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Special Report

Animal welfare in the EU: closing the gap between ambitious goals and practical implementation

(pursuant to Article 287(4), second subparagraph, TFEU)

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OF AUDITORS

AUDIT TEAM

The ECA's special reports set out the results of its audits of EU policies and programmes, or of management-related topics from specific budgetary areas. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was carried out by Audit Chamber I Sustainable use of natural resources, headed by ECA Member Nikolaos Milionis. The audit was led by ECA Member Janusz Wojciechowski, supported by Kinga Wiśniewska-Danek, Head of Private Office and Katarzyna Radecka-Moroz, Private Office Attaché; Colm Friel, Principal Manager; Diana Voinea, Head of Task; Paulo Oliveira and Lucia Roșca, Deputy Heads of Task; Xavier Demarche, Małgorzata Frydel, Michela Lanzutti, Joachim Otto and Maciej Szymura, Auditors. Fiona Urquhart provided linguistic support.

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GLOSSARY AND ABBREVIATIONS

Broilers:	Chickens kept for meat production
CAP:	Common Agricultural Policy
CMES:	EU Common Monitoring and Evaluation System for rural development measures
Cross-compliance checks:	Checks aimed at verifying the respect of cross-compliance obligations, in accordance with Regulations (EU) No 1306/2013, 809/2014 and 640/2014.
DG AGRI:	European Commission's Directorate-General for Agriculture and Rural Development
DG SANTE:	European Commission's Directorate-General for Health and Food Safety
EFSA:	European Food Safety Authority — European Union agency that provides independent scientific advice and communicates on existing and emerging risks associated with the food chain
Official inspections:	Term used throughout the report to refer to controls and inspections performed at Member State level (e.g. by veterinary services) to verify the correct application of European Union animal welfare rules, in accordance with Regulation (EC) No 882/2004.
OIE:	World Organisation for Animal Health (Office International des Épizooties) - an intergovernmental organisation with 181 Member Countries. It develops internationally recognised animal health and welfare standards.
Pig tail docking:	Procedure of cutting of pig tails in order to reduce tail-biting.
RDP:	Rural development programme
SMR:	Statutory management requirements — form part of cross-compliance and are laid down in a number of European Union directives and regulations. They concern public health, animal and plant health, identification and registration of animals, environment and animal welfare.
TRACES:	**Tra**de **C**ontrol and **E**xpert **S**ystem — Commission's multilingual online management tool for all sanitary requirements on intra-EU trade and importation of animals, semen and embryos, food, feed and plants.

EXECUTIVE SUMMARY

I. The EU has some of the world's highest regulatory animal welfare standards, which include general requirements on the rearing, transport and slaughter of farm animals and specific requirements for certain species. The Common Agricultural Policy (CAP) provides an opportunity to contribute to farmers' awareness of their legal obligations (through cross-compliance, which links their CAP payments to compliance with minimum requirements) and to incentivise farmers to pursue higher standards (through financial support granted under the rural development policy).

II. EU citizens are increasingly concerned about farming's effects on animal welfare, and the interrelated impact on public and animal health. The Commission has produced strategy documents to provide a framework for its actions in this area. The latest EU strategy covered the period from 2012 to 2015.

III. The audit examined the welfare of farm animals and the overall implementation of the latest EU strategy, focusing on its two key objectives: to achieve compliance with the minimum standards and to optimise synergies with the CAP. We concluded that EU actions to improve animal welfare were successful in some areas, but there are still some weaknesses in compliance with minimum standards, there is room to improve coordination with cross-compliance checks, and the financial resources of the CAP could be better used to promote higher animal welfare standards.

IV. The findings of our audit showed that the Commission has used both guidance and enforcement to achieve compliance in the Member States. Its actions have been successful in important areas, most notably on the group housing of sows and the ban on unenriched cages that do not allow laying hens to express their natural behaviour. The Commission and the Member States worked on guidelines to facilitate the understanding and consistent application of legislative requirements and they have distributed them widely. The Member States we visited generally took action to address Commission audit recommendations.

V. However, weaknesses still persisted in some areas related to welfare issues on the farm (in particular, the routine tail docking of pigs), during transport (compliance with rules on

long distance transport and the transport of unfit animals) and at slaughter (use of the derogation for slaughter without stunning and inadequate stunning procedures).
The Member States we visited took a long time to address some of the recommendations made by the Commission following its audits.

VI. The Member States' official control systems are a key factor in ensuring that animal welfare standards are properly enforced. We found good practices in this area, in particular with regard to the consistency of official inspections, but also a need to focus on areas and business operators with a higher risk of non-compliance. Furthermore, Member States could make better use of the information gained from internal audits and complaints to improve their management of the animal welfare policy.

VII. The Member States have generally put in place appropriate arrangements for cross-compliance checks related to animal welfare. However, there is scope for improving coordination with official inspections on animal welfare. Furthermore, there were cases where the cross-compliance penalties applied by Paying Agencies were not proportionate to the seriousness of the irregularities.

VIII. The objective of promoting animal welfare is a rural development priority for the 2014-2020 period and we found good examples of actions beneficial for animals in the Member States visited. However, the "Animal Welfare" measure was not widely used. There were certain weaknesses in the cost-effectiveness of the measure and Member States rarely used the opportunity to support animal welfare through other rural development measures.

IX. We make recommendations to the Commission aimed at improving their management of the animal welfare policy. Our recommendations cover the strategic framework for animal welfare, more effective enforcement and guidance to achieve compliance, actions to strengthen the links between the cross-compliance system and animal welfare and action to better address animal welfare objectives through the rural development policy.

INTRODUCTION

Animal welfare: definition and importance in the EU

1. The World Organisation for Animal Health (OIE) provided the following definition of good animal welfare in 2008: "An animal is in a good state of welfare, if it is healthy, comfortable, well-nourished, safe, able to express innate [natural] behaviour, and if it is not suffering from unpleasant states such as pain, fear and distress." The concept of animal welfare is enshrined in Article 13 of the Treaty on the Functioning of the European Union (TFEU), which recognises animals as sentient beings.

2. According to a European Parliament study[1], there are an estimated 4.5 billion chickens, egg-laying hens and turkeys in the EU, and 330 million cattle, pigs, goats and sheep. Based on information from an animal welfare organisation, an estimated 0.25 million horses are slaughtered annually for meat[2].

3. Knowledge of animal welfare has increased rapidly in recent years and has been the subject of considerable media attention. The European Parliament adopted two resolutions (in 2010 and 2015) on the EU animal welfare policy[3]. Action in the EU on animal welfare stems from four main sources, each with its own control mechanism (see ***Figure 1***).

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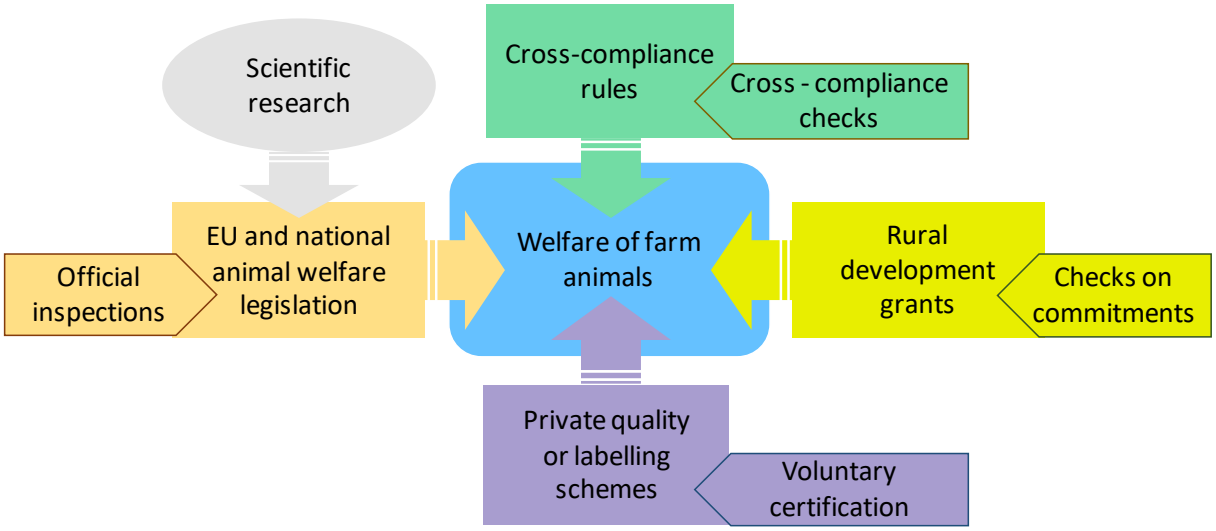
1 European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, "Animal Welfare in the European Union", Brussels, 2017.

2 Humane Society International, "Facts and figures on the EU horsemeat trade", 2014.

3 European Parliament resolution of 5 May 2010 on evaluation and assessment of the Animal Welfare Action Plan 2006-2010 (2009/2202(INI)) and European Parliament resolution of 26 November 2015 on a new animal welfare strategy for 2016-2020 (2015/2957(RSP)).

Figure 1 – Actions in the EU with an impact on animal welfare

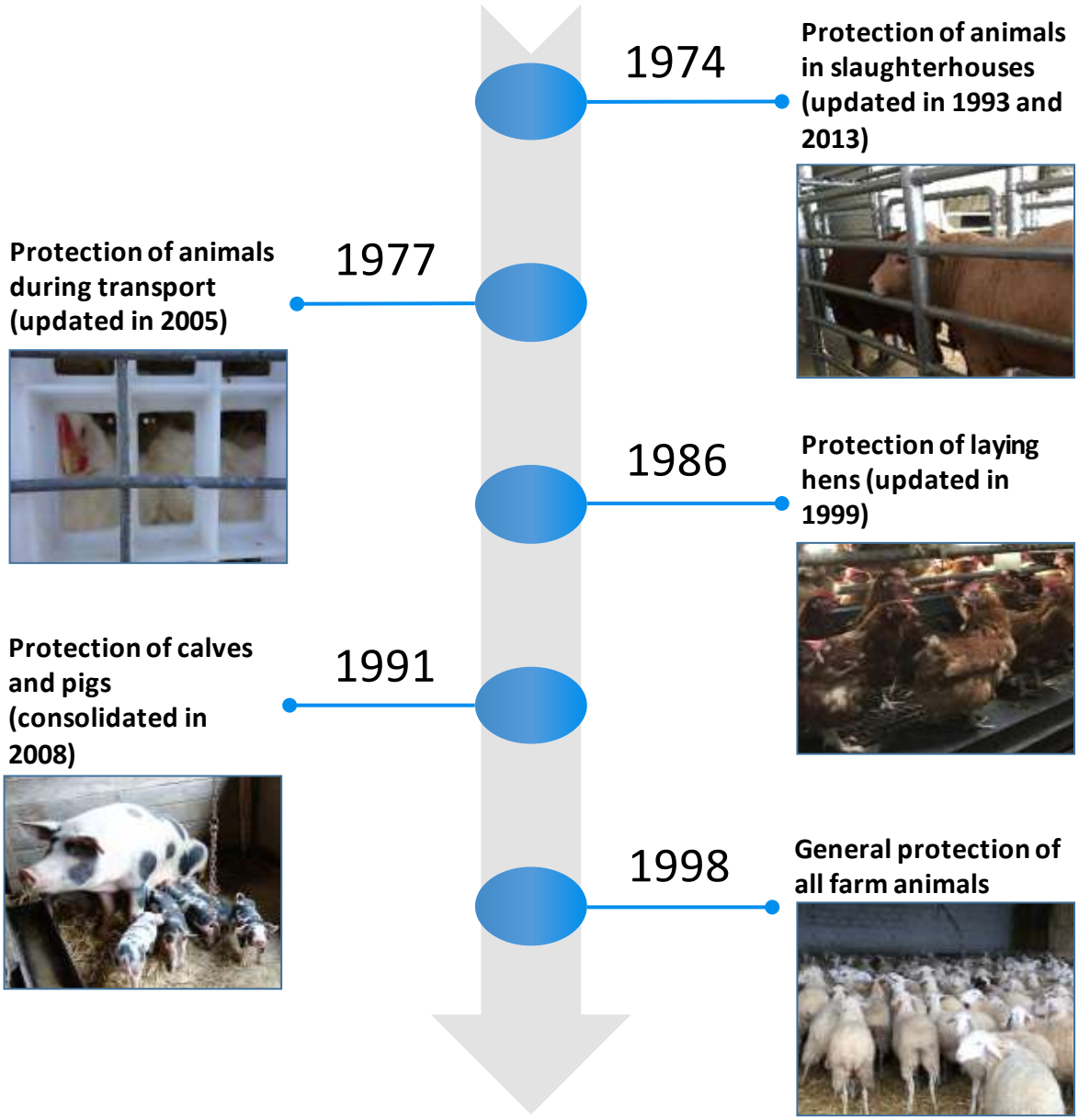


Source: ECA.

4. The EU's animal welfare legislation aims to improve the quality of animals' lives, while also meeting citizens' expectations and market demands, by setting minimum standards. It is widely recognised that the EU has some of the world's highest animal welfare standards[4]. Most of these standards concern farm animals (on the farm, during transport and at slaughter), while legislation also covers wildlife, laboratory animals and pets. As shown in ***Figure 2***, the first EU animal welfare legislation was introduced over 40 years ago, and has been updated several times. Member States may adopt stricter rules, if they are compatible with EU legislation. For example, 13 Member States have adopted additional national measures on slaughter.

