial co-

ordination meetings with the District OVs. These verification checks were efficient to check if plans had been achieved and follow ups carried out in cases when deficiencies had been detected, but there was no system in place to detect if deficiencies were actually detected during checks, such as during the check of the pig farm visited in Carinthia, where the local OV failed to detect deficiencies.

The CA of Carinthia stated that they are putting in place a quality system which will also include verification of the effectiveness of the checks, but that they lack staff to successfully put it in operation. The CA of Styria intended to start with a Provincial internal audit system in 2008, but due to the fact that in 2008 and 2009 another system of audit where Provinces are auditing each other was introduced, this did not come about.

Similar systems exist for verifying the effectiveness of transport checks. Provinces report the results of their checks by January the following year to the CCA which checks if the numbers planned have been achieved and discuss possible outstanding issues at co-ordination meetings with the Provinces. In addition Provincial OVs perform on the spot verification of the checks performed by the authorised veterinarians in the slaughterhouses, which include animal welfare.

5.1.4 Audits

Legal requirements

Under Article 4 of Regulation (EC) No 882/2004 competent authorities are required to carry out internal audits, or have external audits carried out. These must be subject to independent scrutiny and carried out in a transparent manner.

Findings

The CCA has put in place a system of internal audits as required by Article 4.6 of Regulation (EC) No 882/2004, including animal welfare audits. An audit performed in Styria did not detect deficiencies regarding animal welfare controls. In Carinthia there has been no welfare audit performed yet. The CCA explained that audit had also been carried out in Vorarlberg in 2010 and that within the next few years all Provinces will be audited.

Conclusions

Sufficient guidance, check lists and training have been provided to the OVs who perform official controls of farms, and where check lists were used shortcomings were usually detected. Additional training is still necessary on certain specific issues on transport issues. OVs are familiar with transitional periods for requirements, which were emphasised in inspections.

Some steps have been taken to ensure adequate verification of the effectiveness of inspections and this is being further developed through quality management systems.

5.2 LEGISLATION

Legal requirements

Article 4 of Regulation (EC) No 882/2004 requires that the CA has the necessary legal powers to carry out controls.

Article 12 of Directive 2007/43/EC requires that Member States shall bring into force laws, regulations and administrative provisions necessary to comply with the this Directive by 30 June 2010 at the latest.

Findings

A comprehensive check of national legislation was not carried out. However, during the evaluation

of the control system for animal welfare, the following legal aspects were noted:

- On several topics, as already described in report 8049/2006, Austrian legislation goes further than EU requirements. For example the national legislation on chickens kept for meat production defines the maximum stocking density for chickens at 30 birds/m² with no exemptions, whereas Article 3 of Directive 2007/43/EC provides for stocking densities from 33 to 42 birds/m². However, Directive 2007/43/EC is not fully transposed as there is no requirement for operators to obtain a training certificate, as required by Article 4 of Directive 2007/43/EC and although training courses are available it is not ensured that all requirements of Annex IV of the Directive are included.
- As already described in report 8049/2006 the national legal requirement regarding perches in alternative systems is that 20 cm of perching space has to be provided for each hen, whereas Article 4.1(d) of Directive 1999/74/EC requires 15 cm of adequate perch per hen. The CA is of the opinion that part of a slatted floor can be considered as a perching area, with 1 m² of slatted floor considered equivalent to 3 metres of perching space. In addition, if at least 7 cm/hen of elevated perch are offered, stocking density can be increased from 7 to 7.5 hens/m² of floor area. Directive 1999/74/EC does not explicitly indicate that perches must be raised above the floor but in the Recommendations of the Council of Europe for poultry kept in other intensive systems (non cage) to produce eggs for consumption it states that “when determining the stocking rate, consideration shall be given to (...) the number of perches or other suitable installations available in the third dimension (see website: www.coe.int).
- Conventional battery cages have been effectively banned from 1 January 2009, while enriched cages can continue to operate until 15 years from the date when they were first put into operation. A final deadline for phasing out of enriched cages is 1 January 2020.

