



Brussels, 8.9.2016
COM(2016) 558 final

**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**

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

1. Introduction

Article 5(2) of Directive 98/58/EC requires the Commission to submit a report to the Council based on the experience gained by Member States since its implementation.

Commission Decision 2006/778/EC¹ lays down provisions *concerning minimum requirements for collecting information during inspections of production sites on which certain animals are kept for farming purposes*. Its annexes contain tables of the requirements to be checked with regard to non-compliance. Under this Decision, Member States have been obliged to send the Commission annual reports since June 2009. Also, recital (9) of this Decision indicates that “*the collection of data on animal welfare inspections is essential for the Community to evaluate the impact of its policy in this field*”.

The EU Animal Welfare Strategy 2012-2015² identifies lack of enforcement of EU legislation as one of the main problems affecting the welfare of animals. In addition the report to the Council on the implementation of Council Directive 98/58/EC of 20 July 1998 *concerning the protection of animals kept for farming purposes*³ provides valuable insight into areas of enforcement.

2. Methodology

The report covers the period from 1 January 2011 to 31 December 2014.

Three sources of information have been used in compiling this report:

Firstly, the data used stem from reports of the Commission containing the results of its audits performed in Member States. The reports are mainly from the years 2011-2013, as the audits performed in those years specifically targeted the on-farm situation (see Table 1 of Annex I).

Secondly, each Member State must ensure that animal welfare inspections are performed in line with the rules on official controls laid down in Regulation (EC) No 882/2004⁴. National competent authorities are responsible for reporting the findings of these inspections annually to the Commission. The Commission has used the data provided by the Member States⁵ for the years 2013 and 2014 as these data tend to reflect the most recent situation. An overview of

¹ Commission Decision 2006/778/EC of 14 November 2006 concerning minimum requirements for the collection of information during the inspections of production sites on which certain animals are kept for farming purposes; OJ L 314, 15.11.2006, p. 39.

² COM(2012) 6 final/2.

³ OJ L 221, 8.8.1998, p. 23.

⁴ Regulation (EC) No 882/2004 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.

⁵ Certain data from these reports have been extrapolated and are presented in Annex I.

the number of holdings subject to inspection and the percentage of sites inspected is shown in Table 2 of Annex I.

Finally, the Commission at times receives complaints⁶ concerning the alleged failure of one or more Member States to apply Union law. These complaints can also provide valuable insight into areas that are perceived by citizens to not be properly enforced.

3. Findings

3.1 System for surveillance and inspections

Commission audits show that Member States have put in place a risk based system for selecting sites for inspection. A significant reason for carrying out risk-based animal welfare inspections on farms was Regulation 882/2004 on official controls and cross-compliance checks for single farm payments⁷.

Several Member States describe in detail their system for selecting the holdings to be inspected which also confirms the use of a risk-based approach. In addition, EU legislation requires that the absolute number of inspections must⁸ be proportionate to the scale of production and the number of animals involved.

Moreover Member States need to follow up any recommendation made during audits. The Commission noted in its audits that national officials took action in all cases. Nevertheless it also found that the measures were insufficient to achieve compliance in three of the Member States. In two of these Member States this was found to be due to the lack of sanctions that were dissuasive enough while one Member State had not pursued the case adequately.

3.2. Variations in Member States' reporting

The considerable differences in Member States' reporting make the interpretation and comparison of the data generally more difficult.

An online form was developed in 2012 based on the tables of Decision 2006/778/EC, which Member States have been using in 2013 and 2014. This online form has allowed the Commission to analyse the reported figures more efficiently. However some inconsistencies persist. This is especially true of domestic fowl. According to the definition of the term 'domestic fowl'⁹ this column should only be used for chickens kept for meat production

⁶ COM/2012/0154 final - Communication from the Commission to the Council and the European Parliament Updating the handling of relations with the complainant in respect of the application of Union law.

⁷ Farmers may receive direct payments provided that they maintain their land in good agricultural condition and comply with the standards on public health, animal and plant health, the environment and animal welfare (cross-compliance) contained in the Regulation.

⁸ Directives 2008/120/EC and 2008/119/EC require inspections to 'each year cover a statistically representative sample of the different rearing systems used in each Member State'.

⁹ Commission Decision 2006/778/EC, Annex IV, Table 2: Domestic fowl refers to poultry of the species *Gallus gallus* with the exception of laying hens.

(broilers). However, several Member States have also included figures for small laying hen holdings¹⁰ in the domestic fowl column. It is therefore impossible to know whether the findings are representative of broiler or laying hen holdings.

