

## Fitness check of the EU welfare legislation on welfare of farmed animals: Consultation response



OneKind is an animal welfare charity based in Scotland working to protect and advocate for all animals. While we acknowledge that Scotland, as part of the UK, will no longer have direct influence on EU policies and legislation, we still hope for a good level of convergence. Our concerns for animals across the EU are unchanged and we will continue to advocate for their welfare, working with partner organisations in Europe.

While we understand the rationale, OneKind regrets that the fitness check has been limited to legislation relating to farmed animals. This removes the possibility of a holistic approach which recognises that all animals are sentient and deserving of equal protection. It is important that the scope of the fitness check is kept as wide as possible, within the limitations of its remit. As such, **all** legislation applying to farmed animals, and also the applicability of that legislation to animals other than those conventionally farmed, must be considered.

In formulating and implementing policies, full regard must be paid to the welfare requirements of animals, in acknowledgement of their sentience, as is laid down in the Treaty of the Functioning of the European Union. The many instances of poor welfare currently evident in the EU with recognised and avoidable causes suggest the need for strengthened resolve on this point.

Further to this, it is our moral imperative to ensure that the animals we exploit for food and profit are given the opportunity to flourish, not simply endure. Outcome-based indicators that give evidence of the animals' lived experience should be used to evaluate welfare, and strategies must be based on the most recent scientific understanding of species-specific needs, to offer animals a good life.

Crucially, it must be acknowledged that many animals are not sufficiently protected by existing legislation. The vague wording of the General Farming Directive has left doubt as to whether it covers less conventional industries, for example puppy farming. These animals are being intensively bred for commercial reasons and there are serious welfare concerns attached, so action must be taken to better protect them.

Even within conventional farming, the lack of species-specific legislation for all but four 'categories' of animals leaves the protection of all others under the protection of the General Farming Directive. It is not fit for this purpose, as the poor welfare inherent in the dairy and aquaculture sectors attest.

The Broiler, Laying hen, Pig and Calves Directives, due to lack of compliance and insufficiently high standards, are failing to ensure good welfare even in these cases where species-specific legislation exists.

There are well documented problems of implementation and enforcement in the Transport Regulation, and gaps in both this and the Slaughter Regulation, which leave millions of animals without sufficient protection.

Here we will give evidence of the key problems of scope, implementation, enforcement, and gaps in legislation that concern us, and that we recommend should be addressed by the fitness check.

### **General Farming Directive**

As the main piece of legislation providing a framework for common understanding and implementation of farmed animal welfare, this Directive has several weaknesses.

Firstly, it is insufficient to provide umbrella guidance for all farmed animals, as animal needs and production systems vary so widely from species to species. Dairy cows provide one example. A 2015 report<sup>1</sup>, by Compassion in World Farming and Eurogroup for Animals, found a variety of welfare concerns, and that “Few Member States are giving any detailed consideration to what is entailed in enforcing the Directive and the Recommendation in respect of dairy cows”.

In 2017 a DG Health and Food Safety *Overview report on the welfare of cattle on dairy farms* found that it was “almost impossible to get an overall picture of the level of welfare in the EU dairy sector with the data publicly available.” They also noted that Member States (MS) had not established clear welfare indicators for most parameters or monitoring systems for existing ones. They conclude that many farmers desire to provide good welfare but lack clear benchmarks to do so, and that:

“The current legal framework is flexible enough to cater for the high variable farming conditions, but drives official controls towards checking parameters which might not be key for animal welfare. In addition, the risk profiling of farms for official controls is mainly geared to check cross-compliance in the context of farm subsidies.”

Independent experts have agreed that legislation specifically tailored to dairy cows is necessary to improve welfare<sup>23</sup>.

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<sup>1</sup> <https://www.ciwf.org.uk/media/7425976/compassion-and-eurogroup-2015-report-on-welfareof-eu-dairy-cows.pdf>

<sup>2</sup> [https://www.fve.org/cms/wp-content/uploads/002-FVE-position-cattle-lameness\\_adopted.pdf](https://www.fve.org/cms/wp-content/uploads/002-FVE-position-cattle-lameness_adopted.pdf)

<sup>3</sup> <https://www.mdpi.com/2076-2615/9/12/1066>

Furthermore, a report for the European Parliament's (EP) Petitions Committee stated that "dairy cow welfare [ . . . ] may be considered to be the second greatest animal welfare problem in the EU"<sup>4</sup>.

