



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Message 201

Communication from the Commission - TRIS/(2023) 3293

Directive (EU) 2015/1535

Notification: 2023/0603/BE

Forwarding of the response of the Member State notifying a draft (Belgium) to request for supplementary information (INFOSUP) of European Commission.

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1. MSG 201 IND 2023 0603 BE EN 24-01-2024 23-11-2023 BE ANSWER 24-01-2024

2. Belgium

3A. FOD Economie, KMO, Middenstand en Energie
Algemene Directie Kwaliteit en Veiligheid - Dienst Verbindingsbureau - BELNotif
NG III – 2de verdieping
Koning Albert II-laan, 16
B - 1000 Brussel
be.belnotif@economie.fgov.be

3B. Vlaamse overheid
Departement Omgeving

4. 2023/0603/BE - C90A - Well-being of animals and pets

5.

6. You will find below Belgium's response to the European Commission's request for additional information regarding notification 2023/0603/B.

1) Article 10(3) of the draft Decree would allow the Flemish government to lay down specific rules concerning the derogation from animals to be permanently fastened or locked (Article 10(2)). As the EU rules contain more specific provisions regarding tethering for calves and the keeping of sows into individual crates, is there a specific reason why the EU legislation (Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves and Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs) is not referenced in the draft or that may require the national authorities to lay down rules in addition to the harmonised EU rules?

Answer:

The delegation to the Flemish Government, mentioned in article 10, paragraph 3, does not relate to article 10, paragraph 2.

2) Art. 10(6) of the Draft Decree would allow the Flemish government to lay down detailed rules for the different species and categories of animals. The EU legislation has established minimum rules for the keeping of certain categories of animals (calves, pigs, laying hens, broilers). Is there a specific reason why the EU legislation is not referenced in the draft or that may require the national authorities to lay down rules in addition to the harmonised EU rules? The relevant EU rules are Directive 2008/119 of 18 December 2008 laying down minimum standards for the protection of calves; Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs; Directive 2007/43/EC of 28



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June 2007 laying down minimum rules for the protection of chickens kept for meat production and Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens.

Answer:

Article 10, paragraph 6, concerns a resumption of the existing article 4, paragraph 4, of the current Animal Welfare Act of 14 August 1986, and in other words concerns a continuity of the current legal base stated in the 1986 legislation. The preambles of the existing implementing regulations of the Flemish Government expressly refer to the relevant EU legislation which the Commission mentioned and for which it forms the implementation of. If necessary, we will also refer to the relevant EU legislation in the explanatory memorandum of the current proposal of decree.

3) Art. 33(1) of the draft Decree would allow the Flemish government to lay down conditions for the transport of animals. Is there a specific reason why the relevant EU legislation i.e. Regulation (EC) 1/2005 on the protection of the welfare of animals during transport is not referenced and in particular its article 3? Article 3 of the Regulation identifies the scope within which Member States can adopt additional rules in the case of transport of animals in connection with an economic activity.

Answer:

Article 33 is based on the existing article 13 of the current Animal Welfare Act of 14 August 1986, and in other words concerns a continuity of the current legal base stated in the 1986 legislation. The preamble of the implementing regulation of the Flemish Government expressly refers to the relevant EU legislation, i.e. Regulation (EC) 1/2005 on the protection of the welfare of animals during transport.

Moreover, in the explanatory memorandum concerning the article 33 reference was made to the Regulation (EC) 1/2005. We would like to draw your attention to the fact that article 3 of the Transport Regulation (EC) 1/2005 does not contain any provisions regarding the scope within which Member States may adopt further rules.

4) Article 35 of the draft Decree would allow the Flemish government to lay down conditions for the import and transit of animals. Is there any specific reason why the relevant EU rules (Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (Animal Health Law); Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin; Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 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 and plant protection products) are not referenced given their relevance as regards the possibility for national authorities to lay down rules in addition to, or deviating from the harmonised EU rules?

Answer:

Article 35 is based on the existing article 14 of the current Animal Welfare Act of 14 August 1986, and in other words concerns a continuity of the current legal base stated in the 1986 legislation.

In the explanatory memorandum concerning the article 35 reference was made to the relevant EU legislation, i.e. Regulation (EC) 1/2005 on the protection of the welfare of animals during transport. We would like to draw your attention to the fact that the European regulations you refer to are not relevant in this case as the decree only concerns animal welfare and not animal health or food safety.

5) Article 39(1) of the draft Decree would allow the Flemish government to lay down various conditions for the stunning and killing of animals. Is there a specific reason why the relevant EU rules (Regulation (EC) 1099/2009 of 24 September 2009 on the protection of animals at the time of killing, in particular its article 26) are not referenced or that may require the national authorities to lay down rules in addition to the EU harmonised rules?

Answer:

Article 39, paragraph 1, is based on the existing article 16, paragraph 1, of the current Animal Welfare Act of 14 August



EUROPEAN COMMISSION

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1986, and in other words concerns a continuity of the current legal base stated in the 1986 legislation. The preamble of the implementing regulation of the Flemish Government expressly refers to the EU legislation concerned. Moreover, in the explanatory memorandum concerning the article 39, paragraph 1, reference was made to the relevant EU legislation, i.e. Regulation (EC) 1099/2009 of 24 September 2009 on the protection of animals at the time of killing.

European Commission
Contact point Directive (EU) 2015/1535
email: grow-dir2015-1535-central@ec.europa.eu