



ANIMALS' ANGELS

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Formal Complaint
by Compassion in World Farming - Ireland and Animals' Angels
to the European Commission

concerning systematic failure by the competent authorities of the Republic of Ireland to
secure compliance with Community legislation on the protection of animals during
transport

Compassion in World Farming – Ireland and Animals' Angels wish to make a Formal Complaint concerning the systematic failure of the competent authorities of the Republic of Ireland to secure compliance by transporters (i) with Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations and (ii) previously with Council Directive 91/628/EEC on the protection of animals during transport which was replaced by Council Regulation (EC) No 1/2005 on 5 January 2007.

The essence of the Complaint is that at least since 1999 when the Commission's Food and Veterinary Office published a critical report, the Irish competent authorities have had detailed knowledge of the serious non-compliances that occur on a regular basis. Despite this, the Irish authorities have failed to adopt effective measures to achieve improved enforcement. Indeed, there appears to have been no improvement in the level of enforcement achieved between 1999 and 2010.

Compassion in World Farming – Ireland and Animals' Angels are content for this Complaint to be dealt with on a non-confidential basis.

Ireland's export trade

The Republic of Ireland (hereafter referred to as 'Ireland') exports a substantial number of young unweaned calves to the Netherlands and, in smaller numbers, to Belgium; calves are also exported to Spain and Italy. Young adult cattle are exported to Italy and, to a lesser extent, Spain. The normal route is for the animals to be transported from a port in southern Ireland (currently Rosslare) by roll-on roll-off ferry to a port in northern France (currently Cherbourg). The ferry journey from Rosslare to Cherbourg takes around 18.5 hours; the ferry journey between other ports in southern Ireland and northern France is of a similar duration. From northern France the animals are transported by road to the Member States referred to above.

Legislative background

Paragraphs 1.4 & 1.5 of Chapter V of Annex I to Council Regulation 1/2005 provide that after 28 hours of travel in the case of cattle and after 18 hours of travel in the case of unweaned animals "animals must be unloaded, fed and watered and be rested for at least 24 hours". Council Regulation (EC) No 1255/97 (as amended by Regulation 1/2005) requires this rest period to take place at an approved control post. Identical provisions were contained in Council Directive 91/628.

Paragraph 1.7(b) of Chapter V of Annex I to Regulation 1/2005 deals with transport on a roll-on roll-off ferry. It provides that "In the case of transport by sea on a regular and direct link between two geographical points of the Community by means of vehicles loaded on to vessels without unloading of the animals, the latter must be rested for 12 hours after unloading at the port of destination or in its immediate vicinity unless the journey time at sea is such that the voyage can be included in the general scheme of points 1.2. to 1.4". An identical provision was contained in Council Directive 91/628.

The effect of the above provisions is that all unweaned calves from Ireland must be unloaded and rested for 12 hours at the French port of arrival, or in its immediate vicinity, as by the time the vehicles reach Cherbourg the maximum permitted travel time for unweaned calves of 18 hours has been exceeded. The sea crossing takes around 18 hours; to this must be added the time taken to load the animals at the place of departure, the road journey from that place to Rosslare and any time waiting to board the ferry at the port of Rosslare.

Adult cattle (i.e. animals that have been weaned) from Ireland may have some travel time remaining when they arrive at the French port, as the permitted travel time for cattle is 28 hours. Therefore, drivers can either (a) unload and rest cattle for 12 hours at the French port of arrival, or in its immediate vicinity, or (b) they can unload and rest the animals at a control post outside the vicinity of the port for 24 hours, provided this is reached within the total permitted travel time of 28 hours.

Systematic failure by competent authorities of Ireland to secure compliance with Community legislative requirements regarding the unloading of animals for rest, food and liquid

In this section we set out serious non-compliances with Regulation 1/2005 by transporters carrying animals from Ireland to Continental Europe that have arisen relatively recently, i.e. in the last three years. In an Appendix we summarise all breaches since 1999 as these show the long standing nature of Ireland's failure to secure compliance with the provisions in Community legislation that requires animals to be unloaded and given rest, food and liquid after a certain period of travel.

Failure to unload and rest animals after arrival in France is a recurring non-compliance by transporters from Ireland. As will be seen, in some cases Irish transporters do not unload and rest the animals at all at the French port of arrival or in its immediate vicinity. In other cases, the animals are rested but for much less than the required 12 hours. In the case of adult cattle, transporters sometimes do not unload and rest the animals at a control post that can be reached within the permitted travel time of 28 hours, or may rest them for less than the required 24 hours.