Conclusions

Although Austrian legislation on broilers goes beyond the EU requirements regarding the stocking densities, as Directive 2007/43/EC has not been entirely transposed into national legislation this does not ensure that the requirements for training fulfil the requirements of Article 4 and Annex IV of Directive 2007/43/EC. The provision in national legislation that only a part of perches should be elevated does not comply with the requirement of Article 4.1(d) of Directive 1999/74/EC which requires that 15 cm of perches adequate to satisfy the behavioural needs of the animals must be provided to each hen.

5.3 PROGRAMME OF FARM INSPECTIONS

Legal requirements

Article 3 of Regulation (EC) No 882/2004 requires that official controls are carried out regularly, on a risk basis and with appropriate frequency.

Findings

In response to a recommendation from report 8049/2006 the programme of inspections is now based on identified risks which have been established for each sector in accordance with the Animal Welfare Control Regulation (*Tierschutz-Kontrollverordnung, BGBl. II 492/2004 as amended by BGBl. II 220/2010*). This regulation specifies that checks are to be carried out on 2% of farms and criteria for the selection of farms are provided (type of animals, type of holding, type of production, size of holding, participation in system of "own checks", outcome of previous checks) and it lists the data which should be collected during the checks. The CA responsible for direct payments (*AMA – Agrarmarkt Austria*) prepares a list of farms to be checked and sends it to the Provincial

CAs. The Provincial CA forward this information to the District level in the form of a written order (*Erlass*) adding, on a random and risk basis, additional establishments which do not receive direct payments. These checks have to be carried out in accordance with the CCA handbooks and check lists. Information on checks performed is entered into the Veterinary Information System database (ÖVIS).

Conclusions

A programme for inspections based on identified risks for farm checks and for checks during transport has been established.

5.4 CHECKS ON LAYING HEN FARMS

Legal requirements

Article 8 of Directive 1999/74/EC requires that the CA has to carry out checks to monitor compliance with the requirements of this Directive.

Article 5.2 of Directive 1999/74/EC requires that the Member States shall ensure that rearing of laying hens in unenriched cages is prohibited with effect from 1 January 2012.

Findings

The ban on keeping of laying hens in unenriched cages in Austria entered into force on 1 January 2009, three years ahead of the EU deadline. Before the ban entered into force several publicity actions were undertaken and the farmers were well informed about the ban. In addition the ban on unenriched cages was also supported by the retail sector which promoted eggs not coming from battery cages.

To prepare for the ban, the CCA discussed the issue during its regular meetings with Provincial heads of veterinary services several times during 2008 and a common approach was adopted on the enforcement measures to be taken in the case of farmers not applying the ban. In 2008, before the deadline for the phasing out of unenriched cages ended all laying hen establishments with cage systems which were registered in the central data base of the CA responsible for keeping the laying hen register (*Qualitätgeflügelvereinigung -QGV*) were checked and the animal keepers informed of the deadline.

After 1 January 2009, inspections of all farms which used to have unenriched cages was performed and two farms (one in Carinthia and one in Lower Austria) required subsequent enforcement action on behalf of the CA, as follows:

- In Carinthia fines were imposed gradually starting with € 220 then € 1100 on a keeper with 900 birds still in unenriched cages. The case is still pending and CA indicated that fines can go up to € 3750 for a natural person and € 7500 for a legal person, but according to the CA there are no birds kept on this farm any more.
- In Lower Austria a farm with approx. 80,000 birds still used unenriched cages at the time of a visit on 2 January 2009 and the OV gave a deadline of 12 days to take corrective measures. At the follow up visit the OV found that the birds were still present in unenriched cages and suggested an administrative fine, but the District authorities consulted a Public prosecutor who suggested a penal procedure. After an expert appointed by the Court delivered an opinion that unenriched cages do not produce unnecessary pain or suffering, the penal procedure was withdrawn and the CA had to proceed under administrative penalties based on their Animal Welfare Act. A follow up visit in October 2009 detected that the birds were still kept in the same conditions and immediate removal was requested. The owner removed the birds on 16 November and an administrative fine of € 3300 was imposed.

