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FINAL REPORT OF AN AUDIT
CARRIED OUT IN
POLAND
FROM 25 MAY TO 01 JUNE 2011
IN ORDER TO EVALUATE THE IMPLEMENTATION OF CONTROLS FOR ANIMAL
WELFARE ON FARMS AND DURING TRANSPORT

Executive Summary

This report describes the outcome of a Food and Veterinary Office (FVO) audit which took place in Poland from 25 May to 1 June 2011. The audit evaluated the implementation of national measures for the control of animal welfare on farms and during transport.

It is concluded that several recommendations from the previous FVO report have been adequately addressed by the CA and many improvements were noted, particularly in documented procedures, training and performing of checks.

Concerning laying hens, significant progress has been made. However, regarding the phasing out of unenriched cages, not all producers will be able to meet the new standards by 1.1.2012 and concerning alternative systems of production, the inadequate definition of the usable area jeopardises the correct calculation of maximum capacities of these farms.

Animal welfare checks in broilers holdings were adequate; however, keepers that the CA recognise as having experience equivalent to training do not hold a certificate attesting to them having this equivalent experience, as required by Article 4 (4) of Directive 2007/43/EC.

Concerning group housing of sows, 35 % of pig farms have not yet complied with this requirement (deadline 1 January 2013).

Transport checks have also improved. However, the records from satellite navigation systems (SNS) are only partially used; there was no progress concerning transport of unweaned calves over long distances (due to practical technical difficulties in feeding large consignments of calves) and, although some useful measures had been adopted in the market visited, these were not sufficient to avoid the transport of unfit animals and animals tied by the horns.

Progress has been made in the verification of official controls. However, this is undermined by the lack of data available at central level on the effectiveness of checks performed at district level and the inadequate procedures for supervisory animal welfare checks.

The situation regarding sanctions is similar to that described in the previous report, despite efforts to amend legislation to allow imposition of higher court penalties. The enforcement instruments available to the CA to implement animal welfare legislation are insufficient.

The report makes a number of recommendations to the Polish competent authorities, aimed at rectifying the shortcomings identified and enhancing the implementing and control measures in place.

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ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

CA	Competent Authority
CCA	Central Competent Authority
DG(SANCO)	Health and Consumers Directorate-General
EC	European Community
EU	European Union
FVO	Food and Veterinary Office
MS	Member State
OV	Official Veterinarian
SNS	Satellite Navigation System

1 INTRODUCTION

This audit took place in Poland from 25 May to 1 June 2011, as part of the planned mission programme of the Food and Veterinary Office (FVO).

An opening meeting was held with the competent authorities of Poland on 25 May 2011. At this meeting, the objectives of, and itinerary for, the audit were confirmed and additional information required for the satisfactory completion of the audit requested.

The inspection team comprised two inspectors from the FVO. Representatives from the Central Competent Authority (CCA), the Veterinary Inspectorate (*Glówny Inspektorat Weterynarii*), accompanied the FVO team for the duration of the audit.

2 OBJECTIVES

The main objective of the audit was to verify 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/2010-8387 (hereafter: report 2010-8387) regarding animal welfare on farms and during transport. The audit also looked at how measures taken in relation to the above are being integrated into the approach required by Regulation (EC) No 882/2004 of the European Parliament and of the Council.

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

Meetings/Visits			Comments
Competent authority	Central	2	Opening and closing meetings.
	Regional	3	The regional CAs of Swietokrzyskie and Maloposlkie and Podkarpackie.
	District	5	Meetings/visits to two district CAs in Swietokrzyskie, two district CAs in Maloposlkie and one district CA in Podkarpackie.
Farms		3	Visits to two laying hen holdings (enriched and barn systems) and one broiler farm, all selected by the audit team.
Transport		2	Visits to one market for cattle, selected by the audit team, and one transporter's office, selected by the CA.

3 LEGAL BASIS

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

The previous audit in Poland concerning welfare of animals on farm and during transport was carried out in 2010, and its results are described in report 2010-8387, published on the website of the Directorate-General for Health and Consumers:

http://ec.europa.eu/food/fvo/ir_search_en.cfm

This report concluded that controls had been strengthened on certain issues through verification of controls by regional level, supervision of loading of animals for long distance transport and enhanced use of the national contact point for animal welfare. In general, most recommendations made in previous reports had been taken into account by the CCA. However, not all issues had been satisfactorily dealt with and major problems persisted in relation to enforcement actions, in particular concerning laying hen farms; there was insufficient planning to ensure that the deadline of 31.12.2011 would be met for the ban on unenriched cages; and, regarding transport of unweaned calves, checks at departure were inadequate, in particular concerning approval of journey plans (watering and feeding intervals, journey times and resting periods).

