

Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (Text with EEA relevance)

COUNCIL REGULATION (EC) No 1099/2009

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on the protection of animals at the time of killing

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament⁽¹⁾,

Having regard to the Opinion of the European Economic and Social Committee⁽²⁾,

After consultation of the Committee of the Regions,

Whereas:

- (1) Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing⁽³⁾ establishes common minimum rules for the protection of animals at the time of slaughter or killing in the Community. That Directive has not been substantially amended since its adoption.
- (2) Killing animals may induce pain, distress, fear or other forms of suffering to the animals even under the best available technical conditions. Certain operations related to the killing may be stressful and any stunning technique presents certain drawbacks. Business operators or any person involved in the killing of animals should take the necessary measures to avoid pain and minimise the distress and suffering of animals during the slaughtering or killing process, taking into account the best practices in the field and the methods permitted under this Regulation. Therefore, pain, distress or suffering should be considered as avoidable when business operators or any person involved in the killing of animals breach one of the requirements of this Regulation or use permitted practices without reflecting the state of the art, thereby inducing by negligence or intention, pain, distress or suffering to the animals.
- (3) The protection of animals at the time of slaughter or killing has been covered by Community law since 1974, and was substantively reinforced by Directive 93/119/EC. However, large discrepancies have been observed between the Member States in implementing that Directive and major welfare concerns and differences susceptible to affect competitiveness between business operators have been pointed out.

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- (4) Animal welfare is a Community value that is enshrined in the Protocol (No 33) on protection and welfare of animals annexed to the Treaty establishing the European Community (Protocol (No 33)). The protection of animals at the time of slaughter or killing is a matter of public concern that affects consumer attitudes towards agricultural products. In addition, improving the protection of animals at the time of slaughter contributes to higher meat quality and indirectly has a positive impact on occupational safety in slaughterhouses.
- (5) National law concerning the protection of animals at the time of slaughter or killing has an impact on competition and, accordingly, on the operation of the internal market in products of animal origin included in Annex I to the Treaty establishing the European Community. It is necessary to establish common rules in order to ensure the rational development of the internal market in those products.
- (6) The European Food Safety Authority (EFSA), established by Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽⁴⁾, has adopted two opinions on the welfare aspects of the main systems of stunning and killing of certain species of animals, namely on the welfare aspects of the main systems of stunning and killing the main commercial species of animals, in 2004, and on the welfare aspects of the main systems of stunning and killing applied to commercially farmed deer, goats, rabbits, ostriches, ducks, geese and quail, in 2006. Community law in this area should be updated to take into account those scientific opinions. Recommendations to phase out the use of carbon dioxide for pigs and the use of waterbath stunners for poultry are not included in this Regulation because the impact assessment revealed that such recommendations were not economically viable at present in the EU. However, it is important to continue this discussion in the future. To this end, the Commission should prepare and submit to the European Parliament and to the Council a report on the various stunning methods for poultry, and in particular multiple-bird waterbath stunners. Furthermore, other recommendations should be excluded from this Regulation because they refer to technical parameters that should be part of implementing measures or Community guidelines. Recommendations on farm fish are not included in this Regulation because there is a need for further scientific opinion and economic evaluation in this field.
- (7) In 2007, the World Organisation for Animal Health (OIE) adopted the Terrestrial Animal Health Code which includes guidelines for the slaughter of animals and for the killing of animals for disease control purposes. Those international guidelines contain recommendations concerning the handling, restraining, stunning and bleeding of animals in slaughterhouses and the killing of animals in cases of outbreak of contagious diseases. Those international standards should also be taken into account in this Regulation.
- (8) Since the adoption of Directive 93/119/EC, Community food safety legislation applicable to slaughterhouses has been profoundly amended by the adoption of Regulation (EC) No 852/2004 of the European Parliament and of the Council of

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29 April 2004 on hygiene of foodstuffs⁽⁵⁾ and Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin⁽⁶⁾. Those Regulations emphasise the responsibility of food business operators to ensure food safety. Slaughterhouses are also subject to a pre-approval procedure whereby the construction, layout and equipment are examined by the competent authority to ensure that they comply with the corresponding technical rules on food safety. Animal welfare concerns should be better integrated into slaughterhouses, their construction and layout, as well as the equipment used therein.

