



**EUROPEAN COMMISSION**  
HEALTH AND CONSUMERS DIRECTORATE-GENERAL

Directorate G - Veterinary and International affairs  
**Director**

Brussels,  
Sanco G3 AN/ap D(2013) 137725

Dear Ms Moffat,

Thank you for your letter of 24 January 2013, sent to Mr Gavinelli, on the interpretation of Regulation (EC) No 1/2005 on the protection of animals during transport<sup>1</sup>, and for the "Report on Importance of Access during Transport", sent on 5 February 2013. I am replying as Director responsible for animal welfare in the Directorate General for Health and Consumers.

Your letter and report are following up a reply from Mr Gavinelli<sup>2</sup> to a previous letter from you concerning the interpretation of the rules on access to animals during transport. In your view the reply was not exhaustive and therefore you are seeking further guidance on the issue.

The Commission is always available for guidance on the interpretation of Regulation (EC) N°1/2005, in order to ensure proper animal welfare and a harmonised implementation of EU legislation. It remains however the discretion of the Commission to decide on when, and on which level of details it will provide its guidance. When deciding on this, the Commission will, in particular, consider whether:

- guidance from the Commission might improve enforcement and the harmonised implementation of EU legislation;
- findings from audits carried out by the Food and Veterinary Office of the Commission's Health and Consumers Directorate General (FVO) show that guidance would be necessary;
- there are any recently available scientific opinions from the European Food Safety Authority (EFSA);
- there are any related judgements from the Court of Justice of the European Union on the issue and,
- advice is helpful to the central competent authority of a Member State.

Under all other circumstances, the Commission can, in most cases give only a general guidance on the interpretation of EU legislation.

Lesley Moffat  
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<sup>1</sup> Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations; OJ L 3, 5.1.2005, p. 1.

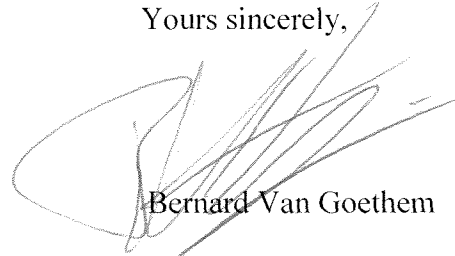
<sup>2</sup> Our reference ARES (2013)40879.

As concerns your question on access to animals during transport, I have studied the information provided in your letters and in your report. I agree that there may be practical circumstances where a side door, rather than the back door, could provide easier access to the animals during transport. However, should the legislator have wanted all trucks to be equipped with side doors, this would have been reflected in the Regulation. I can therefore only confirm what was already stated by Mr Gavinelli, namely, that it is for the competent authorities of the Member States to decide, on a case-by-case basis, if a truck fulfils the requirements of Regulation (EC) No 1/2005 as regards, in this particular case, access to the transported animals.

I would like to clarify that, it is not the task of the Commission to make any judgments on whether a specific truck provides proper access to the animals, as requested in your letter. This task remains under the responsibility of the competent authorities, which, as it has been explained in previous correspondence, are primarily responsible for the enforcement of EU legislation. I do however understand from your letters and report that all Member States may not be fully aware of this issue. I will therefore ensure that this topic will be discussed at the coming meeting with the contact points<sup>3</sup> to Regulation (EC) No 1/2005 which is planned for 25-27 June.

Please note that the above is purely to assist you. It remains the exclusive competence of the Court of Justice of the European Union to interpret EU law authoritatively.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Bernard Van Goethem', is written over a light grey circular stamp or watermark.

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<sup>3</sup> Contact points for the purpose of Regulation (EC) No 1/2005 have been communicated to the Commission in accordance to Article 24(2) of the Regulation.