At the time of the mission there were 1,826 farms with laying hens in Austria. 1,080 (59%) were free range, 729 (40%) were barn and the remaining 17 (1%) were farms with enriched cages. National legislation requires that no new farms with enriched cages can be put in operation since 2005 and those already in operation can continue to operate up to 15 years after they had been put in operation, but no later than 2020.

Regarding the programme of checks, the FVO team noted that:

- There were 89 laying hen farms in Carinthia in 2009 and all were checked. Deficiencies were detected on two farms, including the one which still had unenriched cages, after the ban entered into force, as described above.
- There were 12,556 laying hen farms in Styria in 2009 and 301 were checked. Deficiencies were detected on 16 farms.

A farm with enriched cages was visited in Styria. The farm was well managed and the owner explained that he already wanted to switch to free range as it is difficult to find a market for eggs from cages in Austria. The OV who performed a check was knowledgeable and skilful and all requirements of Article 6 of Directive 1999/74 were fulfilled, including stocking density and cage enrichment.

The data on the maximum capacity in the central database (which is required by Directive 2002/4/EC) for the farm visited did not entirely reflect the situation in the field, because the maximum capacity was slightly overestimated (by 1%), but the OV was aware of this and stated that he will request the change to the CA responsible for keeping the laying hen register (*Qualitätgeflügelvereinigung -QGV*).¹

Conclusions

Efficient actions had been taken at the national and Provincial levels to inform and prepare the farmers for a ban on the use of unenriched cages, which entered into force on 1 January 2009. Two farms required subsequent enforcement action; one had been successfully concluded while the other case was still on going following the imposition of two fines.

5.5 CHECKS ON PIG FARMS

Legal requirements

Article 7.1 of Directive 2008/120/EC requires the CA to carry out inspections on a representative sample of the different rearing systems. Article 3.1 of Regulation (EC) No 882/2004 requires a risk based approach to checks.

Findings

Information to pig breeders regarding the 2013 deadline, as required by Article 3.9 of Directive 2008/120/EC to help them to comply with certain requirements of the Directive, such as group housing of pregnant gilts and sows, has been widely distributed through different channels, including the Ministry of Agriculture, the Animal Health Scheme, the Chamber of Agriculture and numerous articles in professional magazines including possible solutions to meet the deadline. All farmers met were well aware of the deadline for implementing new requirements.

In 2010 the Ministry of Agriculture performed a survey on pig farms regarding group housing of pregnant sows and gilts. The results shown that 40% of pig farms (with 55% of sows) already have group housing of sows; ahead of the 2013 deadline.

¹ In their reply to the draft report the Austrian Competent Authorities stated that with respect to the laying hen farm in Styria, the competent official veterinarian has already corrected the maximum capacity in the QGV database.

In Carinthia a similar survey showed that 55% of the relevant pig holdings with almost 80% of sows already have group housing in place. The farm visited which was refurbished in 2006 and 2010 has group housing of sows in place.

In Styria a survey was performed in 2009 by the pig farmers association which showed that 34% of farms already have group housing in place and 24% have group housing partly in place. The survey showed that one third of those without group housing had already taken a decision to refurbish the farm, while the remaining had not decided yet on how to proceed.

Regarding the programme of checks, the inspection team noted that:

- There were 5,849 pig farms in Carinthia in 2009 and programmed animal welfare checks were performed on 105 farms (1.8%), less than the targeted 2%. The total number of deficiencies found during these checks was three.
- There were 10,757 pig farms in Styria and 239 out of them were checked in 2009 (2.2%) which is above the target. The total number of deficiencies found during these checks was 52.