- (9) Official controls in the food chain have also been reorganised by the adoption of 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⁽⁷⁾ and Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption⁽⁸⁾.
- (10) Conditions under which animals kept for farming purposes are killed have a direct or indirect impact on the market for food, feed or other products and on the competitiveness of the business operators concerned. Therefore, such killing operations should be covered by Community law. However, traditionally farmed species such as horses, donkeys, cattle, sheep, goats or pigs can also be kept for other purposes, such as, for example, pets, animals for shows, work purposes, or sports. Where the killing of animals of such species produces food or other products, those operations should fall within the scope of this Regulation. Consequently, the killing of wild or stray animals for population control purposes should not fall within the scope of this Regulation.
- (11) Fish present substantial physiological differences from terrestrial animals and farmed fish are slaughtered and killed in a very different context, in particular as regards the inspection process. Furthermore, research on the stunning of fish is far less developed than for other farmed species. Separate standards should be established on the protection of fish at killing. Therefore, provisions applicable to fish should, at present, be limited to the key principle. Further initiatives by the Community should be based on a scientific risk assessment for the slaughter and killing of fish performed by EFSA and taking into account the social, economic and administrative implications.
- (12) It is an ethical duty to kill productive animals which are in severe pain where there is no economically viable way to alleviate such pain. In most cases, animals can be killed respecting proper welfare conditions. However, under exceptional circumstances, such as accidents in remote locations, where competent personnel and equipment cannot reach the animals, complying with optimal welfare rules could prolong their suffering. In the interest of the animals it is, therefore, appropriate to exclude emergency killing from the application of certain provisions of this Regulation.
- (13) Occasionally animals can be dangerous for human beings, possibly putting human life at risk, inflicting serious injuries or transmitting deadly diseases. Preventing those risks is usually performed through the proper restraining of animals but it may also be necessary to kill dangerous animals to end such risks in certain circumstances. Under those

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circumstances, the killing cannot always be performed under the best welfare conditions due to the emergency. Therefore, it is necessary to derogate from the obligation to stun or immediately kill the animals in those cases.

- (14) Hunting or recreational fishing activities take place in a context where conditions of killing are very different from the ones used for farmed animals and hunting is subject to specific legislation. It is therefore appropriate to exclude killings taking place during hunting or recreational fishing from the scope of this Regulation.
- (15) Protocol No (33) underlines the need to respect the legislative or administrative provisions and customs of the Member States relating, in particular, to religious rites, cultural traditions and regional heritage when formulating and implementing the Community's policies on, *inter alia*, agriculture and the internal market. It is therefore appropriate to exclude from the scope of this Regulation cultural events, where compliance with animal welfare requirements would adversely affect the very nature of the event concerned.
- (16) In addition, cultural traditions refer to an inherited, established, or customary pattern of thought, action or behaviour which includes in fact the concept of something transmitted by, or acquired from, a predecessor. They contribute to fostering long-standing social links between generations. Provided that those activities do not affect the market of products of animal origin and are not motivated by production purposes, it is appropriate to exclude the killing of animals taking place during those events from the scope of this Regulation.
- (17) The slaughter of poultry, rabbits and hares for private domestic consumption is not performed on a scale likely to affect the competitiveness of commercial slaughterhouses. Similarly, the necessary efforts required from public authorities to detect and control such operations would not be proportionate to the potential problems to be solved. It is, therefore, appropriate to exclude those operations from the scope of this Regulation.
- (18) Derogation from stunning in case of religious slaughter taking place in slaughterhouses was granted by Directive 93/119/EC. Since Community provisions applicable to religious slaughter have been transposed differently depending on national contexts and considering that national rules take into account dimensions that go beyond the purpose of this Regulation, it is important that derogation from stunning animals prior to slaughter should be maintained, leaving, however, a certain level of subsidiarity to each Member State. As a consequence, this Regulation respects the freedom of religion and the right to manifest religion or belief in worship, teaching, practice and observance, as enshrined in Article 10 of the Charter of Fundamental Rights of the European Union.
- (19) There is sufficient scientific evidence to demonstrate that vertebrate animals are sentient beings which should therefore fall within the scope of this Regulation. Reptiles and amphibians, however, are not animals commonly farmed in the Community and it would not, therefore, be appropriate or proportionate to include them within its scope.
- (20) Many killing methods are painful for animals. Stunning is therefore necessary to induce a lack of consciousness and sensibility before, or at the same time as, the animals are

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killed. Measuring the lack of consciousness and sensibility of an animal is complex and needs to be performed under scientifically approved methodology. Monitoring through indicators, however, should be carried out to evaluate the efficiency of the procedure under practical conditions.

