



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

(DG)SANCO/2010-8814/GR

GENERAL REPORT OF
FINDINGS FROM MISSIONS 2008-2010
ON ENFORCEMENT OF ANIMAL WELFARE
STANDARDS
FOR LAYING HENS KEPT IN UNENRICHED CAGES

EXECUTIVE SUMMARY

The Food and Veterinary Office of the European Commission's Health and Consumer Directorate General carried out missions to 25 Member States between 2008 and 2010 which included an assessment of the controls of the laying hen sector carried out by the Competent Authorities (CAs).

The report draws conclusions about the overall level of compliance regarding the use of unenriched cage systems and the CA's level of preparedness to ensure that the deadline of 1.1.2012 for the phasing out of such cage systems is met.

The report concludes that the quality of inspections has significantly improved since the previous general report in 2004; however, although deficiencies such as overstocking are being detected the subsequent actions have not been sufficient to achieve acceptable levels of compliance with the requirements of the Directive in relation to unenriched cages. Although each CA has a framework for sanctions, this has not always been used to effectively dissuade operators from operating in a non-compliant way. This may indicate a weakness in the ability of many CAs to ensure the deadline is respected. Several CAs were subsequently reviewing the sanctions and measures available to them so that they could take more decisive action to bring about compliance. Measures other than sanctions, such as the introduction of permits for cage systems, have also been used by certain Member States to ensure that unenriched cages are not stocked with birds during 2011, and so ensure that such systems will cease operation by 1.1.2012.

There are a number of Member States where the ban on the use of unenriched cages is already effective or plans are at an advanced stage to meet the deadline of 1.1.2012. The involvement of the retail sector, favouring eggs from alternative systems, assisted in the phasing out of unenriched cages in several of these countries.

The relevant Commission services will follow-up the situation in relation to each of the Member States identified in the individual reports as not having fully complied with EU legislation, and will assess the possibility of further appropriate action where areas of non-compliance have not been satisfactorily addressed.

The Commission services will assist the competent authorities in their actions to phase out unenriched cages by 1.1.2012 by requiring regular progress reports and by facilitating exchange of information between Member States on the best practices which have been developed regarding effective enforcement of the requirements of the Directive.

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1. INTRODUCTION

Directive 1999/74/EC¹ (hereafter: “the Directive”) has been progressively implemented in the Member States since 2002. In particular there has been a prohibition on unenriched cage systems being used for the first time from 1 January 2003, and by 1 January 2012 such cages must be taken out of use completely. After 1 January 2012 the Directive only allows for laying hens to be kept in enriched cages or in alternative systems (barn and free range).

The Food and Veterinary Office (FVO) carried out missions to 25 Member States (MS) from 2008-2010 which included an assessment of actions taken regarding the welfare of laying hens. The individual reports are available under their reference number (see Annex II to this report for details) on the website of the European Commission's Directorate General for Health and Consumers. The responses by the Central Competent Authorities (CCA) to the recommendations in these reports have also been published on the same site: http://ec.europa.eu/food/fvo/index_en.htm.

2. BACKGROUND

Following a series of six missions in 2004, the FVO published a first overview report on animal welfare standards in this sector: see report ref: DG(SANCO)/8509/2004 – GR, which is available on the website of DG Health and Consumers. The report concluded that inspections had generally been adequately revised to take account of the new requirements but there were Member States where the legislation was not fully in place, or inadequately implemented, which compromised animal welfare standards.

The Commission provided a report to the Council on the various systems for keeping laying hens, which is also published on the website of DG Health and Consumers². This issue has been discussed on several occasions in advisory and regulatory committees and in the European Parliament.

3. OBJECTIVES

The objectives of this overview report are to conclude on the overall level of compliance regarding the use of unenriched cage systems and to draw conclusions on the CA's level of preparedness to ensure that the deadline of 1.1.2012 for the phasing out of such cage systems is met. This report also identifies actions by which the Commission services can assist the Member States to address the problems identified.