5 FINDINGS AND CONCLUSIONS

5.1 COMPETENT AUTHORITY

A detailed description of the CAs can be found in the country profile for Poland which is accessible at: http://ec.europa.eu/food/fvo/country_profiles/CP_poland.pdf

5.2 FARM INSPECTIONS

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:

- Concerning laying hens, point 2(d) of Article 2 of Directive 99/74/EC defines ‘usable area’ as an area at least 30 cm wide with a floor slope not exceeding 14 %, with headroom of at least 45 cm, also that nesting areas shall not be regarded as usable areas. However, as the national legislation inserted the word “cage” in the definition of usable area, this definition does not apply to alternative systems of productions where necessary as laid down in Directive 99/74/EC. More details are in section 5.2.1.
- Regarding broilers, Article 4(3) of Directive 2007/43/EC requires that Member States shall ensure that a system is established for the control and approval of training courses, also that the keeper of the chickens shall hold a certificate which is recognised by the competent authority of the Member State concerned, attesting to the completion of such a training course or to having acquired experience equivalent to such training, as required by Article 4(4) of this Directive. However, national legislation (the Animal Protection Act) requires the

CA to issue this certificate only after completion of a training course. More details are in section 5.2.2.

At the final meeting legal experts from the Ministry of Agriculture indicated their willingness to correct the aforementioned findings regarding inadequate or incomplete transposition of EU legislation, which in their opinion are easy to correct.

Conclusions

As the definition of usable area in national legislation is restricted to cage system of production, it does not apply to the alternative systems of production requirements of Directive 99/74/EC, consequently nesting areas are regarded as usable areas in these systems of production.

Concerning broilers, as the national legislation only permits the issuing of a certificate after completion of training, keepers that have experience equivalent to such training cannot hold a certificate attesting to this, as required by Article 4(4) of Directive 2007/43/EC.

5.2.1 Laying hen farms

Legal requirements

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

Commission Directive 2002/4/EC requires Member States to establish a system for registering every production site covered by the scope of Council Directive 1999/74/EC. The last paragraphs of Point 1 of the Annex of this Directive (2002/4/EC) require registration of the farming method(s) and of the maximum capacity of an establishment in number of birds present at one time. Article 1(4) of the Directive requires that changes in the registered data are notified to the CA without delay and the register is updated immediately when such information is received.

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

In response to a recommendation of report 2010-8387 to ensure that registration data for holdings with laying hens are updated, the CCA has instructed district CAs to notify changes immediately they take place in order to update the data of the national register, which is available on the internet.

- In the enriched laying hen farm visited in Swietokrzyskie region a CA decision was issued on 19 May 2011 to reduce the maximum permitted number of hens. In the national register checked by the audit team during the mission one week later, it was noted that the register had been updated with the new maximum number of hens.
- Before the mission the audit team indicated their intention to visit either of two farms registered as “barn farming method” in a district of Maloposlkie region. However, the CA subsequently informed the mission team that both farms had in fact unenriched cages and that this mistake was due to the insertion of both farms in the wrong column in the register.

Report 2010-8387 concluded that there is insufficient planning to ensure that the deadline of

31.12.2011 will be met for the ban on unenriched cages.

- The audit team noted a more proactive CA approach compared to the previous mission. The CA indicated that regarding the systems of production, the situation on 1 April in the country is that 6.5% of hens are in holdings with alternative system, 18.5% are in holdings with enriched cages, 45% are in holdings with unenriched cages and 29% are on holdings with modernisation in progress, having both unenriched and enriched cage systems. The CA also indicated that, according to the producers' declarations, around 27% of the farms with only unenriched cages are going to stop production and the rest have plans to adapt their farms to meet the requirements of Directive 99/74/EC.
- The audit team noted from records reviewed, that producers' declarations were available for all farms with unenriched cages and actions plans had been prepared where it was intended to modernise the farms to meet the requirements of Directive 99/74/EC.
- At the final meeting the CA explained that they plan to propose to the Council and Parliament to allow producers which have started the process of modernisation to have the opportunity until 31.12.2013 to complete it under special conditions.

Concerning the laying hen farm with enriched caged cages visited by the audit team in Swietokrzyskie region.