- (21) Monitoring stunning efficiency is mainly based on the evaluation of consciousness and sensibility of the animals. The consciousness of an animal is essentially its ability to feel emotions and control its voluntary mobility. Despite some exceptions, such as electro-immobilisations or other provoked paralysis, an animal can be presumed to be unconscious when it loses its natural standing position, is not awake and does not show signs of positive or negative emotions such as fear or excitement. Sensibility of an animal is essentially its ability to feel pain. In general, an animal can be presumed to be insensitive when it does not show any reflexes or reactions to stimulus such as sound, odour, light or physical contact.
- (22) New stunning methods are regularly developed and proposed on the market in order to face the new challenges of the farming and meat industry. It is, therefore, important to authorise the Commission to approve new stunning methods while keeping a uniform and high level of protection for animals.
- (23) Community guidelines are a useful tool to provide business operators and competent authorities with specific information on the parameters to be used in order to ensure a high level of protection for animals while keeping a level playing field for business operators. It is, therefore, necessary to authorise the Commission to draw up such guidelines.
- (24) Depending on how they are used during the slaughtering or killing process, some stunning methods can lead to death while avoiding pain and minimising distress or suffering for the animals. Other stunning methods may not lead to death and the animals may recover their consciousness or sensibility during subsequent painful procedures. Such methods should, therefore, be completed by other techniques that lead to certain death before the recovery of the animals. It is, therefore, essential to specify which stunning methods need to be completed by a killing method.
- (25) The conditions under which animals are stunned and the results of such stunning vary in practice due to many factors. Regular assessment of the outcome of stunning should therefore be made. For that purpose, business operators should establish a representative sample to check the efficiency of their stunning practices, taking into account the homogeneity of the group of animals, and other critical factors, such as the equipment used and the personnel involved.
- (26) Some stunning protocols may prove to be sufficiently reliable to irreversibly kill the animals in all circumstances if specific key parameters are applied. In such cases, the need for checks for stunning would appear unnecessary and disproportionate. It is therefore appropriate to provide for the possibility to grant derogations from the obligations regarding checks on stunning when there is sufficient scientific evidence that a given stunning protocol provides for irreversible death to all animals under certain commercial conditions.

- (27) The welfare of animals is largely influenced by the daily management of the operations, and reliable results can only be obtained if business operators develop monitoring tools to evaluate their effects. Standard operating procedures should therefore be developed at all stages of the production cycle and should be risk-based. They should include clear objectives, responsible persons, modus operandi, measurable criteria, as well as monitoring and recording procedures. Key parameters set out for each stunning method should be specified in a way ensuring proper stunning of all animals submitted to the process.
- (28) Well trained and skilled personnel improve the conditions under which animals are treated. Competence with regards to animal welfare implies knowledge of the basic behavioural patterns and the needs of the species concerned as well as signs of consciousness and sensibility. It also includes technical expertise with regard to the stunning equipment used. Personnel carrying out certain slaughter operations and people supervising the seasonal killing of fur animals should therefore be required to have a certificate of competence relevant to the operations they perform. Requiring a certificate of competence for other personnel killing animals would, however, be disproportionate to the aims pursued.
- (29) Personnel with several years of experience may be presumed to have a certain level of expertise. A transitional provision regarding the certificate of competence requirements should therefore be provided for in this Regulation with regards to such personnel.
- (30) Stunning equipment is developed and designed to be efficient in a specific context. Manufacturers should therefore provide detailed instructions to users concerning the conditions under which equipment should be used and maintained to ensure optimal welfare for the animals.
- (31) In order to ensure efficiency, stunning and restraining equipment should be properly maintained. Equipment that is used intensively may require the replacement of certain parts and even equipment occasionally used may decrease in efficiency due to corrosion or other environmental factors. Similarly, some equipment also needs to be accurately calibrated. Business operators or any person involved in the killing of animals should therefore implement maintenance procedures for that equipment.
- (32) Restraining animals is necessary for the safety of operators and the proper application of some stunning techniques. However, restraining is likely to create distress to the animals and should therefore be applied for as short a period as possible.
- (33) Animals may suffer when stunning procedures fail. This Regulation should therefore provide for appropriate back-up stunning equipment to be available to minimise pain, distress or suffering to the animals.
- (34) The scale of the slaughtering of poultry, rabbits and hares for the direct supply of small quantities of meat to the final consumer or to local retail establishments supplying such meat directly to the final consumer as fresh meat, varies from one Member State to the other due to the national rules governing this activity in accordance with Article 1(3)(d) and 4 of Regulation (EC) No 853/2004. It is, however, important to ensure that certain minimum animal welfare requirements apply also to those activities.