[4] Studies on this topic include the following: FAO, "Review of animal welfare legislation in the beef, pork, and poultry industries", Rome, 2014; EconWelfare project, FiBL, "Overview of animal welfare standards and initiatives in selected EU and third countries", Switzerland, 2010; European Parliament's Committee on Agriculture and Rural Development, "Comparative analysis of EU standards in food safety, environment, animal welfare and other non-trade concerns with some selected countries", Brussels, 2012.

Figure 2 – Key EU legislation on the welfare of farm animals



Source: ECA.

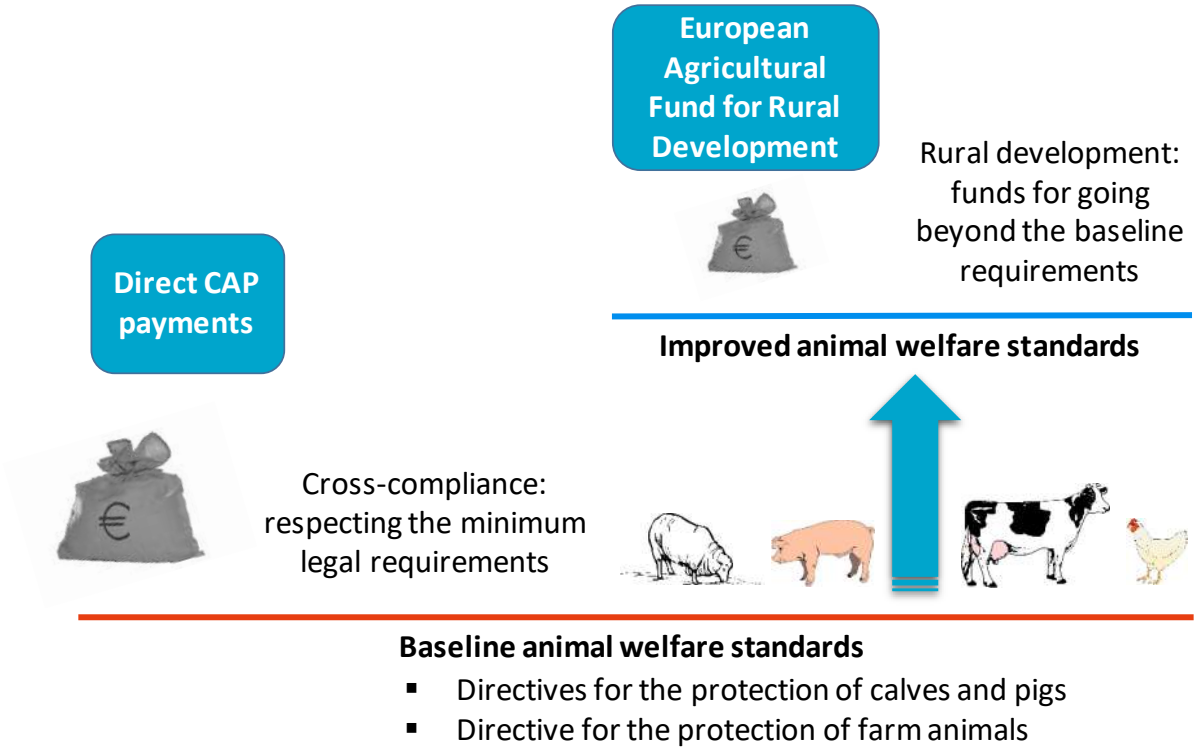
5. Member States are responsible for applying EU animal welfare rules at national level, including official inspections[5], while the European Commission (DG SANTE) is responsible for ensuring that Member States implement EU legislation properly. The European Food Safety Authority is responsible for providing relevant scientific advice to the Commission. Member States report to the Commission annually on the results of their animal welfare inspections on farms and during transport. The Commission may take legal action against Member States that fail to correctly transpose and implement the EU legislation.

Animal welfare and the Common Agricultural Policy

6. The Common Agricultural Policy (CAP) contributes to animal welfare objectives through cross-compliance (linking most CAP payments to farmers to meeting minimum requirements) and by financing activities and projects for animal welfare (see ***Figure 3***).

[5] Performed in accordance with 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, p. 1). The legislation does not require a minimum control rate for animal welfare inspections.

Figure 3 – CAP instruments and the link with animal welfare legislation



Source: ECA.

7. Cross-compliance is a mechanism that links most CAP payments[6] (around €46 billion in 2016)[7] to compliance with a series of rules on the environment, maintaining land in good agricultural condition, animal welfare, and public, animal and plant health. It does not apply

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[6] Direct payments under Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (OJ L 347, 20.12.2013, p. 608); payments for restructuring and conversion of vineyards and green harvesting under Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products (OJ L 347, 20.12.2013, p. 671) and area related payments and animal welfare payments under the rural development Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 347, 20.12.2013, p. 487).

[7] DG AGRI, 2016 Annual activity report.

to small farmers[8], who represent about 40 % of the total number of EU farmers[9]. Farmers who fail to comply with these standards and requirements can have their CAP payments reduced by 1 % to 5 %, or more if the non-compliance is intentional. In exceptional cases, the authorities may exclude farmers from aid schemes.

8. The cross-compliance system does not cover all the legislative requirements on animal welfare: it includes provisions to protect calves and pigs, and others setting general requirements for all farm animals[10].

9. Livestock farmers in sectors that do not typically receive the relevant CAP payments (most EU poultry farms and many pig farms in certain Member States) are by definition not covered by this penalty system. At EU level[11], the general cross-compliance requirements for animal welfare cover about 55 % of all EU farms with livestock, while the specific Directive requirements for the protection of pigs cover about 65 % of pig farms.

10. Member States carry out on-the-spot checks to verify if the farmers are meeting the cross-compliance requirements. These checks must cover at least 1 % of CAP beneficiaries. The Commission (DG AGRI) performs audits to check if Member States have adequate control systems for cross-compliance.

11. The rural development policy can also address animal welfare objectives, for example through training courses or by providing financial compensation for farmers who apply

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[8] Recital 57 and Article 92 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy (OJ L 347, 20.12.2013, p. 549). Small farmers are however not exempt from complying with the applicable animal welfare legislation and are subject to official inspections verifying their compliance with that legislation.

[9] SWD(2016) 218 final of 22.6.2016, "Review of greening after one year".

[10] As defined in Annex II of Regulation (EU) No 1306/2013.

[11] *Sources:* cross-compliance control statistics for 2016 for the population subject to cross-compliance; Eurostat data for 2013 for the total number of farms with livestock and total number of farms with pigs. The coverage of pig farms varies widely between Member States, ranging from 7 % of the pig farms in Slovakia to almost 100 % of the pig farms in Belgium, Germany and Luxembourg. There is no Eurostat data on the number of farms rearing calves.

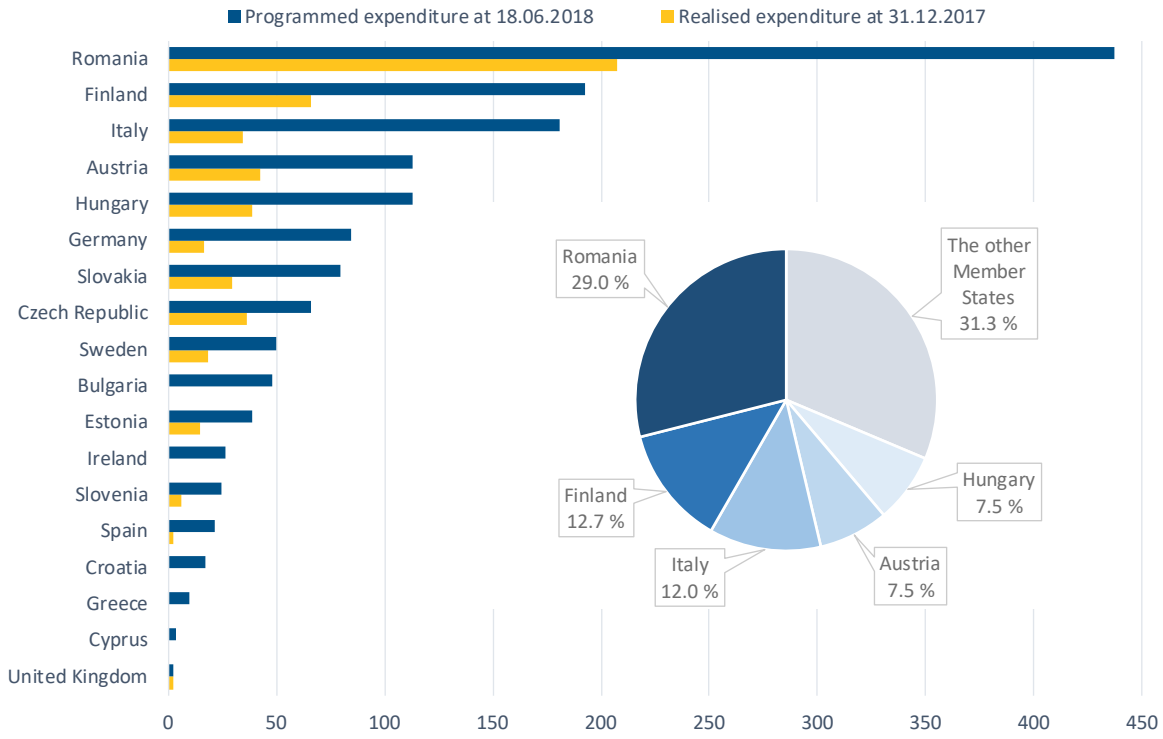
higher animal welfare standards than those required by EU and national legislation or normal practice. The Member States decide which measures to activate based on their needs. The Commission (DG AGRI) approves Member States' rural development programmes. Based on the approved programmes, Member States then select the beneficiaries that will receive funding.

12. The largest direct source of EU funding for animal welfare activities is the rural development measure "animal welfare payments" (measure 14), which provides support for high standards of animal husbandry going beyond the relevant mandatory standards[12]. For the 2014-2020 period, 18 Member States allocated €1.5 billion to this measure (1.5 % of the total planned expenditure for all measures)[13]. ***Figure 4*** shows planned and actual expenditure for this measure in the programming period 2014-2020. These funds are supplemented by national spending, which brings the total budget for this measure to almost €2.5 billion.

[12] Article 33 of Regulation (EU) No 1305/2013.

[13] In the previous programming period (2007-2013), 15 Member States spent €1 billion for the animal welfare measure.

Figure 4 – EU rural development expenditure for "animal welfare" measure 14 in the programming period 2014–2020 (in million euro)



Source: ECA, based on information from DG AGRI.

Animal welfare and economic interests

13. The EU's livestock sector represents 45 % of its total agricultural activity. It generates an output of €168 billion annually and provides around 4 million jobs[14]. Linked sectors (milk and meat processing, feed for livestock) have an annual turnover of approximately €400 billion. The consistent application of animal welfare standards has an impact on the level playing field in these sectors.

[14] Animal Task Force, "Why is European animal production important today? Facts and figures", 2017.

14. Applying certain animal welfare standards (for example, providing minimum space to calves) imposes costs on business operators. In 2010 DG SANTE estimated[15] these costs at 2 % of farm output, but also concluded that the benefits of higher animal welfare standards are enhanced productivity, product quality and business image.

15. According to the European Food Safety Authority (EFSA)[16], food safety is indirectly affected by the welfare of farmed animals, due to the close links between animal welfare, animal health and food-borne diseases. Poor welfare can lead to increased susceptibility to disease and higher mortality. If there is a risk to public health, food safety inspectors will not approve the meat for human consumption, leading to financial losses for producers and processors.

16. There is widespread evidence[17] that meat quality is influenced by animal welfare. Good treatment on the farm, during transport and during pre-slaughter handling is important, because the meat from stressed and injured animals can have a lower value due to discolouration and loss of tenderness.

17. Still, good animal welfare does not always go hand in hand with the economic interest of business operators. In intensive production systems, the higher the stocking density, the higher the profits but the more difficult it is to meet specific animal needs. Intensive systems can therefore lead to aberrant behaviour in laying hens such as feather pecking and cannibalism, aggression and tail biting in pigs and aggression in calves. To control this undesirable behaviour, it is common practice to perform painful physical alterations on animals, in particular beak trimming, tail docking, castration and teeth clipping. EU

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[15] DG SANTE, "Evaluation of the EU Policy on Animal Welfare and Possible Policy Options for the Future", Brussels, 2010.

[16] https://www.efsa.europa.eu/en/topics/topic/animalwelfare, accessed in June 2018.

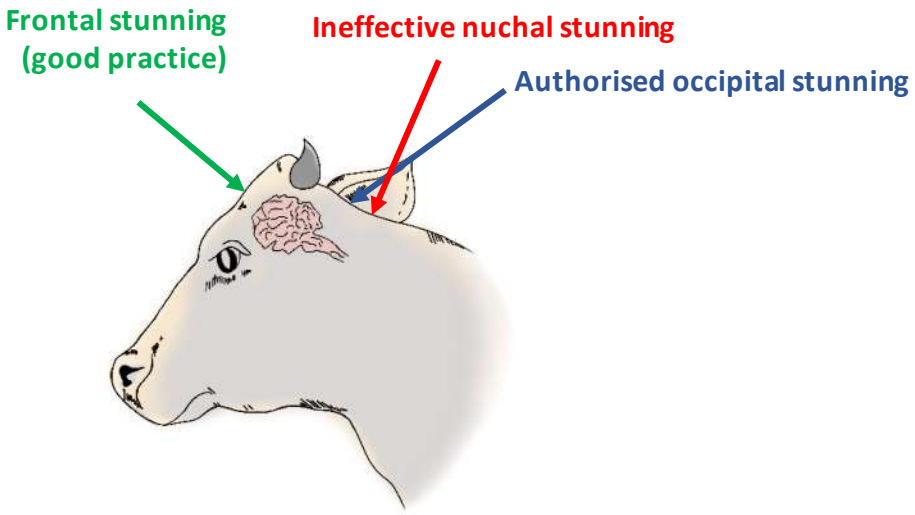
[17] For example: Belk, K.E., Scanga, J.A., Smith, G.C. and Grandin, T., "The Relationship Between Good Handling / Stunning and Meat Quality in Beef, Pork, and Lamb", Colorado State University, Fort Collins, 2002; DG SANTE, "Evaluation of the EU Policy on Animal Welfare and Possible Policy Options for the Future", Brussels, 2010; European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, "Animal Welfare in the European Union", Brussels, 2017.

legislation addresses these issues notably through the minimum space requirements and rules on physical alterations (which allow certain procedures only in exceptional cases, after other measures have been taken to prevent the undesirable behaviour).

