REFIT Platform Opinion

Date of Adoption: 19 March 2018

REFIT Platform Opinion on Protection of animals during transport and related operations by Detailhandel Nederland

The REFIT Platform has considered the submission by Detailhandel Nederland on Regulation 1/2005 regarding protection of animals during their transport.

The Stakeholder group does not agree that Pets should be exempted from the application of provisions regarding their protection during their transport. The Stakeholder group recommends therefore the European Commission to maintain the protection of pets within the scope of the Regulation; the Stakeholder group requests EFSA further advice to assess properly cats and dogs welfare during transport.

The majority of the members of the Government group supports the recommendations of the Stakeholder group and disagrees with the submission. The Government group considers that pets are to be maintained in the scope of Regulation 1/2005 and the welfare needs of cats and dogs during transport should be further assessed.
1 Submission XI.17.a by Detailhandel Nederland (LtL 494)

If animals have to be transported further than 65 km, an authorisation is required. The situation is clear for livestock, but if a retailer wishes to transport 20 guppies, this also falls under the scope of the legislation. There are no provisions referring to how this should be done for this particular species of animal. The animals are not at all troubled by the journey, which has absolutely no effect on their well-being. The legislation is, in this case, an empty shell, but a real hindrance for pet shops.

This legislation is based on the transport of ‘animals for slaughter’, in which context it makes sense. However, it clearly misses the mark when applied to pets. Detailhandel Nederland finds these rules unnecessary and would like to see pets exempted from these transport requirements. The existence or otherwise of this legislation has no effect on the well-being of such animals. An authorisation is nevertheless required, and this costs time and money.

2 Policy context

Regulation (EC) No 1/2005 on the protection of animals during transport applies to vertebrate animals. While its provisions mostly focus on livestock, it does apply to all vertebrate animals transported in a context of an economic activity. It contains in particular some specific provisions that concerns some pet animals such as dogs and cats (Paragraph 2(f) of Chapter I, Annex I); Dogs and cats are also mentioned in Recital 9 of the Regulation. Paragraph 1.3 of Chapter II of Annex I to the Regulation also explicitly refers to wild animals and other species than livestock. It is therefore clear that the legislator did not limit its intention to the transport of farmed species.

However, the difficulty to apply the Regulation to ornamental fish (“guppies”) has been reported to the Commission in the past since Member States had different ways of implementing the provisions of the EU legislation in this regard.

To address this issue, DG SANTE established an expert group on 3 February 2015 and presented its operational conclusions to the PAFF committee of 5 March 2015. The conclusions of the expert group and the discussion of the committee are attached (cf. point...
On the transport of ornamental fish:

Implementation difficulties in the case of ornamental fish were discussed and good practices exchanged among Member States.

The expert group established in February 2015 has proposed some practical solutions. In particular, it suggests that “in the case of transport of ornamental fish, as long as proper packaging is guaranteed, no certificate of approval for the means of transport should be required”. This flexibility has been implemented by most Member States and no complaint was received since then.

On the exclusion of pets from the scope of the Regulation:

The proposal to exclude other pet animals than ornamental fish from the scope of Regulation is very debatable. The Commission receives regular calls from some Member States and the European Parliament to strengthen the legislation and its enforcement on the trade of dogs and cats or on the trade of wild animals kept in captivity. A study on the welfare of dogs and cats involved in commercial practices made by the Commission indicates that this trade is substantial and is subject to some welfare concerns as well as discrepancies between Member States (https://ec.europa.eu/food/sites/food/files/animals/docs/aw_eu-strategy_study_dogs-cats-commercial-practices_en.pdf). The conclusions of the study do not support the exclusion of pets from the scope of the Regulation.


