Animals in the EU Green Deal: Rethinking our Relationship to Sentient Beings in European Law

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ANIMAL LAW CONFERENCE
OCTOBER 15 -17, 2021
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations
   A. The Current Legal Framework
   B. Limitations of E.U. Farm Animal Welfare Legislation

II. The Revision of E.U. Farm Animal Welfare Legislation
   A. The E.U. Green Deal and the “Farm-to-Fork Strategy”
   B. Farm Animal Welfare in the Green Deal
   C. Beyond Farm Animal Welfare Legislation:
      Reforming Agricultural Regulations
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

A. The Current Legal Framework

A Quick Historical Background

Three Conventions of the Council of Europe on farm animal welfare:

- The European Convention for the Protection of Animals During Transport (1968)
- The European Convention for the Protection of Animals Kept for Farming Purposes (1976)
- The European Convention for the Protection of Animals for Slaughter (1979)
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

A. The Current Legal Framework

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European Convention for the Protection of Animals kept for Farming Purposes*

Strasbourg, 10 III.1976

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The member States of the Council of Europe signatory hereto,

Considering that it is desirable to adopt common provisions for the protection of animals kept for farming purposes, particularly in modern intensive stock-farming systems,
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

A. The Current Legal Framework

A Quick Historical Background

Three conventions integrated into E.U. law:

- 1974: Law on slaughter
- 1977: Law on the protection of animals during transport
<table>
<thead>
<tr>
<th>Directive</th>
<th>Date</th>
<th>Revised</th>
<th>Species covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directive 98/58 concerning the protection of animals kept for farming purposes</td>
<td>1998</td>
<td>-</td>
<td>All animals bred or kept for the production of food, wool, skin, fur or other farming purposes including fish, reptiles and amphibians.</td>
</tr>
<tr>
<td>Directive 2008/120 laying down minimum standards for the protection of pigs</td>
<td>1991</td>
<td>2008</td>
<td>Pigs at all stages of production, except breeding animals</td>
</tr>
<tr>
<td>Directive 2007/43 laying down minimum rules for the protection of chickens kept for meat production</td>
<td>2007</td>
<td>-</td>
<td>Commercial broiler chickens on conventional farms with more than 500 chickens</td>
</tr>
<tr>
<td>Directive 2008/119 laying down minimum standards for the protection of calves</td>
<td>2008</td>
<td>-</td>
<td>Calves less than 6 months old</td>
</tr>
<tr>
<td>Regulation 1099/2009 on the protection of animals at the time of killing</td>
<td>1974</td>
<td>1993; 2009</td>
<td>Vertebrate animals excluding reptiles and amphibians. Only key principles of the regulation apply to fish.</td>
</tr>
</tbody>
</table>
### An Overview of E.U. vs U.S. Farm Animal Welfare Legislation

<table>
<thead>
<tr>
<th>European Union</th>
<th>United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directive 98/58 concerning the protection of animals kept for farming purposes</td>
<td>State Anticruelty Laws*</td>
</tr>
<tr>
<td>Directive 2008/120 laying down minimum standards for the protection of pigs</td>
<td>Twenty-Eight-Hour Law (49 USC 80502)</td>
</tr>
<tr>
<td>Directive 1999/74 laying down minimum standards for the protection of laying hens</td>
<td>Humane Method of Slaughter Act</td>
</tr>
<tr>
<td>Directive 2007/43 laying down minimum rules for the protection of chickens kept for meat production</td>
<td></td>
</tr>
<tr>
<td>Directive 2008/119 laying down minimum standards for the protection of calves</td>
<td></td>
</tr>
<tr>
<td>Regulation 1/2005 on the protection of animals during transport and related operations</td>
<td></td>
</tr>
<tr>
<td>Regulation 1099/2009 on the protection of animals at the time of killing</td>
<td></td>
</tr>
</tbody>
</table>

*See David J. Wolfson and Mariann Sullivan, Foxes in the Hen House: Animals, Agribusiness and the Law, A Modern American Fable (2006) and Delcianna Winders, Beyond the Law? Interrogating the Scope of Common Farming Exemptions*
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

B. Limitations of E.U. Farm Animal Welfare Laws

*Codification of common agricultural practices*

- Extreme confinement
- Mutilations
- Brutal slaughter methods
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

B. Limitations of E.U. Farm Animal Welfare Laws

Codification of common agricultural practices: extreme confinement
“enriched battery cages”

Maximum density: “nine laying hens per m²” (Laying Hens Directive, Article 4(4)) = Minimum space per bird of little over a sheet of paper.
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

B. Limitations of E.U. Farm Animal Welfare Laws

Codification of common agricultural practices: extreme confinement

“enriched battery cages” versus conventional battery cages
50% of egg laying hens in the E.U. are kept in cages.