Lack of manipulable material (Point 4 of Chapter 1 of Annex I to Directive 2008/120/EC) was the commonest (20 cases out of 53 in Styria and one out of three in Carinthia) shortcoming detected during the checks. This was the case also on the farm visited in Carinthia, where chains fitted with plastic discs were accepted by the OV as suitable manipulable material. The CCA handbook requires that where straw is not compatible with the slurry system, hanging material such as pieces of wood above the pens should be provided. The CCA takes the view that manipulable material for suckling piglets, weaned piglets, fattening pigs, rearing pigs, sows and boars can be selected from the list of suitable materials recommended in the handbook. Manipulable material which is not suitable and which is also listed in the handbook cannot be used, as it is classified as being unsuitable and thus runs counter to the legal requirements.

A representative of the Ministry of Agriculture, Forestry, Environment and Water Management did not share the same opinion with the CCA on what could be considered appropriate solutions and stated that according to their opinion the manipulable substances in the handbook were only indicated as a recommendation and that chains are suitable material to enable proper investigation and manipulation activities, as required by Chapter I, point 4 of the Annex to Directive 2008/120/EC. In the view of the Ministry of Agriculture, Forestry, Environment and Water Management these requirements are also met when a chain alone is used, as the chain can be investigated and manipulated and does not compromise the health of the animals. They also consider that straw, hay and mushroom compost are given as examples in the Directive and are therefore not to be regarded as a compulsory requirement and that it has been established from scientific tests that chains alone are more acceptable to the animals than chains with pieces of wood attached.

Tethering of sows, contrary to Article 3.3 of Directive 2008/120/EC, has been found to be common in smaller farms. Where this has been detected, corrective measures have been requested and follow up checks had been performed. On a farm visited in Styria tethering of sows was detected during the check in 2009 and as corrective measure the farmer partly refurbished the housing and put the sows in extended individual stalls with straw bedding. This is contrary to Article 3.9 of Directive 2008/120/EC, which requires that from 1 January 2003 in all holdings newly built and rebuilt individual stalls are not allowed and group housing must be applied for pregnant sows and gilts. Nevertheless, this was accepted as a temporary solution by the OV, who stated that these stalls were bigger than industrial ones with plenty of straw available for the sows and that in any case the farmer plans to stop breeding of sows by 2013.

Although the CCA handbook recommends > 6% fibrous feed in the ration for pregnant sows and

gilts both OV's, in Carinthia and Styria, were not aware of this and this requirement was not adequately assessed, contrary to Article 3.7 of Directive 2008/120/EC. Although the OV on the farm in Styria did not carry out the checks of fibrous feed, this kind of feed was nevertheless available in the form of straw with which the animals were provided as a bedding.

In addition, on the farm visited in Carinthia the OV during the previous checks did not address the timing requirements for moving pregnant animals from individual stalls to pens for group housing and from there later to farrowing crates; animals were moved at four to six weeks after artificial insemination from individual stalls to group housing and then two weeks before farrowing into farrowing crates. This is contrary to Article 3.4(a) of Directive 2008/120/EC, which requires that sows and gilts shall be kept in groups during a period starting from four weeks after service to one week before the expected time of farrowing.

Conclusions

Farmers had been well informed about the 2013 deadline and already 40% of farms (with 55% of sows) have group housing of sows in place. Most pig farms were found to be compliant, but lack of manipulable material is still a common deficiency and OV's were not always aware of possible solutions. Not all deficiencies were detected by the OV's during the checks, but measures have been taken where shortcomings had been detected, although sometimes temporary solutions were accepted so that compliance with the EU requirements was not fully achieved.

5.6 CHECKS ON BROILER FARMS

Legal requirements

Article 7.1 of Directive 2007/43/EC requires the CA has to carry out non-discriminatory inspections to verify compliance with the requirements of this Directive.

Findings

One broiler farm was visited in Styria. The national requirements for breeding broilers, including stocking density of 30kg/m² were respected and the conditions for keeping of the birds were in line with the requirements of Directive 2007/43/EC. The overall mortality rate on the farm was around 1.5%. The farmer regularly received inspection reports from the authorised veterinarians in a slaughterhouse, which included data on injuries detected, such as percentage of broken wings or leg bones and haemorrhages around the chest. No information on foot lesions is routinely reported from the slaughterhouse. The CA stated that if the authorised veterinarian in the slaughterhouse detects significant injuries which could be related to transport or catching of birds, he would inform the OV who will perform a follow up check on the farm.