3 Opinion of the REFIT Platform

3.1 Considerations of the REFIT Platform Stakeholder group

Concerning the exclusion of fish from the scope Regulation, the submission’s claim that ‘The animals are not at all troubled by the journey, which has absolutely no effect on their well-being’ is contrary to the evidence. There is a large academic literature on the stressful and harmful effects of transporting live fish and a scientific consensus that fish are sentient and experience pain, fear and stress. Further and species specific knowledge in this area is rapidly emergent. Particularly, EFSA has published a scientific opinion confirming that transport is a stressful experience for fish\(^1\). The European Commission’s 2017 study into welfare during transport and slaughter in European aquaculture confirms that ‘During transport, fish are exposed to a multitude of stressors such as density changes, handling stress, water movement,

\(^1\) EFSA, 2009, General approach to fish welfare and to the concept of sentience in fish, Scientific Opinion of the Panel on Animal Welfare and Health
noise and vibrations and poor water conditions … may induce severe physiological stress … the process of transport may also lead to pain and fear in fish.’

Knowledge on stress factors and transport techniques is species specific, and is more advanced for some species than for others. This creates difficulties in implementing the transport regulation with regards to fish (this is why the recent Commission study, reference above, was commissioned). The expert group finding that ‘in the case of transport of ornamental fish, as long as proper packaging is guaranteed, no certificate of approval for the means of transport should be required’ confirms the need to take care of fishes’ welfare during transport.

Where different Member States are implementing the regulations differently, guidelines should be issued to clarify best and acceptable practice. The absence of consistency or guidelines should not be an impetus for removing oversight of fish transport, but for introducing the necessary standards.

The Stakeholder group supports efforts to make specific amendments to the transport regulation that make it implementable with regards to fish. This would include specifying the packaging requirements for different species, and other parameters such as journey time, water change procedures, noise and vibration reduction measures, and handling procedures.

In conclusion, any case for excluding ornamental fish from the regulations is unsubstantiated, especially as it is recognised that other sentient, vertebrate pets must continue to be included.

Concerning the exclusion of pets from the scope of Regulation, the already mentioned Study on the welfare of dogs and cats involved in commercial practices⁢ (hereinafter ‘Study’) proves that the dimension of the pet trade, to which the legislation on welfare standards during transport applies, is significant. Data from 2014 report of 20,779 dogs and 2,287 cats registered in TRACES for intra-EU trade, and 9771 dogs and 2060 cats imported into the EU from non-European countries. The volume generated by the trade in exotic non-domesticated animals should also be taken into account as wild animals fall within the scope of Regulation 1/2005. It is important to point out that, in light of a 2015 ruling of the European Court of Justice, Regulation 1/2005 also applies to cross-border pet rehoming activities as these are classed as a commercial movement, regardless of whether that activity is for profit or not.

The Study also states that TRACES data do not allow an accurate assessment of the actual scale of this market. This is due to the existence of a growing illegal trade in dogs and cats disguised as non-commercial movement, as well as illegal trade in exotic pets. By creating loopholes in the legislation, excluding pets from the scope of the Regulation 1/2005 would weaken even further a legislative framework which proved ineffective at addressing the

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² European Commission, 2017, Welfare of farmed fish: Common practices during transport and slaughter
dramatic increase this illegal business.

As a consequence of this, not just the absolute majority (74%) of Europeans believe the welfare of companion animals should be better protected than it is now, Members States’ commitment to take companion animal welfare into account is increasing. This is proven by the 2016 EP Resolution the introduction of compatible systems for the registration of pet animals and the recent initiative of several MS and stakeholders to constitute a working group on illegal pet trade within the EU Animal Welfare Platform. Therefore, decreasing the level of protection guaranteed to pets during transport would not resonate with Member States’ and citizens’ call for regulating the pet trade better and more effectively.

In respect to the need to protect the welfare of pets during transport, the Commission’s Study reports that ‘poor management of the animals during transport can affect both their clinical and emotional state. Dogs, for example, may suffer from hyperthermia and, as a result of transport stress, in dogs and cats latent and sometimes zoonotic infections may become reactivated. Recent studies show that transport can have a negative effect on dogs’ behaviour’. Protecting exotic pets during transport is also necessary as when animals are wild-caught; their welfare is severely affected by the stress of the capture and of the transport to their final destination. Particularly, exotic animals have complex needs that are closely tied to their natural diet, environment and behaviour in the wild.