(76% in the U.S.)
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

B. Limitations of E.U. Farm Animal Welfare Laws

Codification of common agricultural practices: extreme confinement

• Pigs

Gestation and farrowing crates.

Next slide contains graphic images (animal cruelty)
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

B. Limitations of E.U. Farm Animal Welfare Laws

Codification of common agricultural practices:
Mutilations

Credits: Jan van Ijken, The Netherlands.
Killing methods

COUNCIL REGULATION (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing

ANNEX I

LIST OF STUNNING METHODS AND RELATED SPECIFICATIONS
(as referred to in Article 4)

CHAPTER I

Methods

<table>
<thead>
<tr>
<th>No</th>
<th>Name</th>
<th>Description</th>
<th>Conditions of use</th>
<th>Key parameters</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Percussive blow to the head</td>
<td>Firm and accurate blow to the head provoking severe damage to the brain.</td>
<td>Piglets, lambs, kids, rabbits, hares, fur animals and poultry up to 5 kg live weight.</td>
<td>Force and location of the blow.</td>
</tr>
<tr>
<td>4</td>
<td>Maceration</td>
<td>Immediate crushing of the entire animal.</td>
<td>Chicks up to 72 hours and egg embryos.</td>
<td>Maximum size of the batch to be introduced.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>All situations other than slaughter.</td>
<td>Distance between the blades and speed of rotation.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Measure to prevent overloading.</td>
</tr>
</tbody>
</table>
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

B. Limitations of E.U. Farm Animal Welfare Laws

Killing methods

<table>
<thead>
<tr>
<th>No</th>
<th>Name</th>
<th>Description</th>
<th>Conditions of use</th>
<th>Key parameters</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Electrical waterbath</td>
<td>Exposure of the entire body to a current generating a generalised epileptic form on the EEG and possibly the fibrillation or the stopping of the heart through a waterbath.</td>
<td>Poultry. Slaughter, depopulation and other situations.</td>
<td>Minimum current (A or mA). Minimum voltage (V). Maximum frequency (Hz). Frequency of calibration of the equipment. Prevention of electrical shocks before stunning. Minimising pain at shackling. Optimisation of current flow. Maximum shackle duration before the waterbath. Minimum time of exposure for each animal. Immersion of the birds up to the base of the wings. Maximum stun-to-stick/kill interval(s) for frequency over 50 Hz(s).</td>
</tr>
<tr>
<td></td>
<td>Carbon dioxide at high concentration</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 (1), 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 stunning 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 stunning. 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.
I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

B. Limitations of E.U. Farm Animal Welfare Laws

A note on Aquatic Animals

• No species-specific rules

• Covered in the general farming directive and the transport and slaughter regulations, but excluded from virtually all provisions

### I. An Overview of E.U. Farm Animal Welfare Legislation and Its Limitations

#### B. Limitations of E.U. Farm Animal Welfare Laws

**Some countries that go beyond E.U. minimum standards**

<table>
<thead>
<tr>
<th>Species</th>
<th>E.U. Law</th>
<th>National Law</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Egg Laying Hens</strong></td>
<td><strong>Battery cages are allowed provided they are enriched.</strong></td>
<td><strong>But countries cannot ban the sales of products that comply with E.U. law, even in cases where such products don’t comply with national laws.</strong></td>
</tr>
<tr>
<td>Austria</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Luxembourg</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Czechia (by 2027)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Pigs</strong></td>
<td><strong>Gestation and farrowing crates are allowed but limited in time.</strong></td>
<td><strong>Different national animal welfare rules cannot justify restrictions on trade between Member States:</strong></td>
</tr>
<tr>
<td>Sweden</td>
<td></td>
<td><strong>Case C-1/96, The Queen v Minister of Agriculture, Fisheries and Food, <em>ex parte</em> Compassion in World Farming (1998)</strong></td>
</tr>
<tr>
<td>Finland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lithuania</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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   A. The E.U. Green Deal and the “Farm-to-Fork Strategy”
   B. Farm Animal Welfare in the Green Deal
   C. Beyond Farm Animal Welfare Legislation: Reforming Agricultural Regulations
Different policy layers
II. The Revision of E.U. Farm Animal Welfare Legislation