18. Similarly, the economic interest of transport operators is adversely affected by lower stocking densities and interrupting journeys to let animals rest. During slaughterhouse operations, the speed of the production chain is a key productivity factor, but this may affect the proper handling of animals prior to slaughter and the effectiveness of the stunning methods. There may also be other commercial reasons for not following good practices at slaughter (see example in ***Box 1***).

Box 1 – Stunning of calves with methods not listed in good practice guidelines, for commercial reasons

A slaughterhouse we visited in France used an alternative method for stunning calves (occipital stunning) to the one indicated in Commission and inter-professional good practice guides (frontal stunning). Both methods are in line with the slaughter Regulation[18]. An EFSA opinion[19] on welfare aspects of stunning indicates that frontal stunning induces reliably effective stunning, whereas with occipital stunning there is a risk that it may be misdirected. This would result in shooting in the nape of the neck, which gives unsatisfactory results. The commercial advantage of the alternative method is that there are fewer brain lesions and bone splinters, allowing for better marketing of the brain.



Source: ECA.

[18] Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ L 303, 18.11.2009, p. 1).

[19] Opinion of the Scientific Panel on Animal Health and Welfare on a request from the Commission related to welfare aspects of the main systems of stunning and killing the main commercial species of animals, the EFSA Journal (2004), 45, 1-29.

The EU animal welfare strategy

19. In 2010 the Commission concluded[20] that the existing animal welfare legislation had generally improved welfare for the groups of animals to which it applied. However, it found that implementation varied across the EU, which hindered progress towards uniform high standards. Following a recommendation[21] from the European Parliament, in 2012 the Commission launched the EU strategy for the protection and welfare of animals 2012-2015[22], which set out the following objectives:

(i) to consider the feasibility of introducing a simplified EU legislative framework with animal welfare principles for all animals kept in the context of an economic activity;

(ii) to support Member States and take action to improve compliance;

(iii) to optimise synergies with the Common Agricultural Policy, notably through cross-compliance and rural development;

(iv) to support international cooperation;

(v) to provide consumers and the public with appropriate information;

(vi) to investigate the welfare of farmed fish.

The strategy also included a list of 20 actions that the Commission intended to complete by 2015, focused mostly on publishing reports, studies and guidelines (see ***Annex I***).

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[20] DG SANTE, "Evaluation of the EU Policy on Animal Welfare and Possible Policy Options for the Future", Brussels, 2010.

[21] European Parliament resolution of 5 May 2010 on evaluation and assessment of the Animal Welfare Action Plan 2006-2010.

[22] Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the European Union Strategy for the Protection and Welfare of Animals 2012-2015 (COM(2012)6 of 15.2.2012).

AUDIT SCOPE AND APPROACH

20. One of the strategic goals of the European Court of Auditors (ECA) is to examine performance in areas where EU action matters to citizens. The aim of this audit, which is the first carried out by ECA in this area, was to assess the actions taken by the Commission and the Member States to improve the welfare of farm animals following the launch of the EU strategy for animal welfare 2012-2015. We focused on two key objectives identified in the EU strategy, which we considered to have a direct impact on animal welfare: to improve compliance with the animal welfare legislation, and to optimise synergies with the CAP through cross-compliance and rural development (objectives (ii) and (iii) listed in ***paragraph 19***).

21. Our audit sought to answer the following audit question:

Have the Commission and the Member States actions contributed effectively to achieving the EU animal welfare objectives?

22. We examined whether:

(a) the Commission's strategy had been completed and had delivered its results;

(b) the guidance and enforcement actions of the Commission had led to better application of EU standards in key risk areas;

(c) the Member States we visited managed key aspects of their control systems effectively;

(d) cross-compliance was an effective tool to integrate animal welfare requirements into the Common Agricultural Policy and rural development measures incentivised higher animal welfare standards in a cost-effective way.

23. For points (a) and (b), we examined the evidence available to show the results of the Commission's actions carried out to implement the animal welfare strategy. For points (c) and (d), we performed a direct assessment of Member States' systems and procedures to address certain key risks.

24. We carried out our audit work from September 2017 to June 2018 and covered the period from 2012 to early 2018. For rural development measures, we examined the current

programming period, which started in 2014. The timing of the audit allows us to assess the implementation of the 2012-2015 animal welfare strategy, at a time when the post-2020 CAP is being discussed.

25. We selected a sample of five Member States based on the size of the livestock sector and on the existence of animal welfare compliance weaknesses already identified by the Commission (DG SANTE)[23]: Germany, France, Italy, Poland and Romania. In Germany and Italy we selected North-Rhine Westphalia and Sardinia to examine the regional implementation of the animal welfare measure and the application of the rules on official inspections. Together, the selected Member States account for more than 50 % of the EU meat market and the selected rural development programmes cover about 40 % of the planned expenditure on animal welfare.

26. During our audit visits to Member States, we had meetings with the authorities responsible for official inspections, for checking cross-compliance and for the implementation of the rural development programmes. To better understand the systems, we observed official animal welfare inspections of farms, transport and slaughter, together with on the spot checks for cross-compliance and rural development.

27. At the Commission, we visited the Directorate General for Health and Food Safety (DG SANTE) and the Directorate General for Agriculture and Rural Development (DG AGRI). In addition, we organised an expert panel to obtain independent advice on animal welfare issues.

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[23] We have reviewed audit reports from DG SANTE covering all 28 Member States. These audit reports identified weaknesses in all Member States except Finland.

OBSERVATIONS

The Commission has concluded the second EU Strategy for animal welfare, but it has not assessed its impact

28. The Commission completed the last action in its 2012-2015 animal welfare strategy in April 2018, more than three years after the strategy was supposed to be concluded (see ***Annex I***). The strategy does not identify an explicit link between the list of actions envisaged for the period 2012-2015 and the general objectives identified (see ***paragraph 19***). Concerning two of the strategy objectives, the Commission has not reviewed the legislative framework or taken any action to optimise synergies with the Common Agricultural Policy.

29. Some of the actions planned by the Commission were delayed by up to five years (for example, the EU guidelines on the protection of animals during transport). The guidelines on pig welfare and on the protection of animals at slaughter were also delayed due to lengthy discussions with stakeholders. Most reports were based on external studies, which were sometimes delayed due to lack of staff at the Commission to manage the procurement process and review draft content. According to the Commission, certain enforcement activities (involving in some cases infringement procedures at the Court of Justice) related to the laying hens Directive (ban on traditional cages) and the pigs Directive (group housing of sows) were lengthy due to the high number of Member States involved.

30. The Commission did not renew the 2012–2015 strategy. However, it continued to facilitate stakeholder dialogue through the EU Animal Welfare Platform (launched in 2017), and set up the first EU Reference Centre for Animal Welfare[24] to provide technical assistance on pig welfare to Member States. The EU Animal Welfare Platform has a particular focus on better application of EU rules on animal welfare, the development and use of voluntary animal welfare commitments and the promotion of EU animal welfare standards at global

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[24] Commission Implementing Regulation (EU) 2018/329 of 5 March 2018 designating a European Union Reference Centre for Animal Welfare (OJ L 63, 6.3.2018, p. 13).

level. The Platform established two sub-groups, working to achieve concrete results in animal transport and pig welfare.

31. There are no baseline indicators or target indicators to measure how far the strategy objectives have been achieved and the Commission had not yet evaluated the results of its actions as requested by the European Parliament[25].

32. Certain reports and studies produced at the Commission's initiative contain useful information on compliance (see ***paragraphs 34 and 35***). In particular, the Audit Directorate of DG SANTE performs audits and reports on specific animal welfare issues in selected Member States; however, these audits do not seek to assess the success of the Commission's strategic actions.

33. Member States send annual reports to the Commission on the results of their official inspections performed under the EU legislation for animal welfare on farms[26] and during transport. The Commission has recognised that the data reported is not complete, consistent, reliable or sufficiently detailed to draw conclusions on compliance at EU level[27]. The Commission informed us that it is seeking to improve the quality and consistency of the data reported under the new Regulation on official controls[28].

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[25] European Parliament resolution of 26 November 2015 on a new animal welfare strategy for 2016-2020 (2015/2957(RSP)).

[26] ***Annex II*** presents an overview of the results of inspections reported by the Member States visited.

[27] *Source:* Report from the Commission to the European Parliament and the Council on the implementation of Council Directive 98/58/EC concerning the protection of animals kept for farming purposes (COM(2016) 558 final of 8.9.2016) and minutes of the national Contact Point meetings for animal welfare during transport.

[28] Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (OJ L 95, 7.4.2017, p. 1).

The Commission and the Member States reported significant progress in applying EU standards

34. Good progress has been made on animal welfare in some areas covered by the strategy. In 2016[29] the Commission reported on improvements in the number of farm holdings complying with the Directive on the protection of farm animals. It concluded that the ban on unenriched cages for laying hens (2012) and individual stalls for sows (2013) was implemented effectively by the Member States. A Commission report from 2018[30] shows that some Member States improved welfare for broiler chickens, following their implementation of the Directive on broilers (2007). The Commission has also identified good practices concerning the transport of unfit animals, slaughter, welfare of dairy cows and commercial rabbit farming.

35. However, Commission reports identified some outstanding animal welfare issues related to the areas covered by the strategy:

- on the farm: tail docking of pigs[31], diseases affecting the welfare of dairy cattle[32], assessment of technical requirements, such as ventilation, for chickens kept for meat production[33];

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29 COM(2016) 558 final of 8.9.2016 "Report from the Commission to the European Parliament and Council on the implementation of Council Directive 98/58/EC concerning the protection of animals kept for farming purposes".

30 COM(2018) 181 final of 13.4.2018 "Report from the Commission to the European Parliament and the Council on the application of Directive 2007/43/EC and its influence on the welfare of chickens kept for meat production, as well as the development of welfare indicators".

31 Commission overview report "Study visits on rearing pigs with intact tails", 2016 (DG SANTE, 2016-8987 – MR).

32 Commission overview report "Welfare of cattle on dairy farms", 2017 (DG SANTE, 2017-6241).

33 COM(2018) 181 final.

- during transport: compliance with the rules on long distance transport of live animals (though recent Commission audits noted improvements in this area)[34] and the transport of unfit animals[35] (which is prohibited by the legislation);

- at slaughter: different practices for the derogation from the requirement to stun animals before slaughter, inadequate stunning procedures (in particular for waterbath stunning of poultry)[36];

- Member States' official inspections: quantity and quality of inspections, appropriateness of enforcement actions[37].

36. The Commission tackled these issues through guidance and through enforcement. Its extensive guidance actions include developing and translating guidelines, carrying out study visits and organising training events for Member State inspectors and business operators. Since 2012, the Commission has organised 34 training events on animal welfare through the Better Training for Safer Food programme (involving more than 1 700 participants) and its e-learning modules have been followed by 6 000 people. ***Box 2*** contains an example of Commission collaboration with Member State representatives and stakeholder organisations to develop guidelines for animal welfare during transport, at slaughter and for the welfare of pigs.

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[34] Commission audit or fact-finding reports: 2017-6109 (Bulgaria), 2017-6217 (Czech Republic), 2017-6110 (Turkey).

[35] Commission overview report "Systems to prevent the transport of unfit animals in the EU" (DG SANTE, 2015-8721 – MR).

[36] Commission overview report "Animal welfare at slaughter in Member States" (DG(SANTE) 2015-7213 – MR).

[37] For example, audit reports 2016-8822 - MR, 2014-7059 - MR (Belgium), 2013-6858 - MR FINAL (Bulgaria), 2017-6022 (Czech Republic), 2014-7061 - MR FINAL (Denmark), 2016-8763 – MR (Estonia), 2017-6126 (Spain), 2014-7075 - MR FINAL (Italy), 2012-6374 - MR FINAL (Romania).

Box 2 – Example of stakeholders' engagement with the Commission's initiative to improve animal welfare during transport

The team working on the Animal Transport Guides project launched by the Commission in 2015 asked over 100 stakeholders (farmers, transporters, slaughterhouse personnel, competent authorities and NGOs) from seven Member States to reflect on suggestions for good practice for animal transport. The team also set up a "Stakeholder Platform" to provide advice on the content of the guidelines. The Platform was composed of representatives from 13 international organisations or stakeholder groups.

37. The Member State authorities we visited found the guidance and training useful and widely disseminated the knowledge they had gained to their official inspectors and business operators. Some authorities expressed the need for more tools and guidelines available in their own languages, to allow for even wider dissemination.

38. The Commission monitors the application, implementation and enforcement of EU animal welfare legislation in the Member States by carrying out audit visits, issuing recommendations where necessary, following-up Member States' action plans, and can take actions against Member States that fail to meet their obligations under the relevant legislation, including launching infringement procedures where appropriate.