- During the last check, on 6 May 2011, the CA correctly detected that the previously calculated maximum number of birds per cage was too high, as the limiting factor was the length of the perches and not the cage area. Another non-compliance detected was that the automatic litter feeder did not work properly. The CA issued a decision on 19 May 2011 for corrective actions, setting the maximum capacity of the holding for 22% less hens than before and requiring manual provision of litter when necessary.
- The audit team noted during the visit to the farm that the CA adequately detected the non-compliances and that the current production flocks did not experience overstocking.

For the first time in Poland an FVO audit team visited a barn system of production to assess the implementation of the animal welfare requirements for laying hens. The CCA provided training and issued on 23.8.2010 updated detailed instructions and a checklist on how to check alternative systems of production. It was noted that:

- The previous CA check was recorded in the new format which guided the OV on how to assess the maximum capacity but did not clearly indicate what was the limiting factor that determines the maximum capacity of each house; as a result the maximum capacity in the national register was 6000 hens which was a figure closer to a calculation based on the total surface of the houses. However, during the visit the OV indicated that the limiting factor was the circular feeders, giving a maximum capacity of 4494 hens in total for both houses.
- In the report there was no calculation of usable area as defined by point 2(d) of Article 2 of Directive 99/74/EC, as a result the nest area (representing around 10% of the surface) was not deducted from the total area.
- The OV compared calculations of total area with number of hens present at the moment of his visits. The audit team noted that the overstocking at the start of the laying period, which was around 12% in the house visited, was not detected by the OV.
- Most perches were mounted above the litter, contrary to Article 4(1)1(d) of Directive 99/74/EC. Additionally, the area below the perches was not deducted by the OV from the calculation of the litter area. In the case of the farm visited the litter area was sufficient to

comply with the requirements.

Conclusions

The relevant recommendations from the previous audit concerning updating of registers and enforcement of non-compliances during inspections in farms have been in general adequately addressed by the CA. However, the inaccuracies in the data concerning the system of production could, if extensive, hinder the appropriate prioritisation of controls and the phasing out of unenriched cages and could result in incorrect information being provided to the consumer.

Concerning the phasing out of unenriched cages for laying hens, this will not be achieved by the deadline of 1.1.2012. The CA proposes to permit a 2 year extension of this deadline for farms that are in the process of modernisation. The CA has indicated that they will seek approval for this approach, which would not comply with current EU requirements.

Documented procedures were updated last year and checks were mostly adequate. However, the incorrect definition of usable area in alternative systems in national legislation leads to incorrect calculations of this area and maximum capacities with resultant overstocking of birds.

5.2.2 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.

Article 3.2 requires that MS shall ensure that the maximum stocking density in a holding or a house of a holding does not at any time exceed 33 kg/m² or increased stocking density from 33kgs/m² to 39kgs/m². By way of derogation, Member States may provide that chickens be kept at a higher stocking density provided that the owner or keeper complies with the requirements set out in Annex II, in addition to the requirements set out in Annex I.

Article 4(1)of Directive 2007/43/EC requires that MS shall ensure that keepers who are natural persons have received sufficient training in their tasks and that appropriate training courses are available and requires staff to hold a certificate issued by the CA after completing a training course or having acquired equivalent experience.

Article 4(3) requires that MS shall ensure that a system is established for the control and approval of training courses. The keeper of the chickens shall hold a certificate which is recognised by the competent authority of the MS concerned, attesting to the completion of such a training course or to having acquired experience equivalent to such training.

Article 4(4) requires that MS may recognise experience acquired before 30 June 2010 as being equivalent to participation in such training courses and shall issue certificates attesting to such equivalence.

Findings

The CCA provided guidance and check lists to the OV's. Training courses for keepers have been organised and are in progress.

The audit team visited a farm in Swietokrzyskie region that applied for increased stocking density from 33kgs/m² to 39kgs/m². The district CA approved this after receipt of supplementary information requested, such as layouts of all the houses of the site and slaughterhouse reports.

- During the visit the audit team noted that some keepers of chickens did not hold a certificate issued by the CA attesting to the completion of a training course or to having acquired experience equivalent to such training. (See section 5.2 above)
- Control of environment parameters such as light, humidity, temperature and gases were measured several times in different locations using specific devices with average results that were below the maximum permitted levels set in Annex II of Directive 2007/43/EC.
- The OV satisfactorily calculated the permitted stocking density, taking factors into account such as the number of birds at the beginning of the cycle, the average mortality rate and the average weight at the end of the cycle (2.2kgs/bird).