Conclusions

The broiler sector is operating at stocking densities laid down in national legislation (30kg/m²), which was respected on the farm visited, and certain data from slaughterhouses is used to assess the welfare conditions of catching and transporting birds.

5.7 REPORTING OF RESULTS OF FARM INSPECTIONS

Legal requirements

Decision 2006/778/EC requires recording and reporting results of farm inspections to the Commission from 1.1.2008.

Findings

Report 8049/2006 recommended that infringements and actions taken are accurately reported as required by Decision 2000/50/EC (now repealed and replaced by Decision 2006/778/EC).

In both Provinces visited it was noted that the results of the checks and follow-up were entered in a Provincial computer database and national veterinary information system (ÖVIS). The data from Provincial and national databases are compiled together with additional data on penal procedures into the report on the results of the annually required checks and transmitted to the CCA. The CCA extracts the data from the database and prepares a national report which it sends to the Commission, as required by Decision 2006/778/EC.

Conclusions

The reporting system put in place allows for accurate reporting of the farm checks and their results as required by Decision 2006/778/EC.

5.8 CONTROLS OF TRANSPORT

5.8.1 Measures supplementary to transport checks

Legal requirements

Article 11(1)(b)(i) of Regulation (EC) No 1/2005 requires the applicant for long journeys transport authorisation to provide valid certificates of competence for drivers and attendants.

Article 17 of Regulation (EC) No 1/2005 requires that training courses are made available for personnel of transporters and assembly centres.

Findings

The requirements for persons carrying out animal transport and persons handling animals at assembly centres are provided for by the Animal Transport Training Regulation issued in 2007 (*Tiertransport-Ausbildungsverordnung, TT-AusbVO*). This regulation includes the requirements for drivers and attendants, as well as persons handling animals at collection centres. Training organised by the Chamber of Commerce as well as by the Chamber of Agriculture consists of two modules (one for short journeys and the second for long journeys), where the content has been developed in co-operation with the CCA. After an examination a certificate of competence is issued by the bodies that carry out the training courses. Where animal transport training courses are held in the framework of education in agricultural schools, the certificates of competence are issued by the District administrative authorities. All applications and examination documents have to be kept by the issuing bodies for at least five years and have to be made available for inspection upon request by the CA.

The FVO team received training materials from these courses and although a comprehensive check of this material was not carried out, it appears that all relevant issues required by Annex IV.2 of Regulation (EC) No 1/2005 have been taken into account.

Conclusions

Satisfactory training of personnel of transporters and procedures for issuing the certificate of competence have been put in place.

5.8.2 Authorisation of transporters

Legal requirements

Article 10(1)(c) of Regulation (EC) No 1/2005 requires that an applicant for transport authorisation has no record of serious infringements of Community legislation and/or national legislation on the protection of animals in the three years preceding the date of the application.

Article 11(1) (b)(iv) of Regulation (EC) No 1/2005 requires the applicant for authorisation for long journey transport to provide contingency plans in the event of emergencies.

Article 13(3) of Regulation (EC) No 1/2005 requires the competent authority to record authorisations in a manner enabling to identify transporters rapidly. Articles 13(4) and 18(3) of Regulation (EC) No 1/2005 require the competent authority to record authorisations for long journeys and certificates of approval of means of transport in an electronic database, and to make the transporters' name and authorisation number publicly available during the period of validity of the authorisation.

Findings

The competence for authorisation of the transporters and approval of means of transport lies, as prescribed by national legislation (*Animal Transport Act 2007 - Tiertransportgesetz (TTG 2007)*), with the District CAs. Authorised transporters are reported to the CCA which keep a national database of authorised transporters which is publicly accessible via the CCA internet site.