39. The Commission launched an extensive series of infringement procedures against 18 Member States since 2012, mainly concerning the housing of sows and the ban on traditional cages for laying hens[38]. According to the Commission, these procedures were successful in achieving compliance with the rules. The Commission also used the "EU pilot scheme", which involves informal dialogue with the Member State authorities on issues concerning the correct application of EU law. Since 2012, the Commission has initiated 18 EU

[38] Group housing of sows: Belgium, Denmark, Germany, Ireland, Greece, France, Cyprus, Poland, Portugal, Slovenia and Finland. Laying hens: Belgium, Bulgaria, Greece, Spain, France, Italy, Cyprus, Latvia, Hungary, the Netherlands, Poland, Portugal and Romania. Transport of calves: Ireland, France.

pilots concerning the Directives on laying hens and pigs, and 5 pilots in other areas (mostly concerning the protection of animals during transport).

40. To assess how quickly Member States reacted to the Commission's recommendations, we reviewed the Commission's 2012 to 2015[39] audit reports on animal welfare for the five Member States that we visited, the related action plans and their follow-up. We found that these Member States addressed almost half of the Commission's recommendations in 2 years or less.

Member States took a long time to address certain recommendations and some issues are still outstanding

Delays in implementing recommendations

41. Despite the Commission's guidance and enforcement actions, the Member States we visited were slow to address a limited number of issues (see ***Box 3*** for some examples). These mainly concerned their official inspection procedures, the qualifications of operators involved in slaughtering, the enforcement of the legal stunning requirements before slaughter, routine tail-docking for pigs and the appropriateness of sanctions for non-compliance. This means that there are still some significant discrepancies between the animal welfare standards established in the EU legislation and the reality on the ground.

[39] When relevant (e.g. for particular recommendations that were still outstanding at the date of the audit), older audit reports were also reviewed.

Box 3 – Slow progress in addressing certain Commission recommendations

In **France**, DG SANTE found in 2009 that official inspections at control posts (where animals rest during long-distance journeys within the EU) were not adequate and recommended that the authorities address the weaknesses identified. To address this recommendation, the French authorities stated that they would develop a revised procedure manual for inspectors, but had not done so by the time of our audit in December 2017.

Another Commission recommendation to France (issued in 2010) was to use appropriate equipment to carry out official inspections on environmental parameters (temperature, light intensity and gas concentrations)[40] on farms and during transport. The related legislative requirements have been in force since 2000. The French inspectors' procedure manual specifies that the maximum permitted concentration of NH_3 (ammonia) is 20 parts per million and that this should be measured with specialised equipment. The French authorities had not, however, procured all the required equipment by the time of our audit. During our visit to a laying hens farm certified as free-range, where the presence of ammonia inside the building was evident, the French inspector did not have the necessary equipment to measure the level of gas concentration. The inspector noted in the inspection report that the related requirement had been met. In spring 2018, French authorities

[40] So that assessment is made of all the relevant requirements of Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23), Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (Codified version) (OJ L 47, 18.2.2009, p. 5), 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) and of Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations (OJ L 3, 5.1.2005, p. 1). In 2012, the Commission added to its recommendation the reference to the requirements of Council Directive 2007/43/EC of 28 June 2007 laying down minimum rules for the protection of chickens kept for meat production (OJ L 182, 12.7.2007, p. 19).

notified the Commission that they had procured measurement equipment. However, inspectors were only asked to use this on farms raising chickens for meat.

Source: ECA.

Over a series of audits in **Romania** between 2009 and 2011, DG SANTE recommended that the competent authority apply effective, dissuasive and proportionate sanctions for non-compliance with the animal welfare legislation. At the time of our audit, the Romanian authorities had not yet approved the necessary changes in the legislation to apply such sanctions.

The Commission recently closed its recommendation concerning the practice of forced moulting in laying hen farms in **Italy** almost 13 years after it had originally raised this issue. Forced moulting involves provoking a flock to shed their feathers simultaneously, typically by withdrawing food, water and/or light, with the aim to increase egg production.

42. The Commission follows up on its recommendations based on evidence provided by Member States that they have put in place measures to address the identified weaknesses, and does not usually check on the spot the actual implementation and effectiveness of those

measures. We found some cases where the Commission had closed its audit recommendations, but the Member States had not addressed all issues effectively[41].

Insufficient information on whether the Member States have addressed the issues identified by the Commission on the use of the derogation for slaughter without stunning

43. The EU legislation for the protection of animals at the time of killing in slaughterhouses[42] has been applicable since 2013 and aims to minimise the pain and suffering of animals by using approved stunning methods. The legislation contains a derogation to the stunning requirement which was already in the previous 1993 legislation, for animals subject to particular methods of slaughter prescribed by religious rites[43], provided that the slaughter takes place in a slaughterhouse. The recital of the EU legislation[44] emphasises freedom of religion as enshrined in the Charter of Fundamental Rights of the EU and the importance of leaving a certain level of subsidiarity to each Member State. The legislation does not indicate practical implementation methods or any reporting requirements on the use of the derogation. Not all Member States collect information on the use of the derogation.

44. The Commission's 2010 evaluation of EU animal welfare policy and the impact assessment accompanying the 2012-2015 animal welfare strategy[45] identified the issue that

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41 We identified this in Germany (3 recommendations), Italy (1 recommendation) and Romania (1 recommendation).

42 Regulation (EC) No 1099/2009.

43 Halal or kosher meat. Slaughter with stunning (with methods listed in Regulation (EC) No 1099/2009 or alternative methods) may be permitted by certain religious communities.

44 Recital 18 of Regulation (EC) No 1099/2009.

45 Impact assessment accompanying the document "Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the European Union Strategy for the Protection and Welfare of Animals 2012-2015" (SEC(2012) 55 final of 19.1.2012).

"certain slaughterhouse operators excessively use the derogation from stunning to streamline their production process".

45. In 2015, following 13 audit visits[46], the Commission found wide variations in the way Member States operated the derogation for slaughter without stunning. It found better animal welfare results where the slaughter procedure was subject to targeted checks. Following these audits, the Commission attempted to gather data from Member States on the use of the derogation. However, the data provided was insufficient to allow any conclusions to be drawn at EU level. Aside from this data collection and the production of a study on the opportunity to provide consumers with the relevant information on the stunning of animals[47], the Commission did not undertake specific action to address the issue it had identified as regards the excessive use of the derogation. Our work showed that only one out of the five Member States visited had no specific procedures to check the justification for applying the derogation. It confirmed the Commission's conclusions as regards the availability of data on the use of the derogation (see ***Table 1***).

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[46] Commission overview report "Animal welfare at slaughter in Member States" (DG SANTE 2015-7213-MR).

[47] DG SANTE, "Study on information to consumers on the stunning of animals", 2015.

Table 1 – Procedures to grant the derogation for slaughter without stunning and data available in the Member States visited[48]

Member State	There is a specific procedure to check the justification for applying the derogation	Availability of information on the extent of slaughter without stunning
Germany	✓	Yes
France	✓	Limited - only for cattle and sheep, based on operators' estimations
Italy	✓	Limited - only number of slaughterhouses authorised to perform slaughter without stunning
Poland	✗	Limited - some estimations exist for cattle and poultry, not validated by the competent authorities
Romania	✓	Yes

Source: ECA, based on evidence gathered from Member States.

46. In November 2017 the Commission published extensive guidance on the protection of animals at the time of killing, including best practices for the use of the derogation, which focuses on technical aspects of the procedure.

Member States' management of their official inspection systems generally ensures consistency but there are some weaknesses in the control and audit systems

47. The quality of the Member States' animal welfare inspections on the farm, during transport and at the slaughterhouse has a direct impact on the level of compliance with the

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[48] ***Annex III*** provides a description of the procedures in place in the Member States visited.

requirements. We analysed the consistency and targeting of these inspections, and how they were audited by the Member State authorities.

Member States have generally put in place systems to ensure that inspections are performed consistently

48. Official veterinarians employed in governmental organizations enforce animal welfare standards. To be effective, inspections need to be performed consistently and independently.

49. Most of the Member States we visited had procedures to ensure that the inspectors' work was consistent[49].

50. We found that in all Member States visited, the official veterinarians were subject to the general rules on the integrity of public officials requiring them to be free of conflicts of interest. We identified good practices in France and Italy (Sardinia) where additional, specific procedures were applied to prevent conflicts of interest for their official inspectors (see ***Box 4***).

Box 4 – Good practices in preventing conflict of interest

Italy (Sardinia) had recently adopted guidelines for preventing conflict of interest in the case of staff performing official inspections and had introduced an experimental three-year rotation programme, developed on three levels: territorial rotation, functional rotation and function segregation. It also introduced specific measures for the protection of whistleblowers.

France had introduced a programme whereby specialised staff would carry out supervision activities for red meat slaughterhouses. This mitigates the risk of conflict of interest because it allows for an external verification of the activities of the official veterinarians carrying out regular inspection tasks in slaughterhouses.

[49] In Germany (North-Rhine Westphalia), the inspectors from different districts used different checklists and there was no uniform approach concerning the application of fines.

Insufficient evidence that Member States plan official inspections based on a risk analysis

51. The Member States' official inspection systems cover other areas in addition to animal welfare, notably compliance with rules on food and feed safety, hygiene, the control and eradication of animal diseases and the use of pesticides. Given that all these areas are competing for resources, risk-based inspections help target animal welfare problems and thus use the limited inspection resources in a more effective and efficient way. Performing risk-based inspections is an EU legal requirement[50].

52. The Member States had generally set up clear rules requiring that animal welfare inspections on the farm be risk based. We identified good practices in identifying risk factors in all the Member States visited. For example, France requires inspectors to plan their farm checks based on the information about the history of the operators, complaints received, use of prophylactic measures, data from slaughterhouses (on transport density, transport of unfit animals) and data on mortality rates or other indicators such as milk quality or calving intervals.

53. However, three out of the five Member States visited (Germany (North-Rhine Westphalia), Poland and Romania) could not demonstrate how the risk factors established were used in practice to select operators for inspection.

54. Furthermore, in two Member States, certain farms were excluded from official inspections, although they represented a large share of the livestock sector (see ***Box 5***). Although in view of limited inspection resources it is reasonable to prioritise checks on larger farms, the risk that non-compliance at smaller farms might increase if they were completely excluded from inspections was not sufficiently considered by the authorities.

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[50] Article 3 of Regulation (EC) No 882/2004: "Member States shall ensure that official controls are carried out regularly, on a risk basis and with appropriate frequency, so as to achieve the objectives of this Regulation."

Box 5 – Exclusions in the population of farms to be checked

In **Italy**, pig farms with fewer than 40 pigs or 6 sows and goat, sheep and cattle (other than calves) farms with fewer than 50 animals are excluded from the population to be checked. In Sardinia, this leads to 85 % of pig farms, 67 % of goat farms and 86 % of cattle (other than calves) farms not being subject to animal welfare checks.

In **Romania**, although no farms were formally excluded from the scope of animal welfare checks, in practice the authorities did not check agricultural holdings that fall within the definition of "non-professional farms". These holdings cover many of the animals in the pig sector (45 %) and almost all animals in the sheep and goat sector (99 %).

55. As regards the transport of live animals, of the Member States we visited, only France had identified risk areas to be targeted by road inspections. However, there was no information available to show that this was applied in practice.

56. TRACES (the EU online platform used to monitor intra-EU long distance, cross-border movements of animals) contains information and reporting tools that the authorities could use to target inspections of animal transports. In meetings with representatives from Member States, the Commission has promoted the use of interactive search tools. However, we found that Member State authorities responsible for transport inspections rarely used information from TRACES to target inspections, in part due to certain user access restrictions[51].

57. Member State authorities usually delegate the responsibility for carrying out the risk analysis for farm and transport inspections to local authorities. None of the Member States visited had put in place systems to check the existence, quality and implementation of the local risk analyses.

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[51] For example, a local authority in a certain Member State will be able to view information on animal transport in its area only if it is a place of departure, of destination, a point of exit/entry to the EU or if a control post is located in the area.

58. Animal welfare inspections in slaughterhouses generally covered almost all operators in the Member States we visited, either through focused checks or as part of the daily activities of the official veterinarian on duty.

Information from audits and complaints could be better used

59. The EU Regulation on official controls[52] requires Member States to audit their systems for official inspections on feed and food law and animal health and welfare and Commission Decision 2006/677/EC sets out guidelines recommending that such audits are conducted at least every five years[53]. We found that in the Member States visited, the relevant authority's internal audit department (and, in the case of Poland, also the Supreme Audit Office) identified areas for improvement in the organisation of official inspections and followed up their audit findings. However, Poland did not ensure that audits on animal welfare are done at least every five years. Furthermore, Germany (North-Rhine Westphalia) and Romania did not ensure a timely follow-up of audit recommendations.

60. The Commission checks how the Member States audit their systems of official inspections and has found[54] that it is challenging for Member States to audit all the areas requiring official inspections in a reasonable timeframe, and to follow-up audit results.

61. The authorities can use complaints and requests for inquiry submitted to them by animal welfare organisations, citizens or other stakeholders to identify key areas of concern. The management of these complaints falls exclusively under the Member States' responsibility.

62. We found that the Member States visited dealt with complaints on a case-by-case basis and two of them (Poland and Romania) had procedures in place, including deadlines for

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52 Regulation (EC) No 882/2004.

53 Point 5.1 in the Annex of Commission Decision 2006/677/EC of 29 September 2006 setting out the guidelines laying down criteria for the conduct of audits under Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls to verify compliance with feed and food law, animal health and animal welfare rules (OJ L 278, 10.10.2006, p. 15).