A similar problem exists for the ‘cattle’ category which includes both beef and dairy production systems. As the risks to animal welfare in the two systems differ, a separate analysis of the data would be useful.

3.3. Technical findings

Firstly, for the findings to be considered representative of the production system, the percentage of holdings inspected compared to the total number of holdings needs to be high enough (see Figure 1 of Annex I). In only one case did the Commission experts highlight that the number of facilities inspected was quite low compared to the scale of production. The Commission reported no inadequacies relating to the risk-based selection of holdings.

It should be noted that the number of holdings inspected was particularly high for both laying hens and sows in 2013 and 2014. This may be due to the ban on unenriched cages for laying hens (2012) and the introduction of group housing of sows (2013), and the linked obligation to ensure full compliance.

Secondly, with regard to the number of non-compliances, it is important to bear in mind that these include all types of breaches of EU legislation, even minor ones. Categories A and B in Table 3 cover administrative acts of non-compliance, which result in a request to address the issue either within three months or sometimes longer. Category C covers more severe breaches which result in immediate action for administrative or criminal penalties. By way of illustration, only 8.1 % of the breaches in domestic fowl holdings registered in 2014 were severe, resulting in immediate action.

Finally, it is important to take into account that, following a risk based approach those holdings where breaches are most likely to occur are targeted specifically. As a result, any increase in the number of breaches recorded does not necessarily indicate a worsened welfare situation. In addition, the risk-based approach should in general result in animal welfare issues being more rapidly addressed and an improved situation for the animal.

With due regard to methodological weaknesses, these are the findings:

Commission audits

Eighteen of the Commission audits in 2011-13 covered laying hens (13) and/or sows (8). The outcomes of these audits provide a good reflection of the situation prior to the introduction of the ban on unenriched cages for laying hens and the transition to group housing of sows.

¹⁰ Less than 350 hens.

In most of the Member States audited with regard to the keeping of pigs, the Commission experts also reported non-compliance relating to the provision of manipulable material and the avoidance of tail-docking. The findings in these Member States are quite diverse. Some were found to be doing very little with regard to preventing routine tail-docking or providing manipulable material.

There was frequently a lack of insistence by the competent authority to impose other measures, such as changes to environmental conditions or management systems. In addition, unsuitable materials such as metal chains were considered acceptable by a majority of the Member States' officials while suitable materials were e.g. considered incompatible with drainage systems.

Four Member States had issued guidance or introduced measures to reduce non-compliances. Yet, the audits highlighted that Member State officials often lacked expertise on how to interpret the requirements for the provision of manipulable materials, and for management and environmental changes to be made before allowing routine tail-docking.

The Commission also performed 9 audits in 2014¹¹ which found that data from slaughterhouses was used to assess welfare of domestic fowl/broiler farms. However only three Member States audited effectively used this data to check farms. In the other Member States severe lesions were regularly seen at slaughter but with little feedback to those carrying out farm checks.

Member States' reports

Information about breaches reported by the Member States for the farmed species covered by EU animal welfare rules may be found in Table 3 of Annex I.

'Record keeping' is one of the categories where there are a high number of non-compliances for almost all farmed species. This category relates to the insufficient traceability of medicinal treatments and mortalities observed by the farmer, and is an important source of information.

As regards the requirements affecting the animal itself, the most frequent negative finding relate to '*buildings and accommodation*'. The improper design of buildings, floors and fittings falls under this heading. In addition it encompasses the equipment inside the building/cage/pen as well as inadequate use of the facilities such as poor regimes for ventilation or lighting.

The main other types of non-compliance found vary depending on the animal species farmed. For calves it was '*freedom of movement*', which includes an animal's ability to move around and rules concerning tethering, while for domestic fowl it related to regular checks on the functioning of '*automatic and mechanical equipment*'. Problems relating to '*feed, water and*

¹¹ Reference numbers of audit reports: Spain 7079, United Kingdom 7080, Denmark 7061, Germany 7073, Czech Republic 7060, Hungary 7072, Belgium 7059, The Netherlands 7078 and Italy 7075.

other substances' were quite frequent for free-range laying hens, cattle, sheep and goats. This last issue covers the diet itself, an animal's access to feed and water and the checks on any automated feeders or drinkers.

Member States' reports show a rate of non-compliance of 8.4% in 2013 concerning pigs and the provision of manipulable material. For mutilations (i.e. tail-docking but also castration and teeth clipping) the rate of non-compliance registered by the Member States was 2.2%.

