



EUROPEAN COMMISSION
HEALTH AND CONSUMERS DIRECTORATE-GENERAL

Directorate G - Veterinary and International Affairs
Director

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Brussels,

SANCO G3 AN/ap D(2011) 862232

Anas crew 870575

Subject: Internal height of means of transport for animals

Dear Colleague,

The Commission receives regular complaints in relation to transport carried out under conditions that do not provide enough space above the heads of the animals.

According to Council Regulation (EC) No 1/2005 on the protection of animals during transport¹ the means of transport shall provide sufficient internal height for the animals, appropriate to their size and the intended journey. The Regulation does not contain precise figures related to the internal height² and the Commission considers that it may be necessary for you to provide clear instructions to your services on this issue.

The purpose of this letter is to clarify which measures Member States may adopt in order to ensure that the requirements of the Regulation are fulfilled. Further details on this are given in Annex 1 and 2, while applicable legislation can be found in Annex 3.

This letter could be of interest not only for your services but to other authorities involved in the implementation of the Regulation, such as the road police. I therefore ask you to ensure that the letter and its annexes are forwarded to all authorities concerned. Your contribution in keeping stakeholders informed on this matter would be highly appreciated.

I would gladly receive information from you on difficulties, as well as possible solutions, in implementing the Regulation in relation to internal heights during transport. Please send such information directly to Ms Agneta Norgren at agneta.norgren@ec.europa.eu.

Please note that only the Court of Justice of the European Union is entitled to interpret EU law with final binding authority.

Yours sincerely,


Bernard Van Goethem

Addressed to the CVOs of all Member States and Norway

- Annexes:
1. Appropriate headspace during transport.
 2. Adoption of national measures on internal height during transport.
 3. Applicable EU-legislation.

¹ Regulation (EC) No 1/2005 on the protection of animals during transport and related operations, OJ L 3, 5.1.2005, p. 1.

² Except for horses, see Annex 3 for further details on applicable legislation.

1. ANNEX 1 – APPROPRIATE HEADSPACE DURING TRANSPORT

When animals are transported in vehicles where the internal height is too low, they are prevented from standing in their natural position, hindered in their natural movement and may be in constant contact with the ceiling. This may result in wounds and bruises to the animals and may also hinder adequate ventilation above the animals. Furthermore, where there is not enough space between the animals and the ceiling, the possibility to access the animals and to allow them to be inspected and cared for may be reduced.

- **For horses**, the Regulation states that there should be at least 75 cm space above the withers (see Annex 3 for details).
- **For cattle**, the Commission would refer to the "Scientific Opinion Concerning the Welfare of Animals during Transport"³ adopted by the European Food Safety Authority (EFSA) on 2 December 2010 and published on 12 January 2011. According to this opinion, the ceiling height when transporting cattle "*...should be at least 20 cm above the withers height of the tallest animal*".
- **For pigs**, a deck height of 90 cm seems to be appropriate when transporting pigs with a live weight of 100 kg. This is a recommendation deriving from the report on the welfare of animals during transport, adopted by the Scientific Committee on Animal Health and Animal Welfare⁴ in 2002.
- **For sheep**, the same report states that the space above the top of the head should be at least 15 cm for vehicles with good forced ventilation systems and at least 30 cm for vehicles without forced ventilation.

³ EFSA Journal 2011;9(1):1966 [125 pp.].

⁴ The welfare of animals during transport (details for horses, pigs, sheep and cattle) Report of the Scientific Committee on Animal Health and Animal Welfare, adopted on 11 March 2002.

2. ANNEX 2 – ADOPTION OF NATIONAL MEASURES ON INTERNAL HEIGHT DURING TRANSPORT

Given the lack of precise rules in the Regulation as regards internal heights, the Commission sees that the adoption of specific figures or written guidelines, as has already been done in some Member States, may be useful to prevent poor welfare. The two scientific reports⁵ referred to above can be used as guidance in this regard.

Article 1(3) of the Regulation implies that stricter measures are not allowed for transport taking place in more than one Member State. However, it should be highlighted that this Article is not applicable in relation to internal heights. Since the Regulation does not lay down exact conditions for the height of a compartment, the requirement of a specific figure above the animal is not a stricter requirement within the meaning of Article 1(3). It is merely more precise and specific and follows from the Member State's tasks to apply the Regulation.

This principle was developed by the European Court of Justice in its judgement in Case-491/06⁶. According to this judgment it is to the Member States to determine the exact requirements and in doing so, the Member States have a certain margin of discretion.

It should however be highlighted that national measures must be necessary and proportionate to attain the Regulation's main objective of protecting animals during transport. The measures must not function as barriers to trade in live animals and must allow market organisations to operate smoothly. Before adopting any binding measures, Member States should evaluate the effect any such measure might have on the transporters and their possibility to transport animals in and between different Member States. The Commission encourages Member States to co-operate on the issue to ensure a harmonized application of the rules.

⁵ See footnotes 4 and 5.

⁶ Case C-491/06 (*Danske Svineproducenter v Justitsministeriet*, par. 40. OJ C 158, 21.06.2008, p. 4–5.

3. ANNEX 3 – APPLICABLE EU-LEGISLATION

Article 1.3 of Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations⁷ (Regulation) states that it "*...shall not be an obstacle to any stricter national measures aimed at improving the welfare of animals during transport taking place entirely within the territory of a Member State or during sea transport departing from the territory of the Member State...*".

According to Article 3(g) of the Regulation, sufficient floor area and height shall be provided for the animals, appropriate to their size and the intended journey. Furthermore, point 1.2 of Chapter II, Annex I to the Regulation states that "*Sufficient space shall be provided inside the animals' compartment and at each of its levels to ensure that there is adequate ventilation above the animals when they are in a naturally standing position, without on any account hindering their natural movement*".

According to Chapter III, section 2, point 2.3 of the Regulation, when transporting Equidae "*The minimum internal height of compartment shall be at least 75 cm higher than the height of the withers of the highest animal*". Apart from this requirement, there are no specific figures in the Regulation concerning the internal height above the animals.

Annex I, Chapter II, paragraph 1.1(f) of the Regulation provides that "*Means of transport, containers and their fittings shall be designed, constructed, maintained and operated so as to provide access to the animals to allow them to be inspected and cared for*".

⁷ OJ L 3, 5.1.2005, p. 1.