Guaranteeing specific standards during transport is also important for ensuring the good health of the animals that are being moved across Member States. Ultimately, this is crucial for preventing the spreading of infectious diseases transmissible to humans and livestock.

In referring to Recital 9 of Regulation 1/2005 which establishes that ‘Specific provisions for poultry, cats and dogs will be set out in appropriate proposals when the relevant opinions of the European Food Safety Authority (EFSA) are available.’, the Stakeholder group would recommend the Commission to maintain the protection of pets within the scope of the Regulation and to request EFSA further advice for the appropriate assessment of cats and dogs welfare needs during transport.

3.2 Considerations of the REFIT Platform Government group

Nineteen Member States contributed to this opinion. Eighteen out of nineteen Member States having contributed to this Opinion could support the recommendations of the Stakeholder group.

One MS abstains.

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4 Eurobarometer 2017 - Attitudes of Europeans towards Animal Welfare
http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2096

Individual contributions from Member States

**Member State 1** has a reserved opinion on the submission. MS1 shares the reserved opinion expressed by the Stakeholder group. MS1 is open to a discussion with a view to simplifying rules applicable to certain species, such as pet animals, including ornamental fish and wildlife animals.

Considering the possible negative impacts of transport on these species, MS1 also shares the opinion that it would not exclude such species from the application of Regulation (EC) No 1/2005 but rather to supplement this Regulation by specific technical provisions, better suited to their respective conditions of transport.

The authorisation of type 1 or 2 economic operators carrying out such transport should nevertheless be maintained to allow monitoring the proper application of those requirements.

In addition, MS1 considers that the preparation of animals and their placing in containers for transport performed in the context of an economic activity should be taken into account in the concept of related operations mentioned in the title of the regulation. The quality of these operations is indeed crucial for the journey, the regulation should provide for training of keepers at places of departure allocated to these operations (see Article 8 — keepers at places of departure) in the same way as the training of drivers and passengers (Article 6.4) or that personnel of assembly centres (Article 9.2a).

**Member State 2** is supportive of the Stakeholder group considerations.

**Member State 5** agrees with the considerations of the REFIT Platform Stakeholder group that fish are very sensitive to transportation and that the welfare of pet animals during transportation should be ensured and controlled even more strictly, but perhaps the regulation should provide more specific rules how to ensure animal welfare.

**Member State 8** decided to refrain from voicing any opinion in this issue.

**Member State 9** does not agree with the above submission.

The MS9's view would be that fish and pets generally should remain captured as part of the Requirements of Council Regulation (EC) 1/2005. MS9 would agree that there is enough scientific evidence out there to suggest that fish and pets (dogs/cats) should indeed be protected when transported for a commercial purpose and there should be no relaxation of the rules.

MS9 would also agree with the considerations made by the stakeholder group, rather than reducing the protection provided to fish or other animals currently classed as ‘other species’, the EU should look at strengthening the provisions.

MS9 would support providing more specific requirements, e.g. on the way in which these animals should be transported where there is scientific evidence, as these groups are currently not covered in the same way as the major livestock species.
**Member State 10** supports the considerations of the REFIT Platform Stakeholder group regarding the exclusion of fish and pet animals from the regulations. The efforts should be directed not to their exclusion, but to amendment of the legislation and move further and better way in protection of welfare. Particularly to the pet animal transport, it should be regulated better in the existing legislation considering its significant economy impact and growing illegal pet trade disguised as non-commercial movement, as well as illegal trade in exotic pets.

**Member State 11** agrees with the arguments of the REFIT Platform Stakeholder group and would also recommend the Commission to maintain the protection of pets within the scope of the Regulation.