Complaints

In 2013 and 2014 the Commission registered eight complaints concerning Member States' failure to provide pigs with manipulable material and routine tail docking. These complaints also reflect the findings of the Commission audits. Of these, five have so far been closed. In the meantime, the Commission has issued guidance in this area¹².

Though there have been complaints on other animal welfare issues such as the production of *foie gras*, transport and welfare at slaughter, numbers remain low for each topic. All complaints have been closely assessed and it has been concluded that there were not sufficient grounds to proceed in any of them. Thus the majority of them have been closed.

4. Conclusion

The general principles and provisions contained in Directive 98/58/EC concerning the protection of animals kept for farming purposes have contributed to the establishment of a common framework for the welfare of farmed animals in the EU. The Directive has also supported the Member States in ensuring that these rules are properly enforced and implemented. Crucially, the Member States are obliged to submit annual reports on the outcome of their checks on the application of animal welfare rules and to identify new targets to improve enforcement; this has led to prioritization of welfare issues. Indeed the reports indicate that Member States seem to be working systematically to address any non-compliance identified and to enforce EU animal welfare rules. This is corroborated by figures from the previous Commission report of 2006¹³ and figures reported by the Member States for 2013 and 2014. There has been a noticeable improvement in the number of compliant holdings.

In fact, with regard to the latest two measures introduced – banning unenriched cages for laying hens (2012) and individual stalls for sows (2013) – action taken by the Commission to encourage all Member States to properly enforce these bans has proved effective. Currently, according to information available to the Commission, all Member States are compliant and are using either enriched cages or alternative systems for laying hens. As regards group

¹² Commission Recommendation (EU) 2016/336 of 8 March 2016 on the application of Council Directive 2008/120/EC laying down minimum standards for the protection of pigs as regards measures to reduce the need for tail-docking; OJ L 62, 9.3.2016, p. 20;

¹³ SWD(2016) 49final http://ec.europa.eu/food/animals/welfare/practice/farm/pigs/index_en.htm
COM(2006) 838final.

housing of sows 25 Member States are compliant while three have declared full compliance. The Commission is in the process of checking the documentation provided to substantiate these claims.

In most cases, the data indicates slight improvements between 2013 and 2014. For example, the registered compliance for domestic fowl and the requirement relating to ‘*automatic and mechanical equipment*’ increased from 82.1 % to 86.4 %. There was also a general improvement reported from 2013 to 2014 in ‘*record keeping*’ and ‘*buildings and accommodations*’ for the majority of species and production systems. A majority of those Member States who have provided an analysis of their findings also mention that there is a general trend towards a change for the better. Some also highlighted that lack of knowledge is often the cause of non-compliance and have for this reason introduced measures on training in their action plans for the coming year.

This overall improvement, including on the part of Member States is supported by the Commission's audits undertaken during the same period. These have concluded that the Member States had followed up recommendations and that the situation had improved compared to previous audits.

It is however necessary to continue to work with the Member States to introduce further improvements in the way compliance with animal welfare rules are reported. For instance, since Decision 2006/778/EC was issued, other legal requirements in the field of animal welfare have been adopted¹⁴. Such legislative changes introduced at a later date are not reflected in today's reporting obligations. Consideration on how best to ensure the harmonious transfer of this additional data, whilst simultaneously keeping administrative burdens to a minimum is needed.

Finally, from the information gathered, it becomes clear that a better common understanding of existing animal welfare rules and how they are to be applied and enforced is required. This is particularly true of certain legal requirements for the welfare of pigs. Between 2013 and 2014, data from the Member States data shows that there was only a small increase in breaches registered as regards the provision of manipulable material and that the number of breaches concerning the tail docking of pigs decreased. This is in contrast to the Commission audit reports showing a much higher number of breaches for these two requirements in most of the Member States audited. Moreover, the numbers of complaints on these issues seem to indicate increased awareness among EU citizens and an interest in the well-being of pigs. The lower figures reported by the Member States could result from a failure to recognise non-compliance. Commission audits showed that with regard to tail docking most Member States considered that they were compliant with Union law. Meanwhile, work has been ongoing on this subject for several years with a view to increasing knowledge and changing attitudes. Commission Recommendation (EU) 2016/336 of 8 March 2016 introduces a number of parameters that are pertinent in reducing tail-biting and lists the characteristics of an optimal enrichment material. The accompanying Staff working document provides Member States

¹⁴ Directive 2007/43/EC.

with further details on the issue and also gives them tools and indicators that can be used in assessing the on farm situation.