Conclusions

Adequate documented procedures for checks were provided by the CCA and the checks were correctly performed.

National legislation does not ensure that all keepers of poultry hold the required certification.

5.2.3 Reporting and verification of results of farm inspections

Legal requirements

Commission Decision 2006/778/EC requires a system for recording and reporting of farm inspections.

Procedures to verify the effectiveness of official controls in the field of animal welfare, as required by Article 8.3(a) of Regulation (EC) No 882/2004, have to be effective in identifying weaknesses in controls.

Findings

Report 2010-8387 recommended the CCA to ensure that the verification of official controls is improved in the field of animal welfare. In response to this recommendation, the CCA instructed the district CA to increase surveillance on follow up inspections and on penalties imposed in cases of non correction of deficiencies.

There is no data available at central level concerning the number of re-inspections and the penalties imposed by the district CA on persons who fail to act on recommendations.

The audit team reviewed several files of checks on laying hen farms in districts of Swietokrzyskie and Maloposlkie regions where non-compliances were detected in 2010.

- Head of district CAs randomly verify documents of checks, enforcement and follow up of actions taken to check their effectiveness. There were also on the spot joint inspections with OVs, in particular regarding difficult cases, mostly on the initiative of the Head of districts CAs.
- Documentation showed that a satisfactory check had been performed in a broiler farm where 11 non-compliances had been reported. It was noted that three of these non-compliances were for hygiene and animal health rather than animal welfare. The farm was restricted under an administrative procedure and repopulation prohibited until the identified non-compliances are corrected.

At the closing meeting the CCA indicated that there is already a system of supervision by district CA, that instructions on checks and on audits already exist and that all efforts will be made to make animal welfare checks more effective.

Conclusions

A system for recording and reporting of farms inspections as required by Commission Decision 2006/778/EC was in place; however, the differentiation between animal health, hygiene and welfare non-compliances is not clear.

The progress in the verification of official controls in the field of animal welfare is undermined by the lack of data available at central level on the level of effectiveness at district level.

5.2.4 Group housing of sows

Legal requirements

Article 3(4) of Directive 2008/120/EC requires Member States to ensure that sows and gilts are kept in groups during a period starting from four weeks after the service to one week before the expected time of farrowing. Article 3(9) lays down that this provision shall apply to all holdings newly built or rebuilt or brought into use for the first time after 1 January 2003 and that from 1 January 2013 these provisions shall apply to all holdings.

Findings

The CCA provided a national table which indicated that in the country around 65% of farms with more than 10 sows are already keeping them in groups. The CA of the districts visited explained that sows are kept in groups at least during a period starting from four weeks after the service to one week before the expected time of farrowing. Regional CAs of Swietokrzyskie and Maloposlkie provided tables with data from individual farms, that matched the data they provided to the national table.

Conclusions

From the data provided by the CCA around 65% of farms with more than 10 sows are already keeping them in groups, the remaining 35 % of farms have one year and a half (until 1 January 2013) to comply with these provisions.

5.3 TRANSPORT

Article 15 of Regulation (EC) No 1/2005 requires the CA to carry out appropriate checks on a random or targeted basis at any stage of long distance transport to verify that declared journey times are realistic and that the journey complies with Regulation (EC) No 1/2005, in particular regarding travel times and rest periods.

Article 8 of Regulation (EC) No 882/2004 requires that official controls are carried out in accordance with documented procedures.

5.3.1 Approval of means of transport and use of contact points

Legal requirements

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. Article 7(1) lays down that no person shall transport animals by road for a long journey unless the means of transport has been inspected and approved under Article 18(1).

Article 24 of Regulation (EC) No 1/2005 requires the designation of a contact point for mutual assistance and exchange of information.

Findings

Report 2010-8387 indicated that the CCA had improved the documented procedures regarding the assessment of certain requirements of means of transport for long journeys and had provided training and issued instructions. However, this report also indicated that the assessment of the ventilation system was not dealt with in training or in the instructions.

- In response to the above the CCA has included the assessment of the ventilation capacity in the instructions and dealt with in the training courses organised. Checks on the positioning of temperature sensors and on capacity of water tanks were also included.
- In addition the audit team noted that transporters authorised for journeys under 8 hours and more than 65 km have their vehicles inspected, which is in addition to the requirement of Regulation (EC) No 1/2005 which only requires this for vehicles carrying out journeys longer than 8 hours.
- It was noted that training for drivers was provided and that the requirement that drivers should have no records of serious infringements on animal welfare was also checked. In general the requirements for long journeys transporter authorisation were respected including the provision of detailed contingency plans. However, the surface of the different tiers within transporters was not measured as required and the CA relied only on the data provided by the manufacturer.