During the District visit in Carinthia the OV stated that until the CCA guidance was put in place in March 2010, he did not receive enough instructions and training on how to authorise transporters and as a result the only long distanced transporter in his District was authorised without presenting a contingency plan to the authorising OV, as required by Article 11(1) (b)(iv) of Regulation (EC) No 1/2005. In a District visited in Styria the only long distance transporter had been authorised after the handbook was put in place and all required documents, including contingency plans were present.

Regarding the records of serious infringements required by Article 10(1) (c) of Regulation (EC) No 1/2005 the OV in Carinthia accepted a self declaration from the transporter that he does not have records of previous infringements of legislation on protection of animals. The OV stated that due to data protection legislation it is very difficult to get data on administrative sanctions from other Districts and Provinces. In Styria before issuing an authorisation to a transporter the OV requested data on administrative sanctions to the Police and they were made available to him prior to issuing the authorisation to the transporter.²

Conclusions

As the guidance for the authorisation of transporters was delayed, the District OVs had difficulties in applying various requirements of Regulation (EC) No 1/2005 and as a result authorisations had been granted where not all the necessary supporting documentation was provided. There are different interpretations of the data protection law in the different Provinces and as a result the OV when issuing the authorisation does not always ensure that the applicant has no records of previous infringements.

5.8.3 Approval of means of transport

Legal requirements

Article 11(b) (ii) of Regulation (EC) No 1/2005 requires the applicant for long journeys transport authorisation to provide valid certificates of approval of the means of transport.

Article 18 of Regulation (EC) No 1/2005 requires the competent authority to grant a certificate of approval for means of transport by road used for long journeys, provided that the means of transport have been inspected and found in compliance with the requirements of Chapter II and VI of Annex I to this Regulation.

2 In their reply to the draft report the Austrian Competent Authorities stated that in the province of Styria, the legal department of the relevant district authority conducts a search in the administrative offences register and in the EKIS criminal offences database maintained by the *Kriminalpolizei (EKIS – Elektronisches Kriminalpolizeiliches Informationssystem)* to determine whether a company has received any penalties for administrative offences or has any previous criminal convictions for animal cruelty before granting the company authorisation as an animal transportation company. The central veterinary authority is currently investigating the possibility of adopting this approach or a similar one as the standard approach in all the provinces.

Findings

The CCA guidance provides instruction to the OV's on how to assess the means of transport for long journeys and gives details on technical characteristics which should be checked before approval is issued, such as position of temperature sensors, assessment of ventilation and describing a type of suitable watering device for each species, including unweaned calves; for the latter only buckets with rubber nipples which allow the preparation of electrolyte suspension or milk replacement should be considered adequate. In accordance with the national legislation (Animal Transport Act 2007 - *Tiertransportgesetz (TTG 2007)*) the OV may consult a technical advisor before approving means of transport for long journey.

Regarding satellite navigation systems, the guidance refers to the internet site of the EC's Joint Research Centre for details and recommends that these requirements should be met in order to avoid possible need for costly upgrading of the system in the future.

All approved means of transport are made available on the TRACES database, with the link provided on the CCA internet site.

In Carinthia the OV stated that he has problems to approve a vehicle which was approved in 2007 (before the CCA guidance was issued). As no instructions or training were provided to him at the time, he used his own check list when checking the mean of transport before approval. He also stated that until now he has not received any information regarding the navigation system.

Conclusions

The guidance put in place by the CA gives adequate information to the OV's for the approval of vehicles; however, because the guidance was delayed the OV's had to improvise when approving the means of transport and not all requirements, such as satellite navigation systems, were necessarily included.

5.8.4 Checks and reporting of transport checks

Legal requirements

Article 15(1) of Regulation (EC) No 1/2005 requires the competent authority to carry out checks at any stage of a long journey to verify that journey times are realistic and that the journey complies with this Regulation and in particular with that travelling times and resting period have complied with the limits set out in Chapter V of Annex I.

Article 27(1) of Regulation (EC) No 1/2005 requires the competent authority to check that the requirements of this Regulation have been complied with by carrying out non-discriminatory inspections of animals, means of transport and accompanying documents. Such inspections must be carried out on an adequate proportion of animals transported each year within the Member State and may be carried out at the same time as checks for other purposes.