As a minimum, the Commission will continue to monitor compliance with the implementation of Council Directive 98/58/EC. However, it is apparent from the action plans and comments provided that the Member States use various tools to better enforcement in this area. In parallel the Commission considers it essential to develop further stakeholder dialogues in order to favour specific initiatives and projects in this field that could be mutually beneficial both from an economic and animal welfare point of view. Against this background the Commission is currently working on a more systematic and visible format for this dialogue, so that all interested parties (animal welfare organisations, scientists, veterinarians, farmers, food processors, food retailers, etc.) could express their concerns, share knowledge and resources to build common activities.

Furthermore, the adoption of a Commission proposal on official controls¹⁵ will open the way for the establishment of European Reference Centres for Animal Welfare that could also contribute to further improvements through the creation and exchange of better technical and scientific knowledge.

¹⁵ Proposal for a Regulation of the European Parliament and of the Council 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, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, 652/2014 and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation); Inter-institutional File: 2013/0140(COD).

Annex I

Table 1

List of Commission audits 2010 - 2014

Member State	Report number	Subject of animal welfare audit	Date
Malta	2010-8386	farms and transport (laying hens, calves, pigs, 2006/778)	Jan 2010
Luxembourg	2010-8385	farms and transport (98/58, 2006/778, laying hens, pigs)	Jan 2010
France	2010-8390	farms and transport (laying hens, pigs, 2006/778)	Feb 2010
Poland	2010-8387	farms and transport (laying hens, pigs)	Feb-Mar 2010
Italy	2010-8388	farms and transport (98/58, laying hens, pigs)	Mar 2010
Romania	2010-8389	farms and transport (laying hens, pigs)	Apr 2010
Bulgaria	2010-8383	farms and transport (laying hens, pigs)	Apr 2010
Czech Republic	2010-8384	farms and transport (laying hens, pigs)	Jun 2010
Sweden	2010-8391	farms and transport (2006/778, laying hens, pigs)	Oct 2010
Denmark	2010-8392	farms and transport (laying hens, pigs)	Nov 2010
Austria	2011-6096	farms and transport (98/58, laying hens, pigs, broilers)	Jan 2011
Portugal	2011-6052	farms and transport (broilers, laying hens, calves, pigs)	May 2011
Poland	2011-6049	farms and transport (98/58, laying hens, pigs, broilers)	May-Jun 2011
Belgium	2011-6039	farms and transport (98/58, laying hens, pigs, broilers)	Jun-Jul 2011
Hungary	2011-6045	farms and transport (98/58, laying hens, broilers, pigs, Council of Europe (CoE) geese)	Sep 2011
Slovakia	2011-6053	farms and transport (laying hens, broilers, pigs)	Sep 2011
Italy	2011-6048	farms and transport (98/58, laying hens, pigs, broilers)	Nov 2011
Ireland	2012-6379	laying hens on farms	Mar 2012
Slovenia	2012-6375	farms and transport (98/58, laying hens, pigs, broilers)	Apr 2012
Netherlands	2012-6376	farms and transport (98/58, laying hens, pigs, broilers, CoE cattle)	May 2012
Bulgaria	2012-6454	farms and transport (laying hens, broilers, pigs)	Jun 2012
Latvia	2012-6525	farms and transport (98/58, 2006/778, laying hens, pigs, broilers, calves, CoE cattle, CoE fur farms)	Oct 2012
Lithuania	2012-6526	farms and transport (98/58, pigs, broilers, CoE fur farms)	Nov 2012
France	2012-6446	farms and transport (laying hens, pigs, broilers, CoE Muscovy ducks)	Nov 2012
Romania	2012-6374	farms and transport (laying hens, pigs, broilers, CoE turkeys, CoE ducks)	Nov 2012
United Kingdom	2013-6822	major farmed species and chickens for meat production (broilers, CoE turkeys)	Feb-Mar 2013
Denmark	2013-6807	major farmed species and chickens for meat production (broilers, CoE fur farms, CoE cattle)	Oct 2013
Austria	2013-6805	major farmed species -Council of Europe requirements (2006/778, CoE cattle, CoE turkeys, CoE geese)	Nov 2013