4. MAIN FINDINGS

Legal requirements

Article 3 of the Directive requires Member States to ensure that the owners and holders of laying hens apply not only the relevant provisions of Directive 98/58/EC and of the Annex to the Directive but also the requirements specific to each of the

¹ Legal references are listed in the Annex to this report and refer to the latest amended version.

² http://ec.europa.eu/food/animal/welfare/farm/comm_pdf_com_2007_0865_f_en_acte.pdf

systems referred to including the provisions laid down in Chapter II as regards unenriched cage systems. Article 5, Paragraph 2, in Chapter II of the Directive requires Member States to ensure that rearing in the cages referred to in this chapter is prohibited with effect from 1 January 2012. Article 13 of the Directive requires Member States to bring into force the laws, regulations and administrative provisions, including any penalties, necessary to comply with this Directive.

Summary of findings on controls of unenriched cages

Regarding planning to meet the ban on the use of unenriched cages, there has been intensive inspection activity in the vast majority of Member States in the years since the Directive came into force, and the industry has been well informed of the deadline of 1.1.2012. In Germany a ban on such systems became effective from 31.12.2009. In Sweden the sector had already phased out unenriched cage systems; none were put in operation after 1988 and although the transition was foreseen for 1999, the implementation of the ban was not effective until the end of 2003, mainly due to the lack of viable alternative systems until that time. Egg labelling was also credited with the accelerated move towards alternative systems of production in Sweden and in Austria, where the retail trade and consumers became more active in favouring eggs from alternative systems. A ban of such systems in Austria from 31 December 2008 was three years ahead of the EU ban. Two farms continued to operate after this date, but subsequent enforcement action has brought about full compliance. This enforcement action needed determination on behalf of the CA, and political support to ensure that this was brought about, as an action under the criminal law initiated against one producer was not accepted by the national court. Follow-up visits and an administrative penalty of €3300 on a keeper of 80,000 birds brought about subsequent compliance.

Lithuania is also of note as, unlike many other countries which became Member States in 2004, the Lithuanian CA did not make use of a transitional period for non-compliant cages, and has been progressively enforcing requirements so that it will be in a good position to achieve compliance by 2012. Romania similarly did not obtain any transitional period to continue to use non-compliant cages after Accession in 2007, and the CA has centrally monitored the plans of each establishment to phase out non-compliant cages. Although the majority of producers still have to make refurbishments the approach taken by the CA has encouraged progress towards better levels of compliance.

In Belgium, the CA prevented eggs from non-compliant cages being marketed as table eggs; however, this did not create a financial incentive to comply, and did not bring about subsequent compliance. In any case egg products must also come from systems of production which are compliant with animal welfare rules.

Denmark, where compliance with current standards for cage systems was high, was of note for having a permit system for holdings using unenriched cages which, when combined with a high level of supervision, could prevent delivery of birds and the use of such cages after 31.12.2011.

In order to ensure compliance from 1.1.2012 all CAs indicated that they would impose sanctions where unenriched cages were still found in use. With several notable exceptions, sanctions imposed by the CA alone have not been adequate in promoting acceptable levels of compliance with the Directive. Despite fines in some Member States for deficiencies such as over-stocking, e.g. € 000 – €4 000 in Italy

and €7 000 in Poland, this has not been sufficient to dissuade the larger producers (over 1 million birds in one enterprise) from continued non-compliance. Several CAs are reviewing their system of sanctions so that they can more effectively deal with non-compliance after 1.1.2012. Annex II to this report contains a table which presents an overview of the sanctions which the CAs have used to penalise detected non-compliances. Most of these sanctions concerned over-stocking, and a more in-depth legal analysis in each Member State would be needed regarding the effectiveness of such penalties to bring about full compliance from 1.1.2012. Several CAs indicated they were reviewing their system of sanctions so that they would be more proportionate and dissuasive.