The Court of Auditors report, *Animal welfare in the EU: closing the gap between ambitious goals and practical implementation (2018)* mentions diseases affecting the welfare of dairy cows as an outstanding welfare concern.

Other animals lacking specific legislation include sheep, turkeys, ducks, geese, rabbits and farmed fish. Additionally, the broilers and laying hen directives do not cover smaller establishments or parent birds, leaving those individuals less protected.

The case of fish is particularly troubling, as their requirements and production systems are notably different from terrestrial animals, so are even more neglected by existing legislation.

This has led to the conclusion that "The Directive 98/58 has offered relatively little protection to animals, so at present, about 65% of animals kept by man are protected by EU law, during normal living conditions, and 35%, perhaps 300 million, are not [ . . . ] At present in the EU, there is a large amount of animal suffering that could be prevented."<sup>4</sup>

The vague wording of the General Farming Directive has left doubt as to whether it covers less conventional industries, for example puppy farming. These animals are being intensively bred for commercial reasons and there are serious welfare concerns attached, so action must be taken to better protect them. Better wording should clarify their inclusion in the scope. However, as an arguably unethical practice, it should not be legitimised. Rather, a revision of legislation should seek to ban large scale breeding of cats and dogs, and resources must be better employed to effectively end the international trade in puppies and kittens.

The second weakness with Directive 95/58/EC is that it is outdated, and does not reflect current scientific understanding of animal welfare<sup>4</sup>, or public demand for improved conditions for farmed animals, demonstrated, for example, by the *End the Cage Age* European Citizens Initiative, which gathered more than 1.5 million signatures. The Directive does not recognise the sentience of animals, and is based on the Five Freedoms, which are restricted to aiming for a lack of suffering and do not provide opportunities for positive experiences or thriving.

Furthermore, the directive is worded too generally, allowing it to be interpreted very differently by different MS, and it has led to few, if any, prosecutions, suggesting that enforcement is weak.

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<sup>4</sup> [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/583114/IPOL\\_STU\(2017\)583114\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/583114/IPOL_STU(2017)583114_EN.pdf)

## **Slaughter Regulation**

This Regulation fails in its purpose to ensure that all animals are protected at the time of killing by continuing to permit non-stun slaughter, water-bath stunning of poultry, and CO2 stunning of pigs, all of which cause severe, unnecessary and preventable suffering.

The Regulation lacks specific information on the stunning and slaughter of fish, and most fish in the EU are ineffectively stunned or killed by asphyxiation on ice, despite the availability of technical information and economically viable commercial equipment for the humane stunning of fish.

The exclusion of the killing of wild animals from the scope of this Regulation allows millions of animals to be killed in inhumane ways. As this killing is frequently done for population control to protect agricultural interests, this exclusion cannot be justified.

## **Transport Regulation**

DG Sante carried out a series of audits between 2017 and 2019 which highlighted major welfare violations due to lack of enforcement of this Regulation. Long journeys, particularly for animals being exported outside of the EU, and high temperatures were the main concerns, and poor animal handling and the transport of unfit animals and un-weaned animals in unsuitable containers were also mentioned. Inadequate inspections, record-keeping and co-ordination throughout the systems, and a lack of technology required for MS and the Commission to monitor and evaluate transport, mean that it is impossible to have an overview of welfare conditions.

In addition to failing to protect terrestrial farmed animals, the Regulation fails to provide for the welfare of fish. Some of its specifications are not applicable to fish, such as the requirement for non-slip flooring, while others are actively detrimental to their welfare, such as the requirement for inspection which may cause fish stress. Key requirements, such as the monitoring of water quality throughout the journey, are missing. Updated transport legislation must also provide for decapod crustaceans and cephalopods.