54 DG SANTE, Interim Overview report, "Audits of Official Controls in EU-Member States", 2017.

dealing with complaints. None of the Member States had implemented a central register of complaints to give an overview of the main areas of concern in animal welfare and support further decision making.

63. In addition to its control activities referred to in ***paragraphs 34 and 36***, the Commission has identified similar issues to those described above (see ***paragraphs 53, 55 and 57***).

Member States make limited use of the Common Agricultural Policy tools to address animal welfare objectives

64. The majority of livestock farmers receive CAP payments (see ***paragraph 9***) involving cross-compliance requirements covering certain animal welfare conditions (see ***paragraph 8***). The Commission's 2012-2015 strategy recognised a need to improve synergies between animal welfare and the tools of the CAP, notably through cross-compliance and rural development. We examined how the Member States visited used these two mechanisms with regard to animal welfare.

Limited exchange of results between official inspections and cross-compliance checks in the Member States and weaknesses in the application of penalties

EU legislation provides the basis for coordination between the cross-compliance checks and official inspections

65. The official inspections and the cross-compliance checks both involve planning and carrying out visits, checking compliance with animal welfare legislation and deciding on appropriate actions to deal with non-compliance. It is up to the Member States to decide the extent of integration between the official inspections and the cross-compliance checks, within the limits of the EU legislative requirements.

66. The Delegated Regulation for cross-compliance indicates that non-compliance shall be deemed to be "determined" after having been brought to the attention of the competent

control authority or paying agency[55]. In many Member States, the Paying Agency has delegated the responsibility for cross-compliance checks to the control authority for official inspections. This means that any non-compliance identified at a CAP beneficiary during these inspections should be considered for the purposes of cross-compliance. This requires a system or a procedure that ensures the exchange of relevant information between the authorities[56] concerned.

67. The Commission provided guidance on the application of the regulatory requirements for cross-compliance checks[57]. This guidance indicates that Member States could use the outcome of their official inspections to reach the minimum control rate under cross-compliance[58]. Good coordination between the two control systems not only makes them more efficient by creating economies of scale and avoiding overlaps, but it also helps detect non-compliance more effectively. Furthermore, a consistent approach to animal welfare checks provides more clarity for farmers and higher incentives to meet the applicable standards.

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[55] Article 38(5) of Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance (OJ L 181, 20.6.2014, p. 48).

[56] Competent control body establishing the non-compliance and paying agency responsible for the calculation of the payment reduction.

[57] Commission Working Document on available control tools to optimise the efficiency of the cross-compliance checks (DS-2011-2), 2011.

[58] Article 68, paragraph 2 of Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross-compliance (OJ L 227, 31.7.2014, p. 69).

Member States have not used this opportunity enough to improve their control systems, though good practices were identified

68. All of the Member States we visited had taken steps to coordinate their official inspection and cross-compliance systems. We found good examples of coordination in Germany (North-Rhine Westphalia), France and Italy (Sardinia) (see ***Box 6***).

Box 6 - Examples of good coordination between authorities involved in animal welfare checks

In **Germany (North-Rhine Westphalia)**, inspectors performing official inspections on animal welfare requested cross-compliance checks, if they considered the cross-compliance requirements were not being met. If the additional check confirmed this issue, the farmer received an administrative penalty under cross-compliance, even if the farm was not part of the cross-compliance control sample. Similarly, non-compliances identified during a cross-compliance check could lead to fines under the official inspection system.

In **France**, inspectors had to report non-compliances identified during official inspections to the authorities responsible for applying payment reductions under cross-compliance. Inspectors carried out "dual purpose" inspections by paying one visit to the farmer and using an integrated checklist for the purposes of both the official inspection and the cross-compliance check.

In Italy (Sardinia), the approach to calculating cross-compliance administrative penalties was consistent with the rules for categorising the results of official inspections. This facilitated the work of inspectors who carried out both types of checks and resulted in a consistent approach in treating non-compliances. The other Member States we visited did not adopt such an approach.

69. In Romania there were formal arrangements to communicate non-compliance cases detected by official animal welfare inspections to the authorities responsible for the application of cross-compliance penalties, but this had not been done in practice by the date of our audit. In Poland, there was no such formal arrangement.

70. When the Commission carries out audits of Member States' cross-compliance checks, it also reviews their procedures on exchange of information. However, it does not check if, in practice, the results of official animal welfare inspections performed at CAP beneficiaries by the same competent control body as for cross-compliance are reported to the authority responsible for imposing administrative penalties under cross-compliance.

Cross-compliance checks generally cover the relevant animal welfare requirements

71. We found that Member States' cross-compliance checks generally covered relevant animal welfare requirements[59]. However, in three out of the five Member States visited (France, Poland[60] and Romania) there were some exceptions. For example, in Romania the inspectors did not check cleanliness of the housing and lying areas for calves and pigs, iron levels in the diet of calves and environmental parameters such as dust levels, gas concentrations and temperature.

72. The Commission's audits verify if Member States' cross-compliance checklists cover all relevant animal welfare requirements and its recent audits identified omissions in Estonia, Spain, Austria, Portugal and Finland. Some of these findings have resulted in financial corrections[61].

Some Member States did not ensure that the penalties applied under cross-compliance are proportionate to the seriousness of the non-compliances identified

73. In order to have a dissuasive effect, the cross-compliance payment reduction should be proportionate to the severity, extent, duration and reoccurrence of the non-compliance found[62]. Our recent Special Report[63] on the effectiveness of cross-compliance identified that there were significant variations between Member States in how they categorised the seriousness of a breach.

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59 Articles 3 and 4 of Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves (Codified version) (OJ L 10, 15.1.2009, p. 7), Articles 3 and 4 of Directive 2008/120/EC and Article 4 of Directive 98/58/EC.

60 Only one formal point missing from the checklist.

61 Following its audit findings, the Commission may launch procedures whereby EU funding for the Member State concerned is reduced. These procedures are referred to as "financial corrections".

62 In accordance with Article 64(5) of Regulation (EU) No 1306/2013.

63 Special Report No 26/2016 "Making cross-compliance more effective and achieving simplification remains challenging" (https://eca.europa.eu).

74. We found that Germany (North-Rhine Westphalia), France and Italy (Sardinia) had clear rules for proportionate payment reductions. The most frequently used reduction percentage applied was 3 %[64] except in Italy, where more than 70 % of the non-compliances resulted in warnings, without any administrative penalty. In Romania, a farm where inspectors identified non-compliances for up to 30 % of the relevant check points would be considered as fully compliant. This lenient definition was reflected in the extremely low number of non-compliances reported, with only 3 out of about 13 500 farms checked having received an administrative penalty in 2016 (see ***Annex IV***, which also shows that control rates and reported non-compliances varied widely). The cross-compliance requirements for animal welfare have been applicable in Romania since 2016, to allow for an adjustment period following accession in 2007.

75. In Poland, the payment reduction was based on a scoring system allocating points to each infringement of animal welfare provisions relating to a particular legal act. When deciding the payment reduction percentage to be applied, only the provision that had received the highest number of points was considered. This means that while the payment reduction considers the seriousness of a specific non-compliance, it is not linked to the number of non-compliances identified.

76. Some recent Commission audits[65] have found that the sanctions system is too lenient for cross-compliance in general and for animal welfare requirements in particular because it does not ensure that sanctions are proportionate to the seriousness of the non-compliances. The Commission has provided some general clarifications on this in reply to questions from the Member States and in May 2018 organised an expert group meeting where Member States exchanged good practices concerning cross-compliance controls on animal welfare. However, Commission guidance documents on cross-compliance do not deal with this issue.

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[64] Article 39 of Delegated Regulation (EU) No 640/2014 requires that the payment reduction is, as a rule, 3 % and can be reduced to 1 % or increased to 5 % based on the assessment of the importance of the non-compliance.

[65] Commission audits for Estonia, Italy, Luxembourg, Austria, Portugal and Slovakia reported this issue.

Rural development: few incentives for improving animal welfare and cost-effectiveness is not guaranteed

77. Rural development support provides funds for animal welfare objectives. The Commission's animal welfare strategy for 2012-2015 included an objective to optimise the synergies with rural development support for animal welfare. For maximum cost-effectiveness, Member States should target actions with the greatest potential contribution towards animal welfare per unit of cost.

Rural development funds not extensively used to promote animal welfare

78. In the current programming period 2014-2020, 35 out of 118 rural development programmes include the specific measure ("measure 14") to support animal welfare (see ***paragraph 12***); 13 of them are from regions in Italy.

79. The rural development legislation refers to animal welfare under the priority "promoting food chain organisation, including processing and marketing of agricultural products, animal welfare and risk management in agriculture"[66]. This priority has two focus areas[67], but these do not refer to animal welfare.

80. Ten Member States have not used measure 14 in their rural development programmes. Two of the Member States we visited (France and Poland) did not use this measure because they considered that the basic legislative requirements for animal welfare were sufficient. Furthermore, the Polish authorities considered that the measure might have a negative impact on farmers' competitiveness. In France, this choice contrasted with the national strategy on animal welfare launched in 2016, which contained an objective to attract rural development funds to help farmers improve animal welfare. The French strategy was

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[66] Article 5(3) of Regulation (EU) No 1305/2013.

[67] "Improving competitiveness of primary producers by better integrating them into the agri-food chain through quality schemes, adding value to agricultural products, promotion in local markets and short supply circuits, producer groups and organisations and inter-branch organisations" and "Supporting farm risk prevention and management". Focus areas establish the link between rural development priorities, measures and monitoring indicators.

launched after the approval of the rural development programmes, and France did not update the programmes to reflect their commitment.

81. Several other rural development measures (notably support for farm investments, quality schemes or organic farming) have the potential to encourage higher animal welfare standards. Two of the Member States visited had examples of such measures targeting animal welfare (see ***Box 7***).

Box 7 – Use of rural development measures to target animal welfare

Germany (North Rhine-Westphalia): beneficiaries applying for support for investments in animal housing under measure 4 (farm investments) have to fulfil specific animal welfare requirements that go beyond minimum standards. For example, cattle sheds have to respect higher standards for the space available for each animal and natural lighting.

France: measure 4 (farm investments) from the Alsatian programme prioritises free range and organic systems, farms using special equipment for the welfare of rabbits and using straw bedding for pigs.

"Animal Welfare" measure: good examples of actions that are beneficial for animals, but cost-effectiveness is not guaranteed

82. We reviewed Member States' systems to assess whether the specific animal welfare measure ("measure 14") is cost-effective. We checked whether the support rewards farmers for actual improvements in animal welfare going beyond minimum standards, in line with the additional costs incurred and income foregone and if there is sufficient relevant monitoring information.

Going beyond minimum standards

83. Member State authorities defined the improved animal welfare conditions required to qualify for support under measure 14, such as summer pasture grazing for bovines, more space for animals on farms and during transport, and improved housing conditions.

84. In Germany (North-Rhine Westphalia) and in Romania, as in most other Member States, tail docking is routine in intensive pig farms, although this is prohibited by the legislation.

During our visits to these two Member States we saw that pigs in farms receiving measure 14 support had their tails docked and did not have access to sufficient enrichment material, as required by the legislation[68](see ***Figure 5***).

85. Veterinary experts[69] agree that the impact on welfare of a single parameter is limited if not combined with other husbandry parameters. This means that an increase of 10 or 20 % in the space available for pigs may not have a high impact on their welfare if there is no enrichment material.

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[68] Point 4 of Annex I of Directive 2008/120/EC: "pigs must have permanent access to a sufficient quantity of material to enable proper investigation and manipulation activities, such as straw, hay, wood, sawdust, mushroom compost, peat or a mixture of such, which does not compromise the health of the animals".

[69] Consulted during the expert panel organised for this audit.

Figure 5 – Non-respect of EU rules on the provision of enrichment material for pigs at a beneficiary of rural development funds for animal welfare in Romania

Source: ECA.

86. DG AGRI consults DG SANTE before the approval of Member States' rural development programmes. Despite this, the Commission did not use the information on areas of widespread non-compliance identified by DG SANTE (most notably, the routine tail docking of pigs and provision of enrichment materials, where only Finland and Sweden achieved compliance) to challenge Member States with regard to their use of the measure in those areas.

Mitigating the risk of deadweight

87. Deadweight refers to a situation where a subsidised activity would have been wholly or partly undertaken without the grant aid. There is a risk that a beneficiary would have applied the measure 14 requirements even without the rural development support, for example because the measure reflects normal farming practice, or because the beneficiary had already participated in a private quality scheme that covered the same requirements before applying for measure 14 support.

88. Our visits to the three Member States that apply the measure 14 showed that the managing authorities did not mitigate the risk of deadweight, particularly linked to private quality schemes. Both beneficiaries of measure 14 that we visited in Germany (North-Rhine Westphalia) and Italy (Sardinia) had adhered to private schemes with animal welfare requirements[70]. In Germany (North-Rhine Westphalia), the quality scheme covered about 10 % of the pig farms in the region and included paid commitments that overlapped with the requirements of the animal welfare measure.

89. We noted that in Italy (Sardinia), the authorities had mitigated the risk that measure 14 could support actions that reflect normal farming practices. The authorities considered both legal animal welfare requirements and the higher standards that local farmers regularly apply, when designing the animal welfare measure. The normal practice was determined based on the experience of veterinarians and on evidence from the Italian Agricultural Accounting Information Network. For example, the legal minimum space for calves is 1.8 m^2, whereas in practice, farmers in Sardinia provided on average 3.2 m^2 for each calf. The Sardinian authorities set the related animal welfare measure requirement at a minimum of 4.5 m^2 per calf.