5. CONCLUSIONS

The quality of inspections has significantly improved since the previous general report in 2004; however, although deficiencies such as overstocking are being detected the subsequent actions have not been sufficient in many cases to achieve acceptable levels of compliance with the requirements of the Directive in relation to unenriched cages. Although each CA has a framework for sanctions, this has not always been used to effectively dissuade operators from operating in a non-compliant way. This may indicate a weakness in the ability of many CAs to ensure the deadline is respected. Several CAs were subsequently reviewing the sanctions and measures available to them so that they could take more decisive action to bring about compliance. Measures other than sanctions, such as the introduction of permits for cage systems, have also been used by certain Member States to ensure that unenriched cages are not stocked with birds during 2011, and so ensure that such systems will cease operation by 1.1.2012.

There are a number of Member States where the ban on the use of unenriched cages is already effective or plans are at an advanced stage to meet the deadline of 1.1.2012. The involvement of the retail sector, favouring eggs from alternative systems, assisted in the phasing out of unenriched cages in several of these countries.

6. ACTION BY COMMISSION SERVICES

The relevant Commission services will follow-up the situation in relation to each of the Member States identified in the individual reports as not having fully complied with EU legislation, and will assess the possibility of further appropriate action where areas of non-compliance have not been satisfactorily addressed.

The Commission services will assist the competent authorities in their actions to phase out unenriched cages by 1.1.2012 by requiring regular progress reports and by facilitating exchange of information between Member States on the best practices which have been developed regarding effective enforcement of the requirements of the Directive.

ANNEX I – LEGAL BASIS FOR MISSIONS AND OTHER RELEVANT LEGISLATION

The missions were carried out under the general provision of Community legislation and, in particular:

- Article 9 of Directive 1999/74/EC;
- Article 45 of Regulation (EC) No 882/2004;

Full references to the acts quoted are given in the following table:

Full Title	O.J. publication details
Council Directive 98/58/EC concerning the protection of animals kept for farming purposes	OJ L 221, 8.8.1998, p. 23
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
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	OJ L 165, 30.4.2004, corrected and republished in OJ L 191, 28.5.2004, p.1

ANNEX II – DETAILS OF SANCTIONING SYSTEMS USED AND ACTIONS TO BE TAKEN FOLLOWING EACH MISSION

Country ³ (Mission number)	Legislation on sanctions	Findings on dissuasive nature of sanctions	Summary of actions to be taken by the CA following the mission
Belgium (2009-8255)	Penalties are laid down in Articles 35 and 36 of the Animal Welfare Act of 14 August 1986. Fines can range from €130 to €500	Downgrading of eggs A to grade B (where repeated overstocking) and the CA is consistently applying administrative fines of between €75 and €500 for these offences. This has not been dissuasive to prevent repeat offences.	<ol style="list-style-type: none"> 1. Further training 2. A new procedure will be put in place regarding repeat offenders (overstocking) if a solution is not found the overstocked birds will be seized and euthanised. 3. Registration data - better management of this information
Bulgaria (2010-8383)	Penalties are laid down in the Law of veterinary activity (range of penalties under revision)	Where overstocking reported fines of 300 BGN (circa 150 euro), and 600 BGN (circa 300 euro) had been imposed. This had not been dissuasive.	<ol style="list-style-type: none"> 1. Training and further guidance 2. Law revised to provide significantly increased penalties. 3. The registered data verified. 4. The farms (laying hens using cage systems) will be checked more frequently and all farms which do not meet the minimum structural standards will be closed no later than 31.12.2011.
Cyprus (2009-8244)	Sanctions arising from Animal Welfare Law 46(I)/94 do not exceed €1,700 and/or imprisonment for a period of time which cannot exceed one year (in case of first conviction) and do not exceed €3,400 and/or imprisonment for a period of time which cannot exceed two years (in case of second or subsequent convictions).	Enforcement action taken was not effective.	<ol style="list-style-type: none"> 1. Further training of CA officials
Czech (2010-8384)	Article 72 (l) of the Veterinary Act 166 provides the legal basis to issue sanctions up to 2000000 CZK (circa 78000€).	Sanctions were imposed when necessary and corrective measures were taken.	<ol style="list-style-type: none"> 1. Procedures modified to accurately assess maximum capacities of farms. 2. Will have quarterly updates to ensure that all farms which do not

³ Finland (2009-8262), Luxembourg (2010-8385), Sweden (2010-8391) and the United Kingdom (2009-8268) were the subject of missions which included the welfare of laying hens, but these specific audits focused on alternative and enriched cage systems. The Netherlands (7512/2005) was last inspected on Directive 99/74/EC in 2005.