Concerning the system of recording data from the satellite navigation system (SNS) seen during the visit to a long distance transporter premises. The audit team noted that:

- Transporter's name and/or vehicle plate were not indicated in all records of SNS. Most journeys did not have records of the opening and closing of doors, the transporter indicated that the sensors placed at the door in order to record opening and closing of loading flap had frequent breakdowns.

Complaints or other information from and to other Member States (MS) concerning animal welfare during transport were sent from the central contact point to the regional contact point and from there to the relevant district CAs. In 2010, 35 instances from one MS and 13 to another MS were dealt with by the contact point at central level.

- The majority of complaints from another MS were in relation to journey logs not returned to the CA of origin, incomplete or mistaken information, technical conditions of means of transport and animals not delivered to the control post.
- In the case of complaints to another MS most of them were in relation to f journey times being exceeded, incomplete information, health condition of the animals and technical conditions of vehicles. For example, in Swietokrzyskie region the CA detected a journey log from another MS with journey times wrongly assessed, the district CA informed the Polish contact point, and the contact point of the MS of origin relayed that they informed the relevant local CA to take actions on future consignments. In addition the CA also detected

that the Polish vehicle was not approved for long journeys and contacted the district CA where the transporter was registered.

Conclusions

The CA has dealt with the assessment of the ventilation system in the training and instructions, providing sufficient guidance on this Regulation (EC) No 1/2005 requirement as recommended in the previous FVO report. However, the assessment of the total surface of the vehicle and guidance on what information the SNS equipment of the vehicle has to record were not dealt with in training or instructions.

Measures have been taken for exchange of information on deficiencies noted during transport to enable the requirements of Article 24 of Regulation (EC) No 1/2005 to be fulfilled.

5.3.2 Checks at departure

Legal requirements

Article 14(1)(a)(ii) of Regulation (EC) No 1/2005 requires that, before long journeys, the CA of the place of departure carries out appropriate checks to verify that the journey log submitted by the organiser is realistic and indicates compliance with this Regulation.

Article 15(4) of Regulation (EC) No 1/2005 requires that the records of the movements of the means of transport by road obtained from navigation system may be used by the CA for carrying out the checks at any stage of the long journey where appropriate.

Point 1.4(a) of Chapter V of Annex I to Regulation (EC) No 1/2005 requires that unweaned calves which are still on a milk diet, after nine hours of travel are given a rest period of at least one hour sufficient in particular for them to be given liquid and if necessary fed.

Point 8 of Annex II to Regulation (EC) No 1/2005 requires that a copy of the completed journey log is returned to the CA of the place of departure within one month after the completion of the journey, unless a navigation system, as referred to in Article 6(9), is used.

Findings

The documentation of consignments from assembly centres in two districts of the regions of Malopolskie and Podkarpackie and consignments from a district of Swietokrzyskie region were reviewed by the audit team. The CAs indicated that all journey logs have to be returned and that the OV has to be present during loading of animals to check, among other tasks, the journey logs. The audit team noted that:

- The checks at departure performed were regularly recorded on Section 2 of the journey logs and most journey logs were returned.

In relation to checks on journey logs before a long journey and in response to recommendation 3 of report 2010-8387, the CCA in their letter of March 2010 re-instructed the CAs on how to check a journey log before a long journey, reminding them that the planned total expected duration of the journey indicated in point 2 of section 1 of the journey log must state the duration of all operations relating to transport, from the moment when the first animal in the consignment is loaded to the moment when the last animal in the consignment is unloaded, and explaining again how to assess the correctness of the information provided by the transporters, using an internet application to calculate the distance and travelling times, with an average speed of 60 km/h. The instruction also

reminds the CAs to approve travel only if transporters have the necessary documentation and a journey log is properly completed. The audit team noted the following:

- In Malopolskie region the journey logs of two of the three consignments reviewed had complete information, making it possible to assess that stocking densities were respected.
- In Podkarpackie region the available records of the SNS indicated that when the journey was on motorways the CCA guidance of 60km/h average speed can be increased.
- In Swietokrzyskie region the CA implemented the CCA instruction on total duration of the journey including the duration of all operations relating to transport.