90. The Commission issued guidance for Member States indicating that animal welfare payments should support operations that would not be otherwise implemented and carried out conformity audits to check the implementation of measure 14. However, the

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[70] "Initiative Tierwohl" in Germany, "UNICARVE" labelling scheme in Italy.

Commission did not check when approving rural development programmes or during its audits if Member States took into account the possible overlap with private schemes.

Checking if the support calculation is reasonable

91. In its Statement of Assurance audits, the ECA found that Romania's calculation of measure 14 support resulted in excessive payments to farmers. The Commission confirmed mistakes in the calculation for five sub-measures and proposed financial corrections of about €59 million, covering payments made between October 2013 and October 2016. The Commission is currently investigating a similar issue concerning possible overpayments in another Member State.

Monitoring animal welfare

92. The EU Common Monitoring and Evaluation System (CMES)[71] aims to demonstrate the progress of rural development policy and assess the impact, effectiveness, efficiency and relevance of rural development policy interventions, but it does not contain any specific animal welfare indicators or questions.

93. The Commission does not have information on the expected or actual results and impact of rural development funds provided for animal welfare. The existing indicators do not allow the impact of €2.5 billion of rural development funding allocated between 2007 and 2020 for animal welfare payments (€1 billion for 2007-2013 and €1.5 billion for 2014-2020) to be assessed.

94. Member States could define additional indicators in the framework of the CMES. The Member States we visited did not use this possibility. However, Italy (Sardinia) and Romania had defined some indicators for internal use. In Italy (Sardinia), the authorities developed an indicator for measuring the level of the number of somatic cells in the milk and used it as a

[71] Article 67 of Regulation (EU) No 1305/2013.

proxy indicator for the welfare of sheep and goats. In Romania, the authorities used mortality rates to measure changes in welfare conditions in farms receiving support.

95. The synthesis of ex-post evaluations for the previous programming period[72] evaluated the "animal welfare payments" measure based on the number of farms supported. The evaluation document indicated that impact was limited, as only 1.1 % of EU farms with livestock had used the measure.

CONCLUSIONS AND RECOMMENDATIONS

96. Animal welfare is an important issue for EU citizens. This is reflected in the EU Treaty and the legislation in this area. The Commission has been proactive in addressing stakeholders' concerns and it has developed a strategy to provide a framework for its actions.

97. Our audit examined the overall implementation of the strategy and progress in achieving the objectives of compliance with animal welfare legislation and optimising synergies with the Common Agricultural Policy through cross-compliance and rural development. We sought to answer the following question:

Have the Commission and the Member States actions contributed effectively to achieving the EU animal welfare objectives?

98. We conclude that EU actions on animal welfare have improved compliance with animal welfare requirements and supported higher standards with a clear positive impact on animal welfare. However, certain weaknesses persist and there is scope for improving coordination with cross-compliance checks and the use of rural development support for animal welfare.

99. We found that the Commission completed the latest EU strategy on animal welfare (in doing so the Commission has not reviewed the legislative framework for animal welfare). There were delays for most of the actions planned (see ***paragraphs 28 and 29***). The strategy

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[72] Synthesis of Rural Development Programmes (RDP) ex-post evaluations of period 2007-2013, evaluation study, Ecorys and IfLS, April 2018.

did not define measurable monitoring indicators, the Commission did not assess if the strategy had achieved its objectives nor determine whether there was a need for a new strategy.

100. The data available at EU level is not extensive and reliable enough to convey meaningful information about levels of compliance with animal welfare legislation in areas where the Commission has identified a need for improvement (see ***paragraphs 30 to 33***). In particular, as regards the use of the derogation for slaughter without stunning, the legal basis allows for different interpretations and practices across the Member States and there are no reporting requirements. Therefore, there is not sufficient information available to assess whether Member States have prevented the excessive use of the derogation by certain slaughterhouse operators, which was one of the issues identified by the Commission before the launch of the current animal welfare strategy (see ***paragraphs 43 to 45***).

Recommendation 1 – Strategic framework for the Commission's animal welfare policy

To guide its future animal welfare actions, the Commission should:

(a) Carry out an evaluation of the 2012-2015 animal welfare strategy to identify to what extent its objectives have been achieved and if the guidance it has issued is being applied.

Target implementation date: 2020.

(b) Define baseline and target indicators to measure and compare the Member States' degree of compliance in remaining risk areas identified by the evaluation.

Target implementation date: 2021.

(c) Reflect on how to address the conclusions of the above evaluation (for example, through a new strategy or action plan and/or a review of animal welfare legislation) and publish the results of its assessment.

Target implementation date: 2021.

101. Our audit has shown that the Commission and the Member States have succeeded in addressing some animal welfare issues through a combination of guidance and enforcement actions (see ***paragraphs 34 to 40***).

102. However, progress has been slow in other areas and there are still a number of weaknesses regarding the application of the minimum standards required by the legislation, even where the legislation has been in force for up to 18 years (see ***paragraphs 41 and 42***). Furthermore, despite some good practices, it was not clear that Member States' animal welfare inspections were risk-based (in particular in the area of transport). The Member States visited did not make full use of information resulting from audits and complaints. The Commission has identified and acted on most of these issues, but it has not yet succeeded in fully addressing them (see ***paragraphs 47 to 63***).

Recommendation 2 – Commission's enforcement and guidance actions in the area of compliance

To better address risky areas and disseminate good practices, the Commission should:

(a) Develop an enforcement strategy to strengthen arrangements for the follow-up of DG SANTE's recommendations, with the aim to reduce the time to trigger satisfactory actions to its recommendations issued after audits and to enforce legislative provisions, particularly those that have been in force for a long time.

Target implementation date: 2020.

(b) Determine, together with the Member States, how the tools available in TRACES can support the preparation of risk analyses for inspections on the transport of live animals, and disseminate guidance on the use of these tools.

Target implementation date: 2020.

103. Member States' checks generally covered the relevant animal welfare requirements and we found some examples of good coordination between the authorities responsible for official animal welfare inspections and those responsible for cross-compliance inspections. However, even though the same control authority performed the official inspections and

cross-compliance checks, some Member States did not ensure that information on non-compliances identified during official inspections, with a potential impact on cross-compliance requirements, could be exchanged effectively. Furthermore, there were cases where the cross-compliance penalties applied by Paying Agencies were not proportionate to the seriousness of the irregularities (see ***paragraphs 65 to 76***).

Recommendation 3 – Improve coordination between the official inspections and cross-compliance

To strengthen the links between the cross-compliance system and animal welfare, the Commission should:

(a) In its conformity audits on cross-compliance, assess the completeness of Member States' reporting of non-compliances identified during official inspections performed by the same control authority as for cross-compliance checks, for example by crosschecking between the results of official inspections and the database of beneficiaries subject to cross-compliance.

Target implementation date: 2020.

(b) Building on previous actions, further share best practices on cross-compliance and inform Member States of the conformity findings underlying decisions to impose financial corrections because of the lenient sanctioning systems linked to animal welfare.

Target implementation date: 2020.

104. Although promoting animal welfare was a rural development priority for the 2014-2020 period, we found that the specific "Animal Welfare" measure was not widely used. The measure's cost-effectiveness was reduced because it supported farms that did not respect certain minimum standards on pig welfare, there was a risk of deadweight due to overlap with the requirements of private schemes, and the common monitoring framework lacked indicators for improvements in animal welfare. Member States rarely used the opportunity

to support animal welfare through other rural development measures (see ***paragraphs 77 to 95***).

Recommendation 4 – Using rural development support to achieve animal welfare objectives

To encourage the effective use of rural development support for animal welfare, the Commission should:

(a) When approving changes to the existing rural development programmes, as well as when approving the new programming documents for the rural development programming period post-2020, challenge Member States on the use of the animal welfare measure in sectors where there is evidence of widespread non-compliance (such as pig tail docking) and check the potential overlap with private schemes covering similar commitments.

Target implementation date: 2021.

(b) Encourage the exchange between Member States of good practices on additional, voluntary result and impact indicators for the animal welfare measure under the common monitoring and evaluation system that will be established for the programming period post-2020.

Target implementation date: 2020.

(c) For the programming period post-2020, provide guidance to Member States on the use of other rural development measures to support improved animal welfare standards, in order to give farmers a wider range of incentives to improve animal welfare.

Target implementation date: 2021.

This Report was adopted by Chamber I, headed by Mr Nikolaos MILIONIS, Member of the Court of Auditors, in Luxembourg at its meeting of 3 October 2018.

For the Court of Auditors

Klaus-Heiner LEHNE
President

Annex I

Overview of actions planned in the EU animal welfare strategy 2012-2015

Actions planned	Due[1] / planned	Completed
Series of enforcement actions on the protection of laying hens (Directive 1999/74/EC)	2012	2012
Implementing plan and enforcement actions on the grouping of sows (Directive 2008/120/EC)	2012	2012
Implementing plan for the slaughter regulation (Council Regulation (EC) N° 1099/2009)	2012	2012
Report to the European Parliament and the Council on:		
the various stunning methods for poultry[1]	2013	2013
the application of the Regulation (EC) No 1523/2007 banning the placing on the market of cat and dog fur[1]	2012	2013
the impact of genetic selection on the welfare of chickens bred and kept for meat production[1]	2012	2016
system restraining bovine animals by inversion or any unnatural position[1]	2014	2016
the possibility of introducing certain requirements regarding the protection of fish at the time of killing[1]	2015	2018
the application of Directive 2007/43/EC and its influence on the welfare of chickens bred and kept for meat production[1]	2015	2018
Report to the Council on the implementation of Directive 98/58/EC[1]	2013	2016
Report on the impact of animal welfare international activities on the competitiveness of European livestock producers in a globalised world	2014	2018
Study on:		
the welfare of farmed fish at the time of killing	2012	2017
the opportunity to provide consumers with the relevant information on the stunning of animals[1]	2013	2015
animal welfare education and on information activities directed at the general public and consumers	2013	2016
the welfare of farmed fish during transport	2013	2017
the welfare of dogs and cats involved in commercial practices	2014	2016
EU implementing rules or guidelines on:		
the protection of animals during transport	2012	2017
the protection of animals at the time of killing	2014	2017
the protection of pigs	2013	2016
Possible legislative proposal for a simplified EU legislative framework for animal welfare	2014	dropped

[1] Required by the EU legislation.

Annex II

Overview of information included in the farm inspection reports submitted to the Commission by the audited Member States

Country	Year	Average control rate	*Share of sites with non-compliance in the total number of sites inspected*														
			Laying hens Free range	Laying hens Barn	Laying hens Enriched	Turkeys	Domestic fowl	Ducks	Geese	Ratites	Pigs	Cattle (except calves)	Calves	Sheep	Goats	Fur animals	All categories of animals
Germany	2013								n.a.								
	2014	5%	7%	8%	11%	14%	13%	8%	11%	3%	26%	20%	22%	17%	15%	31%	19%
	2015								n.a.								
	2016								n.a.								
France	2013	1%	60%		38%	25%	49%	38%	47%	50%	58%	41%	33%	46%	56%	54%	44%
	2014	1%	61%		46%	32%	42%	32%	44%	67%	56%	39%	30%	48%	52%	50%	41%
	2015								n.a.								
	2016								n.a.								
Italy	2013	12%	11%	11%	12%	22%	12%			0%	15%	13%	9%	9%	9%	14%	12%
	2014	22%	3%	6%	13%	0%	8%			0%	11%	6%	16%	4%	3%	8%	8%
	2015	18%	1%	4%	3%	1%	3%			11%	7%	4%	5%	3%	3%	0%	4%
	2016								n.a.								
Poland	2013	5%	16%	14%	8%	2%	14%	12%	11%	0%	18%	17%	17%	22%			17%
	2014	5%	10%	10%	10%	4%	12%	7%	7%	0%	16%	17%	17%	17%	87%	15%	17%
	2015	5%	12%	10%	13%	6%	19%	12%	10%	3%	13%	16%	13%	16%	16%	10%	14%
	2016	5%	15%	8%	10%	5%	15%	9%	3%	6%	14%	15%	12%	16%	14%	7%	13%
Romania	2013	74%	0%	30%	22%	0%	25%	0%	0%	100%	25%	41%	36%	37%			33%
	2014	63%	14%	18%	33%	20%	62%	0%		50%	20%	29%	45%	21%	14%	0%	28%
	2015	50%	50%	25%	9%	13%	15%			100%	16%	25%	36%	29%	13%	0%	22%
	2016								n.a.								

Source: Reports on official animal welfare controls on farms submitted to DG SANTE.

Annex III

Member States' checks and data on slaughter without stunning

Member State	Is there a specific procedure to check the justification for applying the derogation?	Is there information available at national level to show the extent of slaughter without stunning?
Germany	Yes, the competent authorities grant the derogation for slaughter without stunning based on a request from the followers of religious associations. The applicants must be based in the country and must prove that their religious precepts require the consumption of such meat.	Yes. The authorities' estimations based on data from 2014 and 2015 show that a very low number of animals were slaughtered without stunning in Germany (180 sheep and goats, 186 poultry) and that about 24 % of sheep and goats were slaughtered for the needs of religious communities with electrical stunning methods that are not listed in the applicable EU Regulation. In practice, imports from other countries contribute to the needs of the religious communities in Germany.
France	Yes, the competent authorities required the slaughterhouses to keep records of commercial orders corresponding to the use of the derogation. The French authorities' internal evaluation of the derogation for slaughter without stunning pointed out that the correspondence between commercial orders and use of the derogation was not verifiable.	There is a limited overview, based on unverified estimations from operators, which indicated that they applied this method for 14 % of cattle and 30 % of sheep slaughtered in 2015. There is no information for poultry or goats.
Italy	Yes, there is a similar authorisation procedure to the one applied in Romania but there is no requirement for information on the number of animals concerned.	Limited – there is only some data on the number of slaughterhouses authorised to use the derogation.
Poland	In Poland, slaughter without stunning was prohibited by national law from 2012 to 2014, when the Constitutional Court ruled that these provisions did not comply with the Constitution. Since 2014, the derogation provided by the EU legislation has been applied.	