Failure to unload and rest calves in June 2008

A trail of an Irish livestock vehicle transporting 208 young calves (approximately 3 weeks old) from Ireland to the Netherlands was carried out in June 2008 by Compassion in World Farming – Ireland's sister organisation in France, Protection Mondiale des Animaux de Ferme (PMAF). The sea crossing took 21 hours on the *Celtic Link* roll-on, roll-off ferry. The animals were not unloaded and rested at the port of Cherbourg, or in its immediate vicinity, after arrival there from Rosslare. This is in breach of the requirement for a 12 hour rest period after disembarkation from a lengthy ferry crossing. The driver of the vehicle was subsequently stopped by French police 3 hours after leaving Cherbourg port and fined for this breach, and also for not carrying food on the vehicle. .

In this case not only did the driver fail to stop at a control post at the port of Cherbourg or in its immediate vicinity, but he also failed to adhere to his journey log. This indicated that the calves would be unloaded and rested at Pussards Lairage near Cherbourg for 12 hours. In fact, the driver did not stop at this control post. [The reference to 'Pussards' lairage is presumably a reference to the lairage operated by Daniel Poussard who, according to the PMAF report of this incident, had died earlier in 2008. The PMAF report stated that this was the lairage at Heauville which is around 30 km from Cherbourg.]

Instead, after disembarkation from the ferry at Cherbourg port, the driver continued on his journey (without stopping to unload the calves at any stage) until the vehicle was stopped by the French police 3 hours later. Following a check by the police, the driver was fined €270 for failing to stop and unload the calves at a control post for the required rest period, and also for not having food for the calves on board the vehicle.

Full details of the journey, including a copy of the driver's journey log and a map, are given in Appendix I (attached).

Failure to unload and rest calves and adult cattle in September 2008

In September 2008 a PMAF investigation found two further cases where drivers carrying animals from Ireland to the Continent failed to stop to provide the animals with the required rest period in France as indicated on their journey logs and as required by Regulation 1/2005. Both drivers were fined by the police.

On 3 September 2008, a vehicle carrying 145 unweaned calves destined for Spain disembarked from the *Celtic Link* roll-on roll-off ferry at Cherbourg after a sea journey of 21 hours. The calves had already reached the permitted maximum transport time of 18 hours and therefore should have been unloaded and rested for 12 hours at the port of Cherbourg or in its immediate vicinity, as required by Regulation 1/2005.

PMAF investigators followed this vehicle as it left the port of Cherbourg. When it had driven beyond the control posts in the area without stopping, the investigators called the police in Fougères. On the N137, heading towards Nantes, the vehicle happened to overtake another Irish livestock vehicle. This was carrying 70 adult cattle destined for Spain. The French police stopped both vehicles for inspection.

The police inspection revealed that the animals have been on board both vehicles for more than 32 hours. This is over the maximum permitted travel time of 18 hours for unweaned calves and 28 hours for adult cattle. According to the journey logs, the animals on both vehicles should have been unloaded at a control post in Heauville (around 30 km from Cherbourg) for 12 hours rest. However, in neither case did they stop at this control post. The driver of the vehicle carrying adult cattle said that this facility was full and that they were instead going to a control post in Coulombiers, which is a considerable distance from Cherbourg. The PMAF investigators contacted the control post in Coulombiers but the owner said that he was not expecting anyone at all.

Full details of the journey, including a copy of the driver's journey log and a map, are given in Appendix II (attached).

Report by Food and Veterinary Office in 2009

In November 2009 the Food and Veterinary Office (FVO) published a report of a mission carried out in France in April 2009.¹ The non-compliances described in the FVO report were detected during a check carried out on vehicles disembarking from a roll-on roll-off ferry at a port in the north of France. The FVO report does not identify which Member State the ferry had come from, but our organisation has established from the French Government that it had come from Ireland. During the check, 13 vehicles with animals disembarking from the ferry were inspected by the local French competent authority and the Gendarmerie. A number of non-compliances were found. Some of these related to single vehicles, whilst others - as shown below - concerned the majority of vehicles:

- Documents, such as certificates of competence or the approval of the vehicle, were deficient for all 13 vehicles checked;
- Feed was insufficient in the majority of the means of transport;
- Additionally, the information concerning only one consignment was available in TRACES on the day of the check.

In addition, the FVO report refers to the requirement in Annex I of Regulation 1/2005 under which vehicles must stop at a control post located at the port of destination, or in its immediate vicinity, to unload and rest animals for 12 hours if the animals' maximum permitted journey time has been exceeded during the sea-crossing. The report says that there are 2 control posts that are considered to be in the immediate vicinity of the port, and states that: "*As a result of the check performed, 12 means of transport had been sent to one of these control posts.*"

The Irish authorities have told us that they have been unable to trace the consignment of 13 vehicles referred to by the FVO. It is theoretically possible that all 13 vehicles started their journey in Northern Ireland but this is unlikely as our understanding is that most consignments of livestock vehicles that cross from Rosslare to Cherbourg contain only a small proportion of vehicles whose place of departure is located in Northern Ireland.