In relation to checks on journey logs and on the records of the movements of the means of transport obtained from SNS, in response to recommendation 6 in report 2010-8387, in March 2010 the CCA instructed the district CAs to ask transporters to provide them with the SNS records of 20% of the movements from and to their respective districts so that they could verify journey times.

The CCA assessed the implementation of their instruction by the district CAs: the result was that controls are fewer than recommended and the CCA is planning to repeat a similar recommendation in a new instruction for transport (currently in draft stage after consultation from the regions). The CCA, in cooperation with the Road Transport Inspectorate, is also planning to provide training to district CAs on how to read records from the SNS. The audit team noted that:

- In Malopolskie region there were no records of SNS, therefore verification of journey times, was not possible. The district CA indicated that the letter instructing the transporters to provide records of the SNS was sent on 26.05.2011.
- In Podkarpackie region some of the returned journey logs were incomplete, such as journey log section 4 of two consignments to Croatia without the date and time of arrival in destination. One of them had spent 2 hours in the Hungarian part of the border and 2.5 hours in the Croatian part. Records of SNS were not available for this consignment to check the total journey time.
- In Podkarpackie region the district CA indicated that it is compulsory for the transporter to provide the records of the SNS in paper, in addition some transporters voluntarily provided electronic access to the SNS data of their vehicles, for example electronic archived SNS data to a regular destination in Croatia indicated 21 hours as total travelling time.
- In several cases the district CAs did not fully assess the SNS records and failed to detect deficiencies, such as discrepancies between the resting and journey times recorded by the driver in section 4 of the journey log and the data recorded in the SNS. In addition the lack of information concerning stop overs and final destination in Section 4 of the journey log of a consignment of cattle to a third country along with the lack of SNS records, made it impossible to check the real time of the journey and the time spent at and after the border.

Concerning the provision of water and feed to unweaned calves during long journeys, report 2010-8387 indicated that the CCA had issued instructions to the district CAs. A CCA representative indicated that new instructions are under internal discussion. The audit team noted that:

- In Podkarpackie region, section 4 of the journey log of a consignment to Italy of unweaned calves for breeding indicated a total travelling time of 18.5 hours including a one hour stop over; the district CA indicated that the vehicle had equipment and milk substitutes for feeding during the stop over. Given that there were only 16 calves in the consignment, the one hour stop can be considered adequate for the feeding of the calves.

At the final meeting the CCA made a general comment on Regulation (EC) No 1/2005, stating that, in their opinion, some requirements are difficult to implement, and that with the technology

available it is difficult to provide milk substitutes to a large number of calves during transport or during a stop over, and that they would like to find a solution.

Conclusions

Most of the CCA instructions have been implemented by the district CAs. Copies of completed journey logs were returned and OV's were present during loading of animals at the place of departure. However, not all journey logs were fully completed by the operators.

The recommendation of report 2010-8387 concerning training has been partially addressed: most checks performed were adequate but in several cases the lack of training and comprehensive guidance on how to check the SNS data impeded the detection of deficiencies.

Although the Polish CA have been trying to find solutions to the issue of transport of unweaned calves over long distances, they have not been able to make progress, due in their opinion to practical difficulties.

5.3.3 Checks at the market

Legal requirements

Annex I, Chapter I of Regulation (EC) No 1/2005 prohibits the transport of animals unless they are fit for the intended journey and Article 12 of Council Directive 93/119/EC requires unfit animals to be slaughtered or killed on the spot outwith slaughterhouses in order to be spared unnecessary suffering. Point 1(11) of Chapter III to Annex I of Regulation (EC) No 1/2005 lays down that animals shall not be tied by the horns.

Findings

The audit team visited the CA office and the market in Swietokrzyskie region.

The District CA issued an administrative decision setting a plan for corrective actions with deadlines, to improve the facilities and the circulation flow, to strengthen checks on vehicles by the municipality contracted veterinarians and other staff and to provide training on animal welfare to the operator's personnel.

- The CA closed the market for several weeks due to the lack of implementation of the corrective actions by the operator. The market was reopened after the district CA approved the operator's standard operational procedures (SOPs) for checks on vehicles, cleaning of vehicles, use of vehicle or market ramps for loading and unloading the animals, movement inside the market, and handling of injured and dead animals. In addition, the district CA provided training on animal welfare to the operator's staff.

The district CA indicated that currently the situation has improved but some issues are still not fully in compliance with requirements or the action plan, and indicated that from June 2011 they have scheduled regular monthly supervisory checks. The CA also explained that it is difficult to enforce requirements in particular for repeated offenders and that the two contracted veterinarians have no powers to issue administrative decisions.