Country ³ (Mission number)	Legislation on sanctions	Findings on dissuasive nature of sanctions	Summary of actions to be taken by the CA following the mission
			meet the minimum structural standards will be closed no later than 31.12.2011.
Denmark (2010-8392)	The level of sanctions for animal welfare is laid down in a decision of the General Attorney (of 10 January 2008) which provides detailed guidelines for the level of sanctions on farms. The level of fines varies between 2,000 to 40,000 DKK (from €70 to €370), depending on the severity of the offence.	Repeated non-compliances resulted in police investigation. The level of compliance with existing requirements is generally high. Holdings using a cage system need a permit to operate which are valid for five years and none are valid beyond 31/12/2011. Although this system could be used to prevent cages continuing to be used after this date, establishments were seen to operate at the time of the mission even though the permit had expired.	1. Consider additional measures in order to ensure that unenriched cage systems with expired approvals will be prohibited from continuing operations after 1 January 2012. 2. The CA will involve the Police directly whenever a non-compliance with the 1 January 2012 ban is detected.
Estonia (2008-7765)	Legislation in place.	Corrective actions were not always required when necessary. Fines of €200 for structural deficiencies not dissuasive.	1. Letter to farmers who have to reply on measures to be taken.
France (2010-8390)	National legislation provides for up to 6 months imprisonment and a fine of approx. €7620. For severe cruelty to animals sanctions of two years imprisonment and a €30,000 fine are provided.	In some cases of cruelty to animals high fines had been imposed by the Prosecutor, in others sanctions were very low. Poor enforcement action for non-compliances already reported was observed. From 1.1.2012 farmers with cages not in compliance with Directive 1999/74/EC would be prosecuted; the CA could not prevent new batches of birds being placed in such non-compliant cages in order to ensure that the 2012 deadline was met.	1. A new database to be in place in three years, in meantime use of an existing database and an instruction to get better co-ordination between the services so that CA have better information on the holdings in 2011. 2. Sanctions to be simplified.
Greece (2009-8243)	Administrative sanctions for breaches to Presidential Decree 216/2003 (minimum	Insufficient height of cages was reported by two local CAs, and non-	1. The CCA asked regions for lists of laying hen farms with cages and timetable for the

Country ³ (Mission number)	Legislation on sanctions	Findings on dissuasive nature of sanctions	Summary of actions to be taken by the CA following the mission
	standards for laying hens) are laid down in Article 13(6) of Law 2538/1997. The sanctions are from 1 500 to 3 000 Euros. Criminal penalties are laid down in Article 13 (1) and (2) of the same Law.	compliance with the slope was detected by one local CA which imposed a fine. However the use of cages which structurally do not comply with EU legislation were not detected by other local CAs and the introduction of unenriched cages after the ban was also found. A fine of €3,000 for overstocking on another farm was being appealed.	gradual replacement of cages.
Germany (2008-7764 and 2008-7980)	Regulation on Animal Welfare of Farm Animals (Tierschutz-Nutztierhaltungsverordnung). The CA can impose fines directly on operators with a maximum of up to €25,000.	Written orders were given for corrective action. The CA had included the seriousness of suffering involved in deciding which sanctioning procedure would be most appropriate. In certain cases of non-compliance eggs were also not allowed to be marketed as table eggs.	Unenriched cages banned from 1.1.2007, certain farms continued to be permitted their use until 31.12.2008 provided that plans for conversion were made. Also where the farmer proved that, despite his best efforts, it was not technically feasible to make the refurbishment by 31.12.2008, there was a further deadline for these cases until 31.12.2009 (two years in advance of EU deadline).
Hungary (2008-7767)	National legislation for penalties in place, the CCA explained that their intention is to draw keepers' attention to the problems first and that fines should only be imposed when severe and repeated deficiencies are detected.	There were farms in addition to those which had a transitional period which did not meet the requirements for slope and height of cages. The CCA stated that there is an unwritten agreement between OVs not to issue sanctions to farmers.	<ol style="list-style-type: none"> 1. Updating registered data on farm, including the capacity 2. Inspections (including preparedness for 2012) a priority for 2009 (and these to be audited). All farms to be checked. 3. All farmers informed about the deadline (2012) of the ban.
Italy (2010-8388)	The basic law for imposing administrative sanctions is Law 689/1981. DL 267/2006 (laying hens) lays down sanctions. Sanctions for overstocking on laying hen farms range from €1550-9300 per offence.	Generally, where non compliances had been detected administrative sanctions had been imposed. The CA stated that fines of €-4000 to large producers are not dissuasive and the operators will just pay the fines as financially they still benefit from the sale of the additional eggs produced by overstocking.	<ol style="list-style-type: none"> 1. Funding is available for the modification of premises under the National Rural Development Plan. 2. The CCA sent an explanatory note to remind the Regional Authorities to update without delay the data on the register of establishments keeping laying hens. 3. Examining proposed amendments to the legislation in