A. The E.U. Green Deal and the “Farm-to-Fork Strategy”
II. The Revision of E.U. Farm Animal Welfare Legislation

A. The E.U. Green Deal and the “Farm-to-Fork Strategy”
Two measures on farm animal welfare

1. Revision of E.U. Farm Animal Welfare Legislation

2. E.U. Animal Welfare Labeling
## II. The Revision of E.U. Farm Animal Welfare Legislation

### Revision of E.U. Farm Animal Welfare Legislation

<table>
<thead>
<tr>
<th>Directive on the protection of</th>
<th>Will be evaluated</th>
<th>Will be revised</th>
<th>Will be enacted</th>
</tr>
</thead>
<tbody>
<tr>
<td>animals kept for farming purposes</td>
<td>✔️</td>
<td>?</td>
<td>N/A</td>
</tr>
<tr>
<td>pigs</td>
<td>✔️</td>
<td>?</td>
<td>N/A</td>
</tr>
<tr>
<td>laying hens</td>
<td>✔️</td>
<td>?</td>
<td>N/A</td>
</tr>
<tr>
<td>chickens kept for meat production</td>
<td>✔️</td>
<td>?</td>
<td>N/A</td>
</tr>
<tr>
<td>calves</td>
<td>✔️</td>
<td>?</td>
<td>N/A</td>
</tr>
<tr>
<td>Regulation on the protection of animals during transport</td>
<td>✔️</td>
<td>✔️</td>
<td>N/A</td>
</tr>
<tr>
<td>Regulation on the protection of animals at the time of killing</td>
<td>✔️</td>
<td>✔️</td>
<td>N/A</td>
</tr>
<tr>
<td>Additional species-specific legislative Acts on the protection of dairy cows, fish, ducks, geese, quails, goats, sheep.</td>
<td>N/A</td>
<td>N/A</td>
<td>?</td>
</tr>
</tbody>
</table>
II. The Revision of E.U. Farm Animal Welfare Legislation

B. Farm Animal Welfare Measures

1. Revision of E.U. Farm Animal Welfare Legislation

- Already announced: the phasing out of cages

COMMUNICATION FROM THE COMMISSION

on the European Citizens' Initiative (ECI) "End the Cage Age"

- Public Consultation phase, proposed New Legislation by 2023, implementation in 2027
II. The Revision of E.U. Farm Animal Welfare Legislation

Revision of E.U. Farm Animal Welfare Legislation

Article 13

In formulating and implementing the Union’s agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.

Article 13’s practical effects have never been implemented:

Most recent revision of E.U. Animal Welfare Laws was in 2009 (Reg. 1099/2009 on the Protection of Animals at the Time of Killing), right before the adoption of the Constitutional Treaty.
II. The Revision of E.U. Farm Animal Welfare Legislation

An “Animal Welfare” Label

- Adding to proliferating labels
- Risk of competing with existing high-quality labels
- Humane-washing?
II. The Revision of E.U. Farm Animal Welfare Legislation

C. Beyond Animal Welfare Legislation: Reforming Agricultural Regulations

2.4. Promoting sustainable food consumption and facilitating the shift to healthy, sustainable diets

Current food consumption patterns are unsustainable from both health and environmental points of view. While in the EU, average intakes of energy, red meat, sugars, salt and fats continue to exceed recommendations, consumption of whole-grain cereals, fruit and vegetables, legumes and nuts is insufficient. Reversing the rise in overweight and obesity rates across the EU by 2030 is critical. Moving to a more plant-based diet with less red and processed meat and with more fruits and vegetables will reduce not only risks of life threatening diseases, but also the environmental impact of the food system. It is estimated that in the EU in 2017 over 950,000 deaths (one out of five) and over 16 million lost healthy life years were attributable to unhealthy diets, mainly cardiovascular diseases and cancers. The EU’s ‘beating cancer’ plan includes the promotion of healthy diets as part of the actions for cancer prevention.

CONSUMPTION

- Consumer information
- Publicly-funded marketing campaigns?
“Let’s Talk About Pork”

- Marketing campaign directed to Spanish, Portuguese, and French consumers in 2019-21, which aims “to demystify the various information that has been targeting the sector, by showing the conditions of production in the farms with scrupulous respect for the highest standards of animal welfare.”

- 80% funded by the E.U. (€ 5.5 million)

- Despite rampant intensification of pork production in Spain:
  
  Fewer, bigger pig farms in Spain: an average of 450 pigs/farm (120 in 1999) and two thirds of farms have disappeared since 1999.

  In 2019, the largest pig processing slaughterhouse in Europe opened in Spain (Binéfar, Huesca).

- Growing opposition from Spanish society:
  
  Undercover investigations have multiplied (Igualdad Animal, Equalia)

  Local grassroots activism developed in rural communities to oppose the expansion of factory farms (STOP Ganadería industrial, Dale Vuelta Porcino).

  *(Is Spain becoming the Iowa of Europe?)*
II. The Revision of E.U. Farm Animal Welfare Legislation

C. Beyond Animal Welfare Legislation: Reforming Agricultural Regulations

**PRODUCTION**
- Ending subsidies supporting industrial farm animal production, such as: subsidies to ensure cheapness of animal feed, investment support to build industrial farms.
- Re-establish capping on milk (and meat production).
- End of support programs for milk production under the form of public purchase programs (e.g. “E.U. School Scheme for Milk”).

**CONSUMPTION**
- Consumer information
- The end of publicly-funded marketing campaigns for factory farmed products.
Takeaway messages

‣ The E.U