Despite a burgeoning international trade in puppies and kittens, the Regulation fails to provide any species-specific guidance for cats and dogs. As their welfare requirements and the methods used to transport them are substantially different than those of animals farmed for food, this is a major gap in legislation which must urgently be addressed.

Likewise, wild animals being transported, primarily for the exotic pet trade or for use in circuses, are not protected; they should be, as they are being transported for commercial purposes as set out in the Regulation.

OneKind is opposed to the use of animals in circuses, the trade in exotic animals, and to the industry commonly referred to as 'puppy farming'. However, while these practices exist, the formulation, implementation and enforcement of legislation must consider them.

## **Broilers Directive**

The broiler Directive aims to address the welfare challenges influenced by environment and husbandry. However, its implementation and impact vary widely across MS, as reported in the 2017 DG Health and Food Safety *Study on the application of the broilers Directive (2007/43/EC) and development of welfare indicators*.

Not all MS provide appropriate staff training. The specified welfare indicators are not all used by all MS and inspectors tend to focus more on resources provided than animal-based indicators. Also, enforcement is weak and the use of penalties is low.

The Court of Auditors report, *Animal welfare in the EU: closing the gap between ambitious goals and practical implementation (2018)* lists the assessment of technical requirements, such as ventilation, for chickens kept for meat as an outstanding welfare concern.

Aside from these problems, the Directive has not set sufficiently high standards to ensure good welfare for these animals. The allowance of fast-growing breeds is the most egregious harm. The pain and poor welfare evident in a large proportion of chickens raised for meat, in the latter stages of their growth, due to leg and other disorders caused by genetic selection and ad libitum food provision, has been described as “the greatest animal welfare problem in the world”<sup>4</sup>.

Additionally, there are no specifications requiring enrichment, access to perches or the outdoors, or minimum levels of natural light. The legislation does not include parent birds, whose needs are different, a glaring omission leaving millions of birds without specific provisions.

## **Pigs Directive**

The welfare challenges faced by pigs are some of the most severe of any farmed animal. There is an ongoing lack of enforcement regarding provision of suitable enrichment and the ban on routine tail docking. Moreover, the Directive does not require sufficiently high standards to meet pig welfare requirements according to either scientific evidence or public opinion.

Regular audits carried out by DG Health and Food Safety have found persistent and widespread non-compliance - with 95-100% of pigs still being tail docked in the highest pig producing MS, in their most recent reports.

Tail docking is mentioned as an outstanding animal welfare concern in the European Court of Auditors report, *Animal welfare in the EU: closing the gap between ambitious goals and practical implementation (2018)* and the European Council conclusions (Dec 19) state that Directive 2008/120 needs development due to practical problems in implementation.

Reduced stocking densities, the provision of sufficient and suitable rooting material, access to outdoor and enriched spaces, and ending the use of fully slatted floors are all necessary for good welfare and would reduce the prevalence of tail biting and the perceived need for tail docking.

Painful mutilations such as castration, tail docking and tooth trimming are permitted under the Directive, without pain relief, despite evidence that they cause pain and stress.<sup>5</sup>

The public support for the 'End the Cage Age' initiative, and recent scientific evidence questioning the rationale behind it, both require and end to the use of farrowing crates.

### **Laying Hens Directive**

The use of cages is allowed under this Directive, in contravention of overwhelming public desire to End the Cage Age and despite the negative impacts of enriched cages. There are no mandatory specifications regarding access to outdoor or free-range spaces. Mutilations such as beak-trimming are allowed under certain circumstances, despite evidence that they are unnecessary.<sup>6</sup>

### **Calves Directive**

The early separation of cows and calves, and the possibility of calves being isolated in early life, permitted under this Directive, pose grave welfare concerns.

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<sup>5</sup> <https://www.frontiersin.org/articles/10.3389/fvets.2019.00462/full>

<sup>6</sup> [http://www.barnhealth.com/wp-content/uploads/2016/04/BeakTrimming\\_status.pdf](http://www.barnhealth.com/wp-content/uploads/2016/04/BeakTrimming_status.pdf)