Article 25 of Regulation (EC) No 1/2005 require Member States to lay down the rules on penalties applicable to infringements of the provisions to this Regulation and to take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 54 of Regulation (EC) No 882/2004 requires the competent authority, when non-compliance is identified, to take action to ensure that the operator remedies the situation.

Article 55 of Regulation (EC) No 882/2004 requires Member States to lay down the rules on sanctions applicable to infringements of feed and food law and other Community provisions relating to the protection of animal health and welfare and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and

dissuasive.

Article 27(2) of Regulation (EC) No 1/2005 requires the competent authority to submit a report by 30 June 2008 (annually thereafter) of inspections carried out on animals, means of transport and accompanying documents together with an analysis of the major deficiencies and an action plan to address them.

Findings

In 2007 a political decision was taken that 10,000 transport checks had to be performed every year and that 10% of them should be roadside checks. The checks are performed on the basis of a programme prepared by the CCA, which was initially prepared in 2008 and as stated by the CCA, proved to be effective and has not been significantly changed since then. The programme includes risk factors which have to be taken into account, such as the duration of transport and number of animals to be transported,. The risk factors are presented in a table which clearly indicates which combination of risks poses greater risk for animal welfare.

The programme provides for 100% of checks to be carried out at departure in case of trade within the EU or export to third countries and 5% of consignments with the final destination in Austria. In addition all consignments arriving at slaughterhouses have to be checked.

The CCA report to the Commission on transport checks at national level for 2009 states that altogether 85,057 checks has been performed (12,910 at loading, 70,571 at destination and 1,576 road-side checks) which is well above the planned 10,000 checks. During these checks 1,292 shortcomings had been detected (1.5% of all checks performed) and 325 (0.4%) were connected with pain or suffering of at least one animal in the consignment.

Out of a total of 1,292 shortcomings detected, 6.7% had been detected at the place of loading, 17.1% during road-side checks and 76.2% during checks at destination. When comparing these results to the total number of checks performed regarding the place of control then the results were as follows: 0.7% of deficiencies detected at loading, 14% during road-side checks and 1.4% at destination.

The local CAs applied 1,328 sanctions for deficiencies detected during transport in 2009, including warnings, monetary fines, unloading of animals and penal procedures.

Road side checks are performed in co-operation with the Police or the Motorway authorities (*Autobahnen- und Schnellstrassen-Finanzierungs-Aktiengesellschaft - ASFINAG*).

- In Carinthia 140 road-side checks had been planned in 2009 and 105 had been performed, with 73 consignments with animals present on board; the other 32 were empty vehicles. Shortcomings had been detected in 22 cases and sanctions ranging from warning to monetary fines had been applied in all cases. An example has been seen where for a repeated offender a fine two times of € 700 has been collected.
- In Styria 131 road-side checks had been planned and 331 had been performed, with shortcomings detected in 48 cases. An example has been seen where a fine of € 1500 was applied to a transporter due to lack of bedding and slippery floor which had led to two animals being injured.

Checks at destination were performed by authorised veterinarians in slaughterhouses, where 100% of consignments had been checked against a shortened check list. Examples were seen where actions had been taken and sanctions imposed in cases of transport of unfit animals to the slaughterhouse (€100 in one case, €365 in the other for transport of animals with broken limbs).

Deficiencies detected during checks were reported to the Provincial CA, which prepares a report to be sent to the CCA.

In cases where non-compliance is detected with a foreign transporter the case is reported to the contact point at the national level, who then sends the information to contact points in other Member States and this information is also entered in the Traces database. 25 such notifications had been sent by the national contact point (Article 24 of Regulation (EC) No 882/2004) to the colleagues in other Member States in 2010 and 18 replies were received. The OV acting as a contact point mentioned that there is an upward trend in receiving replies to the notifications.