The audit team noted that regarding downer cows or animals that are unable to walk unassisted the market SOP approved by the district CA allows animals to be dragged to the vehicle and transported to the nearest slaughterhouse (35 km away), contrary to Article 2(a) of the Annex I to Regulation (EC) No 1/2005 which lays down that these animals are unfit for transport. The district CA explained that transporters with animals unable to walk unassisted usually claim that the animals became down during transport to the market. No procedures had been put in place to investigate the

veracity of such claims.

The audit team observed that animals were routinely tied by the horns and that no corrective action was taken by the CA on the spot. The CA stated that the tying of animals by the horns is a general practice.

Conclusions

The CA has adopted a number of measures to improve animal welfare conditions in the market, including training, new instructions, approval of SOPs and increased number of CA checks. However, these measures have not been fully effective due to the lack of procedures and equipment for emergency slaughter in the market of animals unfit for transport and the persistence of the practice of tying animals by the horns.

5.4 ENFORCEMENT AND SANCTIONS

Legal requirements

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.

Findings

In response to a recommendation in previous report to ensure that appropriate actions are taken and dissuasive sanctions are implemented when non compliances are identified, the CCA asked the Ministry of Agriculture and Rural Development to consider including penal provisions in the Animal Protection Act and also the possibility of imposing administrative fines in cases when the law on animal protection is broken without evidence of extreme cruelty.

Representatives of the Ministry of Agriculture indicated that there are no plans to amend the Animal Protection Act as regards penalties. In addition they indicated that in general Polish law provides for strong sanctions such as imprisonment and that in each case it is the court which decides on penalties. They further indicated that currently members of Parliament are working on drafting amendments to impose higher court penalties.

The CCA indicated that regarding animal welfare enforcement in general, it is not easy for an OV to start an infringement procedure with the prosecutor's office and that is better to inform the police and request them to initiate this procedure. The CCA also explained that, in their opinion, the procedure is very time consuming, in particular when evidence of suffering has to be provided.

During the mission the audit team noted that regarding farms:

- In most cases farmers implemented the corrective actions proposed by the CA. For example, in one case where the number of nests in a barn was insufficient, the problem was corrected before the deadline set by the CA and a follow up check was carried out.

- One case of integrated perches in the slatted floor of a barn farm was sent to the prosecutor, and although the farmer initially appealed, he subsequently installed adequate perches after the next barn depopulation.

Regarding transport the the audit team noted that:

- Regarding enforcement, in Swietokrzyskie region a district CA indicated that in the last two years they have sent six letters to the prosecutor's office, without results as yet. This district CA also explained that the administrative code can be applied if the farmer or transporter do not comply with the administrative decision for corrective actions. However, this code sets fines from 500 PLN to a maximum of 5000 PLN only, which is not sufficiently dissuasive, as concluded in report 2010-8387.
- One case of infringement at markets is recorded in the 2010 annual report on protection of animals during transport in Swietokrzyskie region. This had been detected in the market visited during this audit. It concerned a transporter who was a repeat offender and had tried to load animals for a journey of more than 65 km in a vehicle without a type I licence. After the check the district CA requested further information from the district of origin of the transporter before sending the administrative decision to the district police with the findings and justification for initiation of an infringement procedure. This had been sent by the police to the prosecutor's office in November 2010. At the time of this audit, the district CA had not received any feed back from the police or from the court concerning progress with this procedure.
- During the visit to the market, cattle on a vehicle were tied by the horns. Before its departure the audit team pointed out this non-compliance to the CA. Their enforcement action was to phone the CA of destination requesting them to take action. They clarified that this was the best enforcement option available, indicating that in general further follow up is done in these cases. It was noted that the CA has limited enforcement powers and the contracted veterinarians have no powers at all.

At the closing meeting legal experts from the Ministry of Agriculture indicated that they acknowledge that, for five years, the FVO has commented on the level of sanctions available through the Polish legal system. They stated that they are making efforts to improve the situation and cited new legislation regarding broilers, where they indicated that the OV's have the possibility of imposing fines directly without recourse to administrative decisions. Cases involving a criminal offence must still be processed through the police and the prosecutor and there is a reluctance to change the Act on animal welfare due to social considerations.

Conclusions

The enforcement instruments available to the CA to implement animal welfare legislation are insufficient, particularly in the absence of better cooperation and coordination with the other enforcement and legal institutions.