Table 2

Summary of all Member States' reports for 2013 – 2014 by species

2013	Category Description	Laying hens Free range	Laying hens Barn	Laying hens Enriched	Turkeys	Domestic fowl	Ducks	Geese
	Production sites subject to inspection	6.731	3.490	3.236	19.768	111.115	29.877	13.553
	Production sites inspected	20.1 %	33.6 %	40 %	5.1 %	5.3 %	2.8 %	5.6 %
	Production sites without non-compliance	89.8 %	89.4 %	87.5 %	90.7 %	82.7 %	89.9 %	89 %
	Category Description	Ratites	Pigs	Cattle (except calves)	Calves	Sheep	Goats	Fur animals
	Production sites subject to inspection	788	685.660	1.503.586	942.407	549.713	186.632	3.956
	Production sites inspected	13.5 %	4.3 %	4.5 %	4.1 %	3 %	2.5 %	28.8 %
	Production sites without non-compliance	90.6 %	80.8 %	86.2 %	87.2 %	86.4 %	80.7 %	85.1 %
	2014	Category Description	Laying hens Free range	Laying hens Barn	Laying hens Enriched	Turkeys	Domestic fowl	Ducks
Production sites subject to inspection		12.099	12.772	3.565	26.395	183.920	75.420	37.241
Production sites inspected		17.3%	16%	40.5%	5.6%	4.1%	1.9%	3.3%
Production sites without non-compliance		91.8%	92.3%	86.4%	88.4%	83.5%	91.5%	90.7%
Category Description		Ratites	Pigs	Cattle (except calves)	Calves	Sheep	Goats	Fur animals
Production sites subject to inspection		1.716	767.042	1.626.413	978.358	653.721	235.205	4.317
Production sites inspected		11.2%	4.7%	4.6%	4.5%	3.4%	2.9%	28.7%
Production sites without non-compliance		92.2%	82.2%	86.6%	84.7%	89.5%	81.4%	85.6%