The contact point received one notification regarding deficiencies in a vehicle transporting calves from another Member State. This information has been sent to the Provincial CA concerned. Following the receipt of the notification the Provincial CA took action and reported the outcome back to the contact point which forwarded the information to the contact point in the Member State concerned.

A case was seen where the national contact point informed a contact point in another member State that the watering devices on a truck were not suitable for the species of animals transported and as this was a serious offence, if repeated, it could lead to a ban of the particular transporter from transporting animals on Austrian territory.

Conclusions

The majority of the checks were done at departure and destination but roadside checks were also programmed on all the main road networks and good co-operation with the Police and Motorway authorities was essential in ensuring that the targets for road side checks was met. Effective enforcement was taken whenever deficiencies were detected.

The national contact point for animal welfare during transport has been active in notifying cases to other Member States and has seen an improving response rate where cases require further enforcement action.

6 OVERALL CONCLUSIONS

There is a good system of animal welfare controls in place. Most of the EU requirements were respected and some go beyond the minimum standards. The controls of farm welfare were generally well implemented; however, the system of verification of effectiveness of the checks needs to be enhanced so that the higher levels of the CA can ensure the effectiveness of checks carried out by the district CA.

Although the CA was delayed with guidance and check lists regarding welfare during transport, the system of transport checks was largely efficient and effective enforcement actions were taken when necessary.

7 CLOSING MEETING

A closing meeting was held on 26 January with representatives of the CCA. At this meeting, the audit team presented the main findings and preliminary conclusions of the mission. The representatives of the CA acknowledged the findings and conclusions presented, and provided clarifications on some of the issues discussed.

8 RECOMMENDATIONS

The CAs are invited to provide details of the actions taken and planned, including deadlines for their completion ('action plan'), aimed at addressing the recommendations set out below.

It is recommended that the CA:

N°.	Recommendation
1.	Ensure that verification of the effectiveness of official controls, as required by Article 8 of Regulation (EC) No 882/2004, is improved.
2.	Ensure that Directive 2007/43/EC is transposed into national legislation and in particular to include the requirements on training and certification as required by Article 4 of Directive 2007/43/EC.
3.	Ensure that adequate perches are provided to birds in alternative system, as required by Article 4.1(d) of Directive 1999/74/EC.
4.	Ensure that suitable material to enable proper investigation and manipulation activities is provided to pigs, as required by Chapter I, point 4 of the Annex to Directive 2008/120/EC and that all requirements of Article 3 of Directive 2008/120/EC, in particular regarding tethering of sows and providing of adequate feed to pregnant gilts and sows, are respected.
5.	Ensure that all requirements of Articles 10.1, 11.1 and 18.1 of Regulation (EC) No 1/2005 are taken into account when authorising transporters and approve means of transport for long journey and in particular the requirements for satellite navigation and absence of serious infringements.

The competent authority's response to the recommendations can be found at:

http://ec.europa.eu/food/fvo/ap/ap_at_2011-6096.pdf

ANNEX 1 - LEGAL REFERENCES

Legal Reference	Official Journal	Title
Reg. 882/2004	OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1	Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules
Reg. 1/2005	OJ L 3, 5.1.2005, p. 1-44	Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97
Dir. 98/58/EC	OJ L 221, 8.8.1998, p. 23-27	Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes
Dir. 1999/74/EC	OJ L 203, 3.8.1999, p. 53-57	Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens
Dir. 2002/4/EC	OJ L 30, 31.1.2002, p. 44-46	Commission Directive 2002/4/EC of 30 January 2002 on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC
Dir. 2008/120/EC	OJ L 47, 18.2.2009, p. 5-13	Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs
Dec. 2006/778/EC	OJ L 314, 15.11.2006, p. 39-47	2006/778/EC: Commission Decision of 14 November 2006 concerning minimum requirements for the collection of information during the inspections of production sites on which certain animals are kept for farming purposes
Dir. 2007/43/EC	OJ L 182, 12.7.2007, p. 19-28	Council Directive 2007/43/EC of 28 June 2007 laying down minimum rules for the protection of chickens kept for meat production