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- (35) With regard to the slaughter of certain categories of animals, other than poultry, rabbits and hares, for private domestic consumption, certain minimum Community requirements such as prior stunning as well as national rules exist already. Therefore, it is appropriate to ensure that minimum animal welfare rules are established also in this Regulation.
- (36) Regulation (EC) No 854/2004 provides for a list of establishments from which imports into the Community of specified products of animal origin are permitted. The general requirements and the additional requirements applicable to slaughterhouses laid down in this Regulation should be taken into account for the purposes of that list.
- (37) The Community seeks to promote high welfare standards in animal livestock populations worldwide, particularly in relation to trade. It supports the specific standards and recommendations on animal welfare of the OIE, including on the slaughter of animals. Such standards and recommendations should be taken into account when equivalency with Community requirements under this Regulation needs to be established for the purpose of imports.
- (38) Guides to good practice drawn up by organisations of business operators are valuable instruments to help business operators comply with certain requirements laid down in this Regulation, such as, for instance, the development and implementation of standard operating procedures.
- (39) Slaughterhouses and the equipment used therein are designed for particular categories of animals and capacities. Where those capacities are exceeded or the equipment is used for purposes for which it was not designed, it has a negative impact on the welfare of animals. Information on these aspects should therefore be communicated to the competent authorities and should be part of the approval procedure for slaughterhouses.
- (40) Mobile slaughterhouses reduce the need for animals to be transported over long distances and therefore may contribute to safeguarding animal welfare. However, technical constraints for mobile slaughterhouses differ from fixed slaughterhouses and technical rules may need to be consequently adapted. Therefore, this Regulation should provide for the possibility to establish derogations exempting mobile slaughterhouses from the requirements on layout, construction and equipment of slaughterhouses. Pending the adoption of such derogations, it is appropriate to allow Member States to establish or maintain national rules regarding mobile slaughterhouses.
- (41) Scientific and technical progress is regularly made with regard to the construction, layout and equipment of slaughterhouses. It is therefore important to authorise the Commission to amend the requirements applicable to the construction, layout and equipment of slaughterhouses while keeping a uniform and high level of protection for animals.
- (42) Community guidelines are useful to provide business operators and the competent authorities with specific information on the construction, layout and equipment of slaughterhouses in order to ensure a high level of protection for animals, while maintaining a level playing field for business operators. It is therefore necessary to authorise the Commission to adopt such guidelines.

- (43) Slaughter without stunning requires an accurate cut of the throat with a sharp knife to minimise suffering. In addition, animals that are not mechanically restrained after the cut are likely to endure a slower bleeding process and, thereby, prolonged unnecessary suffering. Animals of bovine, ovine and caprine species are the most common species slaughtered under this procedure. Therefore, ruminants slaughtered without stunning should be individually and mechanically restrained.
- (44) Science and technical progress are regularly made with regard to the handling and restraining of animals at slaughterhouses. It is therefore important to authorise the Commission to amend the requirements applicable to the handling and restraining of animals before slaughter while keeping a uniform and high level of protection for animals.
- (45) Community guidelines are useful to provide business operators and competent authorities with specific information on the handling and restraining of animals before slaughter in order to ensure a high level of protection for the animals, while maintaining a level playing field for business operators. It is therefore necessary to authorise the Commission to adopt such guidelines.
- (46) The experience gained in some Member States has shown that the appointment of a specifically qualified person as an animal welfare officer to coordinate and follow up the implementation of animal welfare operating procedures in slaughterhouses has provided positive welfare benefits. This measure should therefore be applied throughout the Community. The animal welfare officer should have sufficient authority and technical competence to provide relevant guidance to slaughter line personnel.
- (47) Small slaughterhouses predominantly involved in the direct sale of food to the final consumer do not require a complex system of management to implement the general principles of this Regulation. The requirement to have an animal welfare officer in place would therefore be disproportionate to the objectives pursued in those cases and this Regulation should provide for a derogation from that requirement for such slaughterhouses.
- (48) Depopulation often involves crisis management with parallel priorities, such as animal health, public health, environment, or animal welfare. Whilst it is important that animal welfare rules are complied with at all stages in the process of depopulation, it may occur that under exceptional circumstances compliance with those rules may put human health at risk or may significantly slow down the process of eradication of a disease, thereby exposing more animals to sickness and death.
- (49) Accordingly, the competent authorities should be permitted to derogate from certain provisions of this Regulation on a case-by-case basis where the animal health situation requires the emergency killing of animals and/or when no suitable alternatives are available to provide optimum welfare for them. Such derogations should not, however, be a substitute for proper planning. To this end, the level of planning should be increased and animal welfare properly integrated into contingency plans for contagious diseases.
- (50) For the purpose of animal disease notification procedures, information on outbreaks of diseases in accordance with Directive 82/894/EEC of 21 December 1982 on the

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notification of animal diseases within the Community⁽⁹⁾ is notified through the Animal Disease Notification System (ADNS). At present, ADNS does not provide specific information on animal welfare but may be developed in the future to do so. As a consequence, a derogation from the reporting obligation on animal welfare in case of depopulation should be foreseen in order to envisage the further development of ADNS.