	No. The competent authorities only check if the slaughter takes place in a slaughterhouse and if the animals are restrained. There is no requirement to check that the derogation is supported by the existence of commercial orders for such meat.	Limited – there are some unofficial estimates for cattle and poultry.
Romania	Yes, the competent authorities grant the derogation based on a request from the slaughterhouse and a certificate from the religious authority specifying the species, number of animals concerned and date(s) when the slaughter would take place.	Yes. In 2016, the authorities granted the derogation for about 6 % of beef production, 9 % of sheep meat production and 4 % of chicken meat production.

Annex IV

Cross-compliance checks in the Member States visited[1]

Germany (2016)						
Requirement	Control rate	Non-compliance rate	Distribution of non-compliances by category of payment reduction			
			0%	1%	3%	5%
SMR 11	1.7%	5.1%	8%	5%	70%	18%
SMR 12	2.2%	9.1%	11%	9%	66%	14%
SMR 13	1.4%	9.3%	4%	27%	46%	23%

Italy (2016)						
Requirement	Control rate	Non-compliance rate	Distribution of non-compliances by category of payment reduction			
			0%	1%	3%	5%
SMR 11	2.6%	3.9%	73%	5%	8%	14%
SMR 12	2.3%	6.7%	75%	3%	13%	9%
SMR 13	5.9%	2.1%	70%	10%	10%	10%

Poland (2016)						
Requirement	Control rate	Non-compliance rate	Distribution of non-compliances by category of payment reduction			
			0%	1%	3%	5%
SMR 11	1.4%	2.8%	0%	2%	95%	3%
SMR 12	1.4%	1.8%	0%	0%	91%	9%
SMR 13	1.8%	1.5%	0%	1%	92%	7%

Romania (2016)						
Requirement	Control rate	Non-compliance rate	Distribution of non-compliances by category of payment reduction			
			0%	1%	3%	5%
SMR 11	13.3%	0.01%	0%	0%	0%	100%
SMR 12	13.3%	0.01%	0%	50%	0%	50%
SMR 13	13.3%	0.01%	0%	0%	0%	100%

NB: Data for France was not yet available at the time of the audit, due to the changes introduced in 2015 with regard to the direct payments system in France and the adaptation of the Integrated Administration and Control System to the new rules of the CAP and cross-compliance (introduced in 2015).
Source: Cross-compliance control statistics submitted by the Member States to the Commission.

[1] The SMRs (statutory management requirements) cover requirements and standards set out in Directive 2008/119/EC on the protection of calves (SMR 11), Directive 2008/120/EC on the protection of pigs (SMR 12) and Directive 98/58/EC on the protection of animals kept for farming purposes (SMR 13). The non-compliance rate and the distribution of non-compliances by category of payment reduction do not include cases of reoccurrence of non-compliance or intentional non-compliance.

REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS

"ANIMAL WELFARE IN THE EU: CLOSING THE GAP BETWEEN AMBITIOUS GOALS AND PRACTICAL IMPLEMENTATION"

EXECUTIVE SUMMARY

III. The Commission is working on improving the targeting of support to promote higher animal welfare standards as set out in the proposed legal framework for the CAP post 2020.

See also Commission reply to paragraph IX.

V. The nature of the actions required influences the time in which progress can be made in the Member States. The Commission continues to monitor and follow these matters.

VII. The cross-compliance legislation includes general rules on penalties to be applied by Member States to assure that they are proportionate and dissuasive (see recital 57 of Regulation (EU) No 1306/2013), as they have to take account of the severity, extent, permanence and reoccurrence of the non-compliance concerned (see Article 99(2) of Regulation (EU) No 1306/2013). In line with the principle of shared management, it is the Member States´ responsibility to establish the level of penalties applied to the individual farmers found in breach of the cross-compliance obligations and to proceed to recovery. If DG AGRI audits identify lenient sanctioning systems, this is followed up in the conformity clearance procedure and financial corrections may be applied to Member States.

VIII. As the 'Animal Welfare' measure is not an obligatory measure, it is up to the Member States' authorities, based on their needs' assessment, whether they intend to include such support in the programmes. They may also support animal welfare through other funds including national funds.

Already in the current period 2014-2020, the legal framework provides a clear option to propose integrated measures (combination of measures). Some Member States use this option and apply other measures, such as those linked to investments or knowledge transfer – the latter to promote good practices' exchange in the field of animal welfare.

IX. The Commission published its proposal for a new CAP post 2020 taking account of requests from legislators and stakeholders to simplify and streamline the CAP and replacing cross-compliance by conditionality. Member States will have more flexibility on the manner by which they achieve the defined targets and objectives set by the CAP under a new delivery model. Promoting animal welfare is currently part of a broader priority addressing the food chain organisation. Rural development policy offers a flexible framework that allows Member States, in line with the principle of subsidiarity and the shared management context, to decide how to best support the improvement of animal welfare.

Making animal welfare one of the specific objectives of rural development 2021-2027 should further improve the place of animal welfare in rural development context.

The Commission is developing a project on animal welfare indicators and quality controls to investigate the usefulness of indicators for animal welfare. This will include reviewing the links between the cross-compliance system and official controls for animal welfare, and also the suitability of indicators to measure the effectiveness of rural development programmes

INTRODUCTION

8. The Commission recalls that the list of requirements covered by cross-compliance is set out by the legislators, which are the Member States via the Council, and the European Parliament. Furthermore, cross-compliance is not a mechanism to enforce sectorial legislation but aims to make the CAP more compatible with expectations of society by referring to requirements sufficiently

relevant to farming activity and the area of the holding (see recital 54 of Regulation (EU) No 1306/2013). This explains why not all requirements of animal welfare are automatically part of cross-compliance. In past years, the legislators have always called for simplifying the cross-compliance mechanism resulting in shortening the list of requirements.

9. Farmers can take the business decision on how to manage the farm e.g. to keep pigs and poultry without managing land at the same time. Furthermore, also farmers without land can be subject to cross-compliance if they are beneficiaries of certain rural development measures.

10. The Commission points out that if sectorial legislation calls for a higher control rate, that rate is applicable.

OBSERVATIONS

28. There are, in some cases, clear relationships between a series of actions and the strategic objectives. For example, the objective "*support Member States and take action to improve compliance*" is clearly related with a series of actions on laying hens, grouping of sows, the slaughter regulation, animals during transport and the protection of pigs.

The animal welfare strategy included a commitment to consider the feasibility of introducing a simplified EU legislative framework. This contributed to the adoption of the official controls regulation in 2017 and the consequent designation of the first EU Reference Centre for animal welfare in March 2018.

31. In the annex to the animal welfare strategy, a precise list of actions was established to monitor the level of achievement. An evaluation of the EU animal welfare policy was performed in 2010 and some actions listed in the annex of the strategy reflect strategic objectives, such as "*support Member States and take action to improve compliance*".

The Commission acknowledges that no target indicators to measure all strategy objectives were defined. Its actions have not yet been evaluated since they were completed only by early 2018, and therefore, the impact of all actions has not yet materialised.

Since 2017, the Commission has not established a new formal strategy. However, several activities have been developed focusing on three priority areas as follows:

- better application of EU rules on animal welfare,
- the development and use of voluntary commitments by businesses to further improve animal welfare,
- the promotion of EU animal welfare standards at the global level.

39. The EU Pilot allows the European Commission services and the Member States authorities to engage in a dialogue with a view to finding, at an early stage, quicker and better responses to questions on the correct interpretation, implementation and application of EU law. This dialogue, while not a formal infringement procedure, follows a defined process.

Box 3 – Slow progress in addressing certain Commission recommendations

The Commission considers that, while a relatively long period of time passed while France up-dated, revised and issued the vade mecums for controls, some instructions were available for official control staff and some actions were taken to address the weaknesses identified. Therefore, official controls in France were not necessarily non-compliant with EU requirements during this period. The French Vademecum Inspection of Control Posts was in 2017 still in the process of being finalised, but the French authorities had carried out inspections at control posts. DG SANTE continues to follow-up this issue.

The recommendation the ECA refers to was followed up in a further Commission audit undertaken in 2012 and was overtaken by a recommendation of that audit. The call for tender for equipment for all veterinary services in France was issued on 27 April 2017 by the Ministry holding the agriculture portfolio. The recommendation was closed when the French authorities provided evidence that the equipment has been procured and instructions developed for staff on its use.

It is possible to notice the smell of ammonia in a poultry house even when levels are within the legal limits.

The Commission considers that, while draft amendments to the relevant Romanian Government Decision were presented in the context of follow-up activities undertaken since 2014, the Commission has not yet received confirmation that they were adopted. DG SANTE continues to follow-up this issue.

In fact, the situation evolved considerably during the period referred to, as described in the country profile report published in April 2017.

- In successive responses, various actions were proposed by the central Competent Authority.
- In 2016 the National Reference Centre for Animal Welfare was asked by the Central Competent Authority for support to re-consider the adequacy of the thresholds mentioned in the Ministerial note.
- The Central Competent Authority stated that it planned to bring the previous values into line with the new opinion of the National Reference Centre.

  The recommendation was closed on the basis of documentary evidence and this will be reflected in the next up-dated country profile, which is expected to be published in 2019.

45. The Commission considers that this issue is complex and needs careful examination due to the implication in relation to the different religious communities.

Since 2012, several Member States have adopted stricter national measures regarding slaughter without stunning (BE, EL, DK, LT) in addition to the Member States which had already national measures in place (AT, CZ, DE, FI, FR, HU, SE, SI).

54. EU legislation on animal welfare is mainly aimed at large intensive farms (pigs, calves, laying hens, broilers), so it is reasonable that authorities use their limited resources to inspect the larger farms rather than the many backyard farms[1]. However, this choice should be properly justified in the Member States' risk analysis and may not lead to an exemption from controls.

55. Several Member States use systems to prioritise checks of transport planning, loading of animals, and roadside checks. The Commission has shared good practices found in Austria, Denmark, the Netherlands, and the UK, with other Member States[2].

57. While it is true that carrying out the risk-analysis is mostly left to the local level, there are some notable exceptions, as indicated in the Commission reply to paragraph 55 above, in relation to checks of transport in Denmark, the Netherlands, and the UK.

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[1] As an example, Council Directive 2008/120/EC highlights in the preamble the following considerations, (6) differences which may distort conditions of competition (7) standards … to ensure rational development of production, which therefore place greater emphasis on larger scale production.

[2] See Overview Report 2014-7350, section 6.

59. In practice, auditing all topics properly in a 5-year cycle has turned out to be unfeasible with the resources available. In order to get around this impasse, further guidance was provided in a non-binding guidance document. It explains that every topic under the scope of Official Feed and Food Regulation must be considered and reviewed in a regular (annual) risk assessment. Including a topic in the regular review process is considered as satisfying the requirement of "covering" that topic in a 5-year cycle.

60. The relevant Commission audit reports include recommendations to Member States where internal audit follow-up was inadequate; the Commission will follow up on these recommendations in line with normal procedures.

61. While complaints may be useful in identifying issues, they do not generally identify all key areas of concern. Many non-compliances remain invisible to potential complainers; moreover, complaints can also have features that cause potential bias.

62. There is no legal requirement for Member States to keep a central register of complaints; the lack of such register does not in itself demonstrate that information from complaints was not used appropriately or that decision-making was not adequately supported by information on risks to animal welfare (that can come from many different sources).

64. Not all elements of animal welfare covered by the strategy are subject to cross-compliance and rural development such as e.g. animal transport. Hence, there are limitations on possible synergies between the CAP and the overall animal welfare legislation.

65. In accordance with the principle of shared management between Member States and the Commission, in order to limit administrative burden for Member States, the cross-compliance legislation gives Member States the possibility to use their existing administration and control systems instead of an exclusive system for cross-compliance (see Article 98(1) of Regulation (EU) 1306/2013). It does not specify how Member State's should do this exactly and what would be the most effective way.

66. Such exchange of information is audited in the course of DG AGRI´s cross-compliance audits. Where deficiencies are detected, financial corrections are imposed to Member States.

70. The Commission does not have the authority to include in its cross-compliance audits all types of checks relating to animal welfare. The animal welfare checks, carried out by national control authorities outside the 1% cross-compliance sample, are based on non-CAP legislation and as such cannot fall within the remit of DG AGRI's audits.

The specific rules on reporting included in the cross-compliance legislation refer to controls done in the context of cross-compliance only.

However, if the paying agency receives information on possible infringements detected outside the cross-compliance controls, such observations may also qualify as basis for evaluation and possible later application of a cross-compliance penalties. If the said breaches are reported to and subsequently evaluated by the paying agency, the Commission's audits cover them during their audits.

73. In accordance with shared management, the cross-compliance legislation provides that the evaluation grids of regions or Member States are established by the relevant national or regional bodies. However, the European legislation provides for a framework by stating that penalties shall be "*proportionate, effective and dissuasive*" (see recital 57 of Regulation (EU) No 1306/2013). Further, Article 99 of the said Regulation states that penalties shall be calculated taking account of severity, extent and permanence as well as reoccurrence and possible intentionality. Furthermore, in

particular Article 38-40 of Regulation (EU) 640/2014 and Articles 73-75 of Regulation (EU) 809/2014 provide further details to be respected by Member States when applying penalties.