Report by Animals' Angels in February and March 2010

In February and March 2010 Animals' Angels carried out investigations in France. These show that transporters carrying young calves from Ireland to the Continent continue to disregard the legal requirement for these animals to be unloaded and rested for 12 hours at Cherbourg port or in its immediate vicinity. The findings are given in detail in the attached report by Animals' Angels (see Appendix III) and are summarised below. The report shows that in a number of cases calves were unloaded and rested at a control post near Cherbourg for substantially less than the 12 hours required by Regulation 1/2005.

¹ Final report of a mission carried out in France from 20 April to 24 April 2009 in order to evaluate the implementation of rules on the protection of animals during transport" [DG(SANCO)/2009-8245 - MR - FINAL] (November 2009).

Summary of observations by Animals' Angels of vehicles carrying calves arriving at Cherbourg port, France, by roll-on roll-off ferry (Celtic Link Ferries) from Rosslare port, Ireland, in February and March 2010

The observations shown below were made by Animals' Angels in France at Cherbourg port and at Heauville control post, which is near to Cherbourg port.

| Date of observation: 24th February 2010 | | | |
|---|--|---|--|
| <i>Registration</i> | <i>Company name shown on vehicle</i> | <i>Carrying</i> | <i>Non-compliance</i> |
| 00 C 35070 (ROI) | Murphy Hunter International Livestock Ltd | Holstein/Friesian calves less than 2 months old | Failure to unload and rest the calves for 12 hours at, or in the immediate vicinity of, Cherbourg port. The calves were unloaded and rested at Heauville control post for approximately 3 hours. |
| 07 C 2060 (ROI) | Liam Buckley Transport Ltd. | Holstein/Friesian calves less than 2 months old | Failure to unload and rest the calves for 12 hours at, or in the immediate vicinity of, Cherbourg port. The drivers' journey log was stamped at Heauville control post. The vehicle and calves remained at the control post for a maximum of approximately 50 minutes. |
| Date of observation: 10th March 2010 | | | |
| 05 C 21784 (ROI) | Colm O'Brien | Holstein/Friesian calves less than 2 months old | Failure to unload and rest the calves for 12 hours at, or in the immediate vicinity of, Cherbourg port. The calves were unloaded and rested at Heauville control post for approximately 3 hours. |
| WKZ 6730 Animals had Irish eartags | McCurdy Livestock Transport, Northern Ireland. | Holstein/Friesian calves less than 2 months old | Failure to unload and rest the calves for 12 hours at, or in the immediate vicinity of, Cherbourg port. The calves were unloaded and rested at Heauville control post for approximately 3 hours. |
| Date of observation: 24th March 2010 | | | |
| 06 OY 293 (ROI) | Unknown | Holstein/Friesian calves less than 2 months old | All of these vehicles disembarked from the ferry at Cherbourg port between 16.00 and 17.00 hours. All of the vehicles were at Heauville control post at 17.30 hours. When the control post was next observed 4 hours later, all of the vehicles had left. |
| 04 LK 5554 (ROI) | Colm O'Brien | Holstein/Friesian calves less than 2 months old | |
| 00 C 35070 (ROI) | Murphy Hunter International Livestock Ltd. | Holstein/Friesian calves less than 2 months old | |
| 07 WH 4463 (ROI) | TLT International Ltd. | Holstein/Friesian calves less than 2 months old | |

Investigation by Animals' Angels in June 2010

In June 2010 Animals' Angels carried out a further investigation in France. Again, an Irish transporter carrying young calves from Ireland to the Continent disregarded the legal requirement for the animals to be unloaded and rested after arrival in France. Indeed, the vehicle drove all the way from Cherbourg to Spain without stopping at a control post. When the vehicle was last monitored in Spain at 6.55 on 17th June, the calves had been on the vehicle for at least 36.5 hours without being unloaded. Details of the findings in relation to this journey are shown in the table below.