**Member State 12** states that the proposal of Detailhandel Nederland suggesting that pets should be exempted from the requirements of Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations cannot be supported. MS12 fully agrees with the opinion of the REFIT Platform Stakeholder Group recommending the Commission to maintain the protection of pets within the scope of the Regulation and that amendments to the transport regulation are needed making it implementable with regard to fish.

The transport of dogs (mainly puppies) from MS12 to Western European countries is a major animal welfare issue. It is very important to ensure the well-being of these animals during the journey. Therefore it is essential to maintain the protection of pets within the scope of the Regulation.

Taking into account the above-mentioned reasons the proposal – in accordance with the opinion of the REFIT Platform Stakeholders Group – should be rejected.

**Member State 13** does not support the submission.

Comments: MS13 agrees with the considerations outlined by the REFIT Platform Stakeholder group.

**Member State 15** does not support this proposal and holds that pets as well as ornamental fish should remain within the scope of Regulation (EC) No 1/2005; from the perspective of animal welfare there is no justification for the proposed exemptions:

With commercial transports, there is a risk, due to profit orientation or sometimes to a lack of expertise, that animals will be subjected to undue pain, suffering or damage. For this reason, compliance with the general conditions of transport, with particular reference to the transportability of animals for their adequate protection, is indispensable. Especially when transporting fish, it is particularly important to ensure that

- the quality, quantity and temperature of the transport water comply with the respective requirements,
- the loading and unloading is done properly and carefully,
- the use of suitable containers (such as buckets, vats, tanks, special tanks, large plastic bags) using the source water is guaranteed for the transport of both commercial and ornamental fish.

This MS also holds that Regulation (EC) No 1/2005 should be revised in order to improve animal welfare during transport.

**Member State 16** does not support this suggestion. Contrary to the stakeholder’s submission, MS16 deems the inclusion of ‘pets’ in the scope of the regulation necessary to protect their welfare.

**Member State 17** supports the REFIT Platform Stakeholders group in his considerations, included the final conclusion: “we would recommend the Commission to maintain the protection of pets within the scope of the Regulation and to request EFSA further advice for the appropriate assessment of cats and dogs welfare needs during transport.”

MS17 considers that transport of pets should be maintained in the scope of the Regulation, as it’s an essential legislative tool for the Competent Authorities to ensure the protection of those animals (including their health, and therefore the public health). It is also an important regulation to ensure the smooth functioning of the internal market, that it is growing year after year for the pet animals.

**Member State 19** shares the view of the REFIT Platform Stakeholder group regarding the application of regulation 01/2005. In this context, it is important to differentiate between private transports of vertebrate animals (your own animals with your own means of transport) and transports in the context of an economic activity, even if it regards only 20 ornamental fishes. Any derogation, any exception would only increase the risk of fraud and would make the management on the ground more difficult.

**Member State 20** considers that the ornamental fish and pets are subject to the general rules or the regulation 1/2005 on the protection of animals during transport. This solution should stay in force.

**Member State 22** does not support this suggestion. Fish and pets generally should remain covered by the requirements of Council Regulation (EC) 1/2005. In our opinion there is enough scientific evidence to suggest that fish and pets (dogs/cats) should indeed be protected when transported for a commercial purpose and there should be no exemption from the rules.

MS 22 agrees with the considerations made by the REFIT stakeholder group; rather than reducing the protection provided to fish or other animals currently classed as ‘other species’, we will support efforts to make specific amendments to the transport regulation. These groups are currently not covered in the same way as the major livestock species.

**Member State 23** is in favour and recommends to emphasize the benefits of an harmonisation, but not only for the free circulation, but also for a high level of protection of
animal health.

**Member State 24** does not support the submission suggesting that pets should be exempted from the requirements of Council Regulation (EC) No 1/2005 on the protection of animals during transportation. MS24 supports the arguments of the REFIT Platform Stakeholder group recommending the Commission to maintain the protection of pets within the scope of the Regulation and to request EFSA further advice for the appropriate assessment of cats and dogs welfare needs during transport.

**Member State 25** expresses a negative opinion on submission.