Country ³ (Mission number)	Legislation on sanctions	Findings on dissuasive nature of sanctions	Summary of actions to be taken by the CA following the mission
			force in order to make sanctions more effective, proportionate and dissuasive.
Ireland (2008-7768)	(Welfare of Farmed Animals) Regulations, allow sanctioning through the courts.	Checks of laying hen farms were incomplete from the detection point of view and inadequate from the enforcement point of view. Insufficient actions were taken where deficiencies were detected.	1. Poultry liaison group within the CA to make sure checks carried out and register of holdings has up to date data.
Latvia (2009-8271)	Regional Director can impose fines up to €1400 (1000LVL) and the FVS Director up to €1200.	Fines of €80, €120 and €190 were imposed in cases of overstocking; however, these penalties were not dissuasive to enforce effective correction of the overstocking. All the farms with (transitional periods) non-compliant cages as regards the height of cages were out of operation.	1. Further training of CA officials
Lithuania (2009-8252)	The Law on Veterinary Care, the Animal Welfare and Care Law and associated Orders permit administrative fines and revocation of premises approval.	Enforcement strategy (including imposition of fines and revocation of approvals for a laying hen premises) progressively implemented since Accession in 2004 has resulted in a reduction in the number of holdings using unenriched cages with insufficient internal height and slope.	Two non-compliant holdings at the time of the mission and CA are overseeing plans that these are phased out by the start of 2010. However cages will not be fully furnished until 31.12.2011.
Malta (2010-8386)	Sanctions are laid down in Chapter 439 of Animal welfare Act (Articles 45 , 46 and 47). The CA has the power to impose monetary penalties on operators. The fine does not exceed 1/3 of the maximum	Sanctions not applied in cases of non-compliance. The CA stated that a very high level of fines makes it difficult for the CA to impose them, as offenders usually contest them.	1. Consultations with the Planning Authority for building permits to ensure priority for the deadline of 2012. 2. Policy to reduced capacity on all farms with unenriched cages to reduce competition with farms investing in enriched cages.