The observations shown below were made by Animals' Angels at Rosslare port in Ireland, Cherbourg port in France, and during road transit in France and Spain.

| |
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| Dates of observation: 15th June, 16th June, 17th June 2010 |
| <i>Details of vehicle and animals</i> |
| Vehicle license plate (Irish): 05 WH 4793. Company name: Sean Shortall, Moate, Co. Westmeath, Ireland. Carrying: young calves with Irish eartags. |
| <i>The journey observed by Animals' Angels investigators</i> |
| 15th June 2010 (at Rosslare port) The vehicle arrives at Rosslare port at 18.30 hours. The vehicle drives on to the Celtic Link ferry. |
| 16th June 2010/17th June 2010 (at Cherbourg port and onward journey) At 14.48 on 16 th June, the vehicle arrives at Cherbourg port on board the Celtic Link ferry. Investigators observe the following journey taken by the vehicle: 14.55 Cherbourg (France) - 18.11 Domalain (France) - 22.56 Chauche (France) - 23.52 Villiers En Plaine (France) - 01.50 (17 th June) Reignac (France) - 05.50 Baztan (Spain) - 06.55 Tafalla (Spain). The vehicle continues its journey. At this point, the animals have been on the vehicle for at least 36.5 hours without being unloaded. |
| <i>Non-compliance</i> |
| Failure to unload and rest the calves. After arrival at Rosslare port, the calves were transported for at least 36.5 hours without being unloaded. |

History of Ireland's failure to ensure compliance by transporters

In addition to the evidence set out above of Ireland's failure to secure compliance with Community legislation on the protection of animals during transport in the period 2008-2010, there is a documented history, going back to 1999, of transporters from Ireland failing to unload and rest animals for 12 hours at, or in the immediate vicinity of, the port of arrival in France following a ferry journey from Ireland; or alternatively failing to unload and rest animals for 24 hours at a control post

reached before the maximum permitted transport time of 28 hours for adult cattle. A summary of the documented history of Ireland's failure to ensure compliance by transporters with the requirement regarding unloading and rest is attached as Appendix IV. This history is based on reports by the FVO, a report in the *Irish Farmers Journal* and observations by *Animals' Angels* and PMAF.

Claim by transporters that control posts in France are full

At a meeting in November 2008, officials from Ireland's Department of Agriculture, Fisheries and Food (DAFF) told us that transporters say that control post spaces are limited and a control post may be full when they arrive, making it impossible for them to stop there to unload and rest the animals. We emphasised that transporters should always make a reservation, but the DAFF officials told us that drivers say that control posts may ignore reservations and instead accept animals on a "first come, first served" basis. However, when our French sister organisation (PMAF) spoke to the owner of a control post near the port of Cherbourg, which is suitably placed for use by transporters operating from Ireland, the owner said that he hardly ever sees Irish drivers and that, in his experience, there has never been a time when he had to refuse animals for lack of space. This calls into question the drivers' reason for failing to stop at a suitably-located control post.

Correspondence with Irish authorities

Compassion in World Farming – Ireland has written to the Irish authorities on each occasion that it has obtained evidence of non-compliance by transporters taking animals from Ireland to other Member States. Despite reassurances given by the Irish authorities, it is clear that they have failed to effectively address this non-compliance which is an on-going problem. The correspondence between Compassion in World Farming – Ireland and the Irish authorities is attached as follows:

Appendix V: correspondence regarding non-compliance revealed by investigations carried out by Protection Mondiale des Animaux de Ferme in June and September 2008

Appendix VI: correspondence regarding non-compliance revealed by November 2009 FVO report

Appendix VII: correspondence regarding non-compliance revealed by investigations carried out by *Animals' Angels* in February and March 2010.

Conclusion

Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules places strong emphasis on the need for competent authorities to have effective systems in place to ensure compliance with EU legislation on the protection of animals.

Compassion in World Farming - Ireland believes that the recent evidence from *Animals' Angels* of non-compliances by transporters operating from Ireland, the findings in the November 2009 FVO report and the documented history of non-compliances going back to 1999 indicate that Ireland is

failing to ensure compliance by transporters with the provisions in Community legislation requiring animals to be unloaded and given rest, food and liquid after a specified period of travel.

The breaches that are the subject of this Complaint take place in France. However, the Irish authorities (as well as those of France) are responsible for ensuring compliance with the Community legislation concerned. Most of the transporters involved are Irish and will have been authorised under Regulation 1/2005 by the Irish authorities. Most of the vehicles involved are Irish and will have been approved under Regulation 1/2005 by the Irish authorities. Similarly, most of the drivers will have been granted a certificate of competence under Regulation 1/2005 by the Irish authorities. In addition, the Irish authorities will have stamped the journey log under Article 14(1)(c) of Regulation 1/2005 and should check when the journey log is returned under paragraph 8 of Annex II to the Regulation whether the journey was carried out in conformity with the journey log and the requirements of Regulation 1/2005.

3rd August 2010