The ability of the CA to take appropriate corrective actions in cases of non-compliance and to have dissuasive sanctions imposed, remains insufficient and the relevant recommendation of the previous report has not been adequately addressed.

6 OVERALL CONCLUSIONS

Several recommendations from the previous FVO report have been adequately addressed by the CA and many improvements were noted, particularly in documented procedures, training and performing of checks.

Concerning laying hens, significant progress have been made. However, regarding the phasing out of unenriched cages, not all producers will be able to meet the new standards by 1.1.2012 and concerning alternative systems of production, the inadequate definition of the usable area jeopardise the correct calculation of maximum capacities of these farms.

Animal welfare checks in broilers holdings were adequate; however, keepers that the CA recognise as having experience equivalent to training on their tasks do not hold a certificate attesting to their having this equivalent experience, as required by Article 4 (4) of Directive 2007/43/EC.

Concerning group housing of sows, 35 % of pig farms have not yet complied with this requirement (deadline 1 January 2013).

Transport checks have also improved. However, the records from satellite navigation systems (SNS) are only partially used; there was no progress concerning transport of unweaned calves over long distances (due to practical technical difficulties in feeding large consignments of calves) and, although some useful measures had been adopted in the market visited, these were not sufficient to avoid the transport of unfit animals and animals tied by the horns.

Progress has been made in the verification of official controls in the field of animal welfare. However, this is undermined by the lack of data available at central level concerning the effectiveness of checks performed at district level and the inadequate standard procedure on frequency and recording of supervision of animal welfare checks.

The situation regarding sanctions is similar to that described in the previous report, despite efforts to amend legislation to allow imposition of higher court penalties. The enforcement instruments available to the CA to implement animal welfare legislation are insufficient.

7 CLOSING MEETING

A closing meeting was held on 1 June 2011 with representatives of the central competent authority. At this meeting, the audit team presented the main findings and preliminary conclusions of the mission. The representatives of the CCA acknowledged the findings and conclusions presented, and provided clarifications on some of the issues discussed (these clarifications are outlined in the relevant sections above).

8 RECOMMENDATIONS

It is recommended that the Competent Authority of Poland, within one month after receipt of the report, provide an action plan to address the following recommendations:

N°.	Recommendation
1.	Take measures to ensure that the rearing of laying hens in unenriched cages is

N°.	Recommendation
	effectively prohibited by 1 January 2012 as required by Article 5 (2) of Directive 1999/74/EC.
2.	Ensure that Directive 1999/74/EC is adequately transposed into national legislation, in particular to define the usable area as required by Article 2(d) of Directive 1999/74/EC, and to ensure that the requirements of this Directive are enforced.
3.	Ensure that all data registered, as required by point 1 of the Annex I to Directive 2002/4/EC, are checked for accuracy and updated as necessary.
4.	Ensure that the requirements on training and certification of keepers of broilers, as required by Article 4 of Directive 2007/43/EC, are fully transposed into national legislation
5.	Continue progress with the implementation of the requirement of Article 3(4) of Directive 2008/120/EC regarding keeping of sows and gilts in groups, in order to ensure that all holdings are in compliance by 1 January 2013, as required by Article 3(9) of this Directive.
6.	Ensure that staff performing checks of long distance transport receive guidance and training on how to check the records of the satellite navigation system, in accordance with Article 15 (4) of Regulation (EC) No 1/ 2005.
7.	Take measures to ensure that only animals which are fit for transport are transported and that animals which do not comply with the conditions of Annex I, Chapter I of Regulation (EC) No 1/2005 are slaughtered or killed on the spot outwith slaughterhouses in order to be spared unnecessary suffering, as required by Article 12 of Council Directive 93/119/EC.
8.	Take measures to ensure that animals are not tied by the horns as required by point 1(11) of Chapter III of Annex I to Regulation (EC) No 1/2005.
9.	Take measures to ensure that appropriate actions are taken and that adequate and dissuasive sanctions are implemented when non-compliances are identified as required by Articles 54 and 55 of Regulation (EC) No 882/2004, and in particular to improve cooperation and coordination between the CA and the prosecutor office.

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

http://ec.europa.eu/food/fvo/ap/ap_pl_2011-6049.pdf

ANNEX 1 - LEGAL REFERENCES

Legal Reference	Official Journal	Title
Dir. 93/119/EC	OJ L 340, 31.12.1993, p. 21-34	Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing
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. 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
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
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
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