Country³ (Mission number)	Legislation on sanctions	Findings on dissuasive nature of sanctions	Summary of actions to be taken by the CA following the mission
	<p>penalty to which the person would be liable if convicted of the offence in Court.</p> <p>A court can impose a fine in a range from € 232.94 to €46,587.47 or a term of imprisonment not exceeding one year, or both a fine and imprisonment.</p>		
Poland (2010-8387)	<p>Administrative fines can be imposed by the district CAs, under the procedure described in Law of 17 June 1966, up to 50 000 PLN (circa €12 500). If the non-compliance persists, a fine can be repeatedly imposed up to a total amount of 200 000 PLN (circa €50 000). Thereafter a penal prosecution can be initiated.</p>	<p>Four fines of a total amount of 28 000 PLN (total circa €7 000)</p> <p>Imposed and three of these fines had already been paid. The CA indicated that being a big farm with circa 1.4 million hens, it was more economical for the farmer to pay the fines rather than to reduce the overstocking and the production of eggs.</p>	<p>1. CVO instruction in the third quarter of 2010 to the effect that:</p> <p>A) Changes to the collection of data in the register and verified once a year.</p> <p>B) A further instruction (and training course) on the procedure to be followed by District Veterinary Officers when performing animal welfare inspections of holdings and on inspection reports.</p> <p>C) CVO asked the Minister of Agriculture to consider changes on provisions for penalties in the Animal Protection Act.</p>
Portugal (2009-8242)	<p>The fines and penalties are governed by the penal code and by the specific legislation on animal welfare. The fines range from €250 to €3740.98 (up to €44,891.81 in the case of a legal person).</p>	<p>Written notifications for corrective actions had not been effective, there were considerable delays at various stages in the procedure for imposing administrative fines.</p>	<p>1. Actions to ensure that the registration of holdings is kept up to date.</p> <p>2. More follow-up inspections with systematic notifying of the offending party that he may be subject to additional penalties, e.g. the State may seize the animals or give an order to stop farming.</p>
Romania (2010-8389)	<p>The law on sanctions in the veterinary and food safety area (Law 984/2005) was modified in 2009 by amendment 564 (of 13 May 2009) which increased the level of penalties and criteria for punishable offences to include specific categories</p>	<p>Levels of fines have been increased from a minimum of RON1000 (€250) to RON 3000 (€750) for overstocking offences. RON 6500 (circa 1600€) imposed for use of non-compliant cages. These still not</p>	<p>1. Successive meetings with the representatives of Poultry Breeders 2. A project on the monitoring up to 31st of December 2011 was sent to Poultry Breeders Union.</p> <p>3. The regional CAs were advised that the maximum stocking date</p>

Country³ (Mission number)	Legislation on sanctions	Findings on dissuasive nature of sanctions	Summary of actions to be taken by the CA following the mission
	for laying hens.	fully dissuasive, but some progress in compliance being made. The CA indicated that appeals would be made against higher fines and that these would likely be successful.	for the farms which use such rearing systems is the 1st of June 2010. Before restocking, the cages should be equipped with all the equipments provided in Article 6 of Directive 1999/74/CE.
Slovakia (2008-7769)	Penalties for infringements to animal welfare legislation are laid down in national Law No 39/2007.	Where deficiencies were detected remedial action had been requested and followed-up.	<ol style="list-style-type: none"> 1. Verification of data registered for each holding. 2. Further training of officials.
Slovenia (2009-8241)	Article 45 of the Animal Protection Act for major offences and Articles 46 for minor offences.	The controls of overstocking cases did result in compliance.	<ol style="list-style-type: none"> 1. Database for registration of farms to be updated so that every change also made to published register (on website). 2. Action Plan of 2010 includes the control of all the existing laying hen rearing facilities.
Spain (2008-7766)	National Law provides for penalties of up to €600 for minor infringements, €501 to 6,000 for serious infringements and €6,001 to 100,000 for very serious infringements. For very serious infringements there are additional penalties such as suspending or closing down the activity. Minor infringements include those which do not lead to permanent lesions or to the death of the animals.	In Aragon the CA had found 11 infringements (five on overstocking) in 2007, no enforcement actions had been taken and overstocking persisted. In Castilla Y Leon the CA had detected one case of overstocking in 2007 and a warning was given. Again too many birds had been placed in the cages when the next flock was introduced.	<ol style="list-style-type: none"> 1. Co-operation to be stepped up with CA responsible for registration of holdings (database). 2. A coordination document will set out: <ul style="list-style-type: none"> - the way to calculate overstocking, - the deadlines for remedying shortcomings ascertained, - the legal steps to be taken if the shortcomings persist 3. By December 2010 the CAs of the Autonomous Communities will have reviewed their own documented procedures