- (51) Modern stunning and restraining equipment is increasingly complex and sophisticated, requiring specific expertise and analysis. Member States should therefore ensure that sufficient scientific support is made available to the competent authority, to which officials could refer when equipment or methods for stunning animals need to be assessed.
- (52) The efficiency of each stunning method is based on the control of key parameters and its regular evaluation. Developing guides to good practice on operating and monitoring procedures for use when killing animals is important in providing proper guidance on animal welfare for business operators. The evaluation of such guides requires scientific knowledge, practical experience and compromise among stakeholders. A reference centre or network in each Member State should therefore perform this task in cooperation with the relevant interested parties.
- (53) The delivery of certificates of competence should be provided in a uniform manner. Bodies or entities issuing certificates of competence should therefore be accredited according to consistent standards which should be assessed scientifically. Accordingly, the entity providing scientific support in conformity with Article 20 should provide, where necessary, its opinion on the capacity and suitability of bodies or entities issuing certificates of competence.
- (54) Regulation (EC) No 882/2004 provides for certain action to be taken by the competent authority in case of non-compliance, in particular with regard to welfare rules. Accordingly, it is only necessary to provide for the additional action to be taken that is specific to this Regulation.
- (55) Regulation (EC) No 178/2002 provides that EFSA shall promote the networking of organisations operating in the field within the Authority's missions so as to facilitate scientific cooperation, the exchange of information, the development and implementation of joint projects, as well as the exchange of expertise and best practices in the field of food law.
- (56) The delivery of certificates of competence and training courses should be provided in a uniform manner. This Regulation should therefore set out the obligations of the Member States in this respect and the modalities under which certificates of competence are to be granted, suspended or withdrawn.
- (57) European citizens expect a minimum of welfare rules to be respected during the slaughter of animals. In certain areas, attitudes towards animals also depend on national perceptions and there is a demand in some Member States to maintain or adopt more extensive animal welfare rules than those agreed upon at Community level. In the interest of the animals and provided that it does not affect the functioning of the internal

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market, it is appropriate to allow Member States certain flexibility to maintain or, in certain specific fields, adopt more extensive national rules.

It is important to ensure that such national rules are not used by Member States in a way to prejudice the correct functioning of the internal market.

- (58) In some areas within the scope of this Regulation, the Council needs further scientific, social and economic information before establishing detailed rules, in particular, in the case of farmed fish and concerning the restraint by inversion of cattle. As a consequence, it is necessary that the Commission provide this information to the Council before proposing any amendment in those areas of this Regulation.
- (59) The layout, construction and equipment of slaughterhouses require long-term planning and investment. Accordingly, this Regulation should provide for an appropriate transitional period to take into account the necessary time to allow the industry to adapt to the corresponding requirements set out in this Regulation. During that period, the requirements of Directive 93/119/EC that are applicable to the layout, construction and equipment of slaughterhouses should continue to apply.
- (60) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (61) Since the objective of this Regulation, namely to ensure a harmonised approach with regard to animal welfare standards at the time of killing, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Regulation, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, it is necessary and appropriate for the achievement of that objective to lay down specific rules for the killing of animals for the production of food, wool, skin, fur or other products, and for related operations. This Regulation does not go beyond what is necessary in order to achieve that objective.
- (62) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁰⁾,

HAS ADOPTED THIS REGULATION:

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- (1) Opinion of 6 May 2009 (not yet published in the Official Journal).
- (2) Opinion of 25 February 2009 (not yet published in the Official Journal).
- (3) OJ L 340, 31.12.1993, p. 21.
- (4) OJ L 31, 1.2.2002, p. 1.
- (5) OJ L 139, 30.4.2004, p. 1.
- (6) OJ L 139, 30.4.2004, p. 55.
- (7) OJ L 191, 28.5.2004, p. 1.
- (8) OJ L 226, 25.6.2004, p. 83.
- (9) OJ L 378, 31.12.1982, p. 58.
- (10) OJ L 184, 17.7.1999, p. 23.

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