Figure 1

Percentage of production sites inspected 2013 and 2014

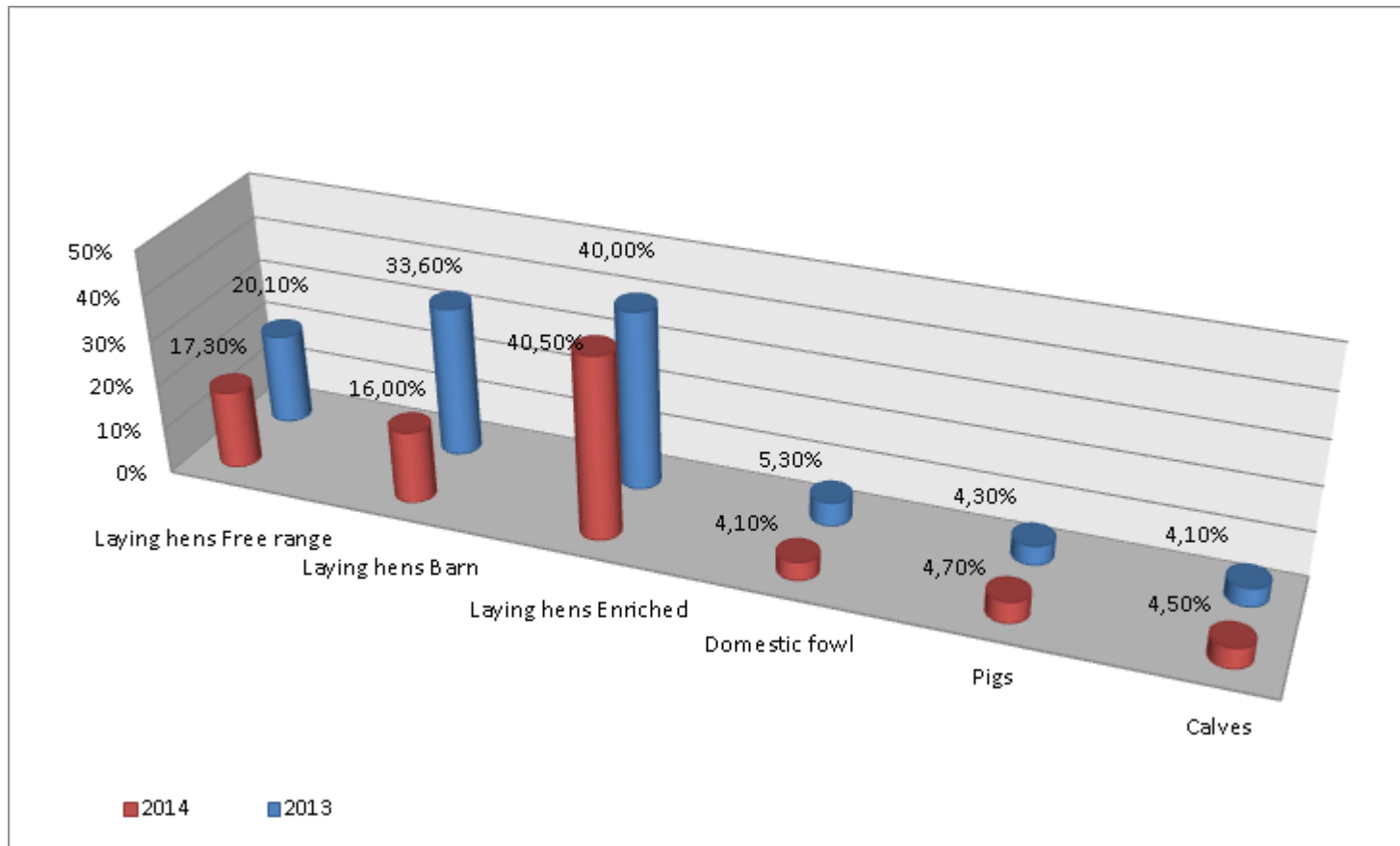


Table 3

Number of production sites in the Member States subject to inspection and percentage of non-compliances in 2013 and 2014

- main farmed species

Category Description	2013	2014	2013	2014	2013	2014	2013	2014
	Laying hens Free range	Laying hens Free range	Pigs	Pigs	Calves	Calves	Domestic fowl	Domestic fowl
Production sites subject to inspection	6.731	12.099	685.660	767.042	942.407	978.358	111.115	183.920
Production sites inspected	20.1 %	17.3%	4.3 %	4.7%	4.1 %	4.5%	5.3 %	4.1%
Production sites without non-compliance	89.8 %	91.8%	80.8 %	82.2%	87.2 %	84.7%	82.7 %	83.5%
<i>Number of Non-Compliances</i>								
Staffing	5.6 %	5.6%	2.9 %	3.1%	2.4 %	2.3%	14 %	10.5%
Inspection	6.1 %	8.9%	7.8 %	9.2%	7.8 %	8.8%	8.2 %	7.4%
Record keeping	22.7 %	27.1%	15.5 %	13.5%	17.4 %	12.8%	44.5 %	30.5%
Freedom of movement	0.5 %	2.8%	3 %	4.1%	14.2 %	14.3%	3.4 %	4.4%
Space allowances	5.6 %	5.1%	13 %	6.3%	6.9 %	7%	4 %	5.1%
Buildings and accommodation	78.3 %	84.6%	27.5 %	28.5%	40.9 %	39.3%	36.4 %	37.3%
Minimum lighting	2.5 %	3.3%	5.5 %	8.8%	1.9 %	2.8%	0.8 %	2.7%
Flooring surfaces (for pigs)	0 %	0%	8.8 %	9.3%	0 %	0%	0 %	0%
Manipulable materials (for pigs)	0 %	0%	8.4 %	10%	0 %	0%	0 %	0%
Automatic and mechanical equipment	6.6 %	5.6%	4.7 %	4.2%	3 %	3.3%	17.9 %	14.6%
Feed, water and other substances	28.3 %	35%	11.8 %	11.5%	13.3 %	16.4%	7.2 %	8.3%
Haemoglobin (for calves)	0 %	0%	0 %	0%	0.4 %	0.5%	0 %	0%
Fibrous food (calves and sows)	0 %	0%	0.2 %	0.2%	0.2 %	1%	0 %	0%
Mutilations	0.5 %	1.9%	2.2 %	1.8%	0.3 %	0.3%	0.8 %	0.4%
Breed procedures (not for laying hens)	0 %	0%	2 %	1.3%	1.1 %	1%	11 %	7.1%
<i>Number of Categories of Non-Compliance</i>								
Category A	56.1 %	64%	64.2 %	66.1%	73.3 %	76.6%	69.8 %	73.2%
Category B	37.9 %	25.7%	20.3 %	22.1%	15.1 %	12.9%	23.4 %	18.5%
Category C	6.1 %	10.3%	15.6 %	11.8%	11.5 %	10.5%	6.8 %	8.3%

Annex II

Overview of animal welfare legislation relevant to the on farm situation

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 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

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

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

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

Commission Directive 2002/4/EC of 30 January 2002 on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC; OJ L 30, 31.1.2002, p. 44

Commission Decision 2006/778/EC of 14 November 2006 concerning minimum requirements for the collection of information during the inspections of production sites on which certain animals are kept for farming purposes; OJ L 314, 15.11.2006, p. 39