74. The Commission considers that control statistics do not constitute evidence in their own right to support a claim that a control or sanctioning system is deficient ('lenient'), and that the Court's ruling on case T-506/15 (par. 224) means that a low error rate may (only) serve to underpin a serious doubt on behalf of the auditor.

As regards the observation that "a farm where inspectors identified non-compliances for up to 30 % of the relevant check points would be considered as fully compliant" (Romania), the Commission considers that such specific cases would be picked up in its audits.

75. The Commission takes note of the ECA´s observation but recalls that it is for the Member States to establish sanctioning systems '*at their own discretion*'.

The Commission points out that Member States' evaluation grids (such as the Polish one) usually allocate different numbers of points in function of the gravity of the non-compliance, i.e. the combination of 'severity', 'extent' and 'permanence'. The number of breaches is therefore not always a factor determining the administrative penalty under the framework of cross-compliance.

Moreover, '*lenient*' sanctioning systems (which do not respect the requirement that, as a general rule, the sanction shall be 3%, according to Article 39 of Delegated Regulation (EU) 640/2014) would be picked up during DG AGRI audits, see Commission reply to paragraph 76.

76. The Commission confirms that the audits mentioned in the footnote to ECA's observation have revealed sanctioning systems that preclude the application of proportionate sanctions (e.g. in some cases it was not possible to apply 5%, in other cases it was not possible to apply 3% or 5%). Each one of those audits has led to a financial correction and a request to the Member State to update the sanctioning grid such that it takes due account of 'severity', 'extent' and 'permanence' for all applicable cross-compliance requirements.

It should be emphasized that, in light of shared management, it is for the Member States to design evaluation grids that are adequate for local farming practice. The legal provisions do not prescribe how to calculate reductions for individual infringements but include general rules. Consequently, the evaluation grids are not subject to the Commission´s approval. In order to support the Member States, the Commission regularly organises expert meetings during which best practices are exchanged.

79. Although animal welfare is not listed *explicitly* in Focus Area 3A, it is not to be understood as an exclusion considering that the objective to improve animal welfare contributes to the goal of adding value to agricultural products, which is part of Focus Areas 3A.

80. Member States or Regions programme their respective Rural Development Programmes based on a SWOT analysis and the needs assessment for that specific programme area. Thereby, rural development support is addressing a wide range of needs, not only animal welfare.

81. Further to support for farm investments, quality schemes or organic farming, support by knowledge transfer, training and advisory services is to be mentioned. Those measures are often combined with measure 14 'animal welfare' in order to raise awareness of farmers and disseminate best practices for enhanced animal welfare management.

84. On the Commission's request, Member States have been required to establish action plans on how the legal ban on tail docking will be implemented. North Rhine Westphalia has set a draft action plan in the beginning of 2018, which now forms the basis for further consultation at the state, national and EU levels.

Cross-compliance rules also apply to support for animal welfare under the Rural Development Programme, including law on pigs protection, the non-respect of such rules depending on the seriousness of the non-compliance, should lead to a sanction/an administrative penalty.

85. The Commission promotes the combination of several commitments or even several measures (so called integrated measures) to enhance animal welfare in order to ensure that several parameters are improved simultaneously. However, in the end it is Member States' decision which parameters they want to improve through the use of rural development funds and which via other instruments and funds. The limitation in available resources can also be one of the reasons for focusing on the most necessary parameters.

86. Member States base their programming of the measure on their SWOT analysis and needs assessment in the sector. Furthermore, they are expected to define commitments for Measure 14 in a way to well establish the baseline and to exceed the normal practices carried out on farms. DG SANTE is by default consulted before approval of a new animal welfare measure under rural development, which supports DG AGRI's approach to establish effective animal welfare measures and to tackle those areas with the highest needs.

As to cross-compliance, the prohibition of routine tail docking is part of the requirements and therefore part of the baseline for Rural Development measures. However, it has to be noted that in many Member States, in particular, intensive pig farms are not covered by cross-compliance due to the mere fact that they are not automatically CAP beneficiaries. These pig farms mostly do not have agricultural land. Hence, they do not profit from direct payments (Pillar 1) as these are land based. These farms could though ask for Rural Development support (Pillar 2) but this would be on a voluntary basis. This is why cross-compliance can never serve as an implementing tool for other policies, as its impact is limited to CAP beneficiaries.

87. Member States are expected to define the commitments for Measure 14 in a way to exceed the normal practices applied on farms in order to ensure real added value of the support and to avoid overcompensation. Such a structure of the support for animal welfare is to exclude the possibility of supporting practices which are considered as normal farming practices in the Member State and/or Region concerned.

As to the risk of deadweight, the Commission considers that farmers need financial support to respect commitments going beyond the baseline animal welfare requirements.

As to a potential overlap with private quality schemes, please see the Commission's reply to paragraph 88.

88. It should be stressed that the participation in quality schemes does not necessarily constitute an overlap with measure 14, even if both instruments cover management commitments. This is when the commitments supported by various instruments differ in quantitative and/or qualitative terms (in the case of Sardinia) or if the compensation of costs occurred and income foregone for such commitments do not exceed the 100%: As to the calculation of the premia, see the Commission reply to paragraph 90.

Such an approach allows a financial burden to be shared between various tools and instruments even though it might lead to a higher administrative efforts for the authorities.

90. During the approval of the programmes, the Commission assesses the methodology based on which the payments are calculated as well as the baseline for the proposed commitments to ensure they only cover actions additional to mandatory requirements and practices normally carried out. Member States must also ensure that the calculations are adequate and are confirmed or done by a functionally independent body.

During the audits, the possible overlapping with EU Funds or national public Funds is checked as part of the check of the control system for all the measures/or operations that are subject to a given audit. An audit finding will be used by the Commission in the overall assessment of the correct implementation of the measures/operations and will be part of the conformity clearance procedure, in some cases can lead to an amendment of the rural development programme.

92. While the Common Monitoring and Evaluation System (CMES) defines indicators for measuring the CAP performance, the current system does not contain any specific animal welfare indicators. Output indicators are however collected at the level of the measures and attributed to the respective focus areas.

A balance is needed as regards the definition of monitoring indicators and their cost-effectiveness and data availability. The assessment of broad outcomes of measures is to be placed in the context of evaluation, for which the CMES indicators provide only a supportive function and Member States are free to establish additional indicators.

93. The assessment of support for animal welfare is best done in the context of evaluation. For the period 2007-2013, an evaluation synthesis on the effects of the measure 215 "animal welfare payments" was done, based on the ex-post evaluations of the Member States, which have implemented the measure. The evaluation together with the accompanying Staff Working Document are envisaged to be published in the last quarter of 2018.

95. Measure 215 'animal welfare' was implemented in 11 Member States (30 regions), with a total EAFRD expenditure of € 1 billion. The synthesis of ex-post evaluations assessed the impact of the measure as limited, partly due to the low number of regions in which the measure was implemented.

CONCLUSIONS AND RECOMMENDATIONS

99. The animal welfare strategy included a commitment to consider the feasibility of introducing a simplified EU legislative framework. This contributed to the adoption of the official controls regulation in 2017 and the consequent designation of the first EU Reference Centre for animal welfare in March 2018.

The Commission acknowledges that the strategy did not include target indicators to measure all strategy objectives (see Commission reply to paragraphs 28 and 31). The actions have not yet been evaluated since they were completed only by early 2018, and therefore, the impact of all actions has not yet materialised.

Since 2017, the Commission has carried out several activities focusing on three priority areas as follows:

- better application of EU rules on animal welfare,
- the development and use of voluntary commitments by businesses to further improve animal welfare,
- the promotion of EU animal welfare standards at the global level.

100. The Commission considers that the issue of slaughter without stunning is complex and needs careful examination due to the implication in relation to the different religious communities.

Recommendation 1 – Strategic framework for the Commission's animal welfare policy

(a) The Commission accepts recommendation 1(a) and plans to perform an evaluation of the 2012 animal welfare strategy. The time frame for such an evaluation needs to consider that the impact of all actions has not yet materialised, together with resource implications of this complex work.

(b) The Commission accepts recommendation 1(b). It will be implemented by defining areas or sectors and developing a methodology to compare Member States' performances.

(c) The Commission accepts recommendation 1(c).

102. The nature of the actions required influences the time in which progress can be made in the Member States. The Commission continues to monitor and follow these matters.

See Commission replies to Box 3 and paragraphs 59 to 62.

Recommendation 2 – Commission's enforcement and guidance actions in the area of compliance

(a) The Commission accepts recommendation 2(a). Arrangements are already in place for the follow-up of audit recommendations and for enforcing EU legislation.

The Commission has systematic procedures in place for follow-up of audit recommendations since 2005, and incremental enforcement actions can be used where non-compliance with EU rules persists. The effectiveness of the procedures is kept under regular review.

However, the Commission acknowledges that further progress can be achieved to reduce the time to trigger satisfactory actions to its recommendations issued after audits and to enforce legislative provisions, particularly those that have been in force for a long time.

Therefore, the Commission is working to enhance its procedures for the monitoring and enhancement of all food and health legislation, which will of course cover the follow up to recommendations arising from Commission audits.

(b) The Commission accepts recommendation 2(b) and will discuss with Member States possible improvements in the TRACES system to support the preparation of the Member States' risk analyses for inspections on the transport of live animals.

Recommendation 3 – Improve coordination between the official inspections and cross-compliance

The Commission does not accept recommendation 3(a).

The Commission is of the opinion that where these official inspections referred by ECA are used to reach the minimum rate of 1% of beneficiaries to be checked for cross-compliance (Article 68 of Regulation (EU) 809/2014), they are indeed within the scope of DG AGRI's audits and the related reporting is evaluated for, among other aspects, completeness. However, where these official inspections are done over and above the minimum control rate, that is to say outside the scope of the cross-compliance framework, there is no legal obligation for the inspectors to qualify and assess their findings in light of the cross-compliance rules and to subsequently report them. Therefore, and unless their results are reported, such checks – or the completeness of their reporting – cannot be covered by the DG AGRI's audits.

(b) The Commission accepts the recommendation and will follow it up in the context of the expert group on cross-compliance.

104. Promoting animal welfare is part of a broader priority addressing the food chain organisation. Rural development policy offers a flexible framework/toolbox which allow Member States, in line with the principle of subsidiarity and the shared management context, to decide how to best support the improvement of animal welfare in line with EU policy objectives and the Member States'/Regions' specific context, potential and needs. Almost a third of all the rural development programmes 2014-2020 include this measure and indicates the number of beneficiaries receiving support.

As to the risk of deadweight, the Commission considers that farmers need financial support to respect commitments going beyond the baseline animal welfare requirements. The architecture of the measure build on the principle that only actions going beyond mandatory requirements are to be supported under Animal Welfare measure is supposed to prevent deadweight.

The Commission continues to disseminate good practices and examples for improvement of animal welfare also by a good combination with other rural development measures, in particular knowledge transfer and training, as well as investments.

Recommendation 4 – Using rural development support to achieve animal welfare objectives

(a) The Commission accepts this recommendation, which builds on practice in the current programming period.

Member States are expected to define commitments for Measure 14 in a way to well establish the baseline and to exceed the normal practises in order to ensure real added value of the support and to avoid overcompensation. The Commission will continue – in case of programme amendments or new introduction of the measure in the current programming period – to encourage Member States to implement this measure in particular in sectors with highest needs. For example, all measures in the pig sector also contribute to increasing compliance with the respective directive. DG SANTE is by default consulted before approval of a new animal welfare measure under rural development.

Making animal welfare one of the specific objectives of rural development 2021-2027 should further improve the place of animal welfare in rural development context.

(b) The Commission accepts the recommendation to encourage the exchange between Member States of good practices on additional (i.e. non-obligatory) result and impact indicators for the animal welfare measures. It is to be noted that the proposals for the CAP post-2020 period include the specific objective: 'Improve the response of EU agriculture to societal demands on food and health, including safe, nutritious and sustainable food, as well as animal welfare' and a core indicator O.16 – 'Number of livestock units covered by support for animal welfare, health or increased biosecurity measures'. In addition, the proposal includes a common result indicator R.38 – 'Improving animal welfare: Share of livestock units covered by supported action to improve animal welfare'. Therefore, the Commission can commit to encourage the exchange of good practices on indicators for the animal welfare for the future.

(c) The Commission accepts this recommendation, which builds on practice in the current programming period.

The website of the European Network for Rural Development (ENRD) provides many examples of good practices for projects aiming at improving animal welfare, including investment projects (https://enrd.ec.europa.eu/search/site/animal%20welfare_en).

Making animal welfare one of the specific objectives of rural development 2021-2027 should further improve the place of animal welfare in rural development context. However, in the context of the new delivery model proposed for the CAP post 2020, the Commission is currently not in the position to make more specific commitments as to guidance provided to Member States.

Event	Date
Adoption of Audit Planning Memorandum (APM) / Start of audit	13.9.2017
Official sending of draft report to Commission (or other auditee)	12.7.2018
Adoption of the final report after the adversarial procedure	3.10.2018
Commission's (or other auditee's) official replies received in all languages	8.11.2018

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The EU has some of the world's highest animal welfare standards, which have been in force for decades, and animal welfare objectives are embedded in the Common Agricultural Policy (CAP). The most recent Commission animal welfare strategy aimed to address compliance issues and to improve synergies with the CAP. We found that EU actions to improve animal welfare were successful in some areas, but there were delays in their implementation and weaknesses persist in certain areas related to welfare issues on the farm, during transport and at slaughter. We make recommendations covering the strategic framework, Commission enforcement and guidance actions to support Member States in achieving compliance, and actions to strengthen the links between animal welfare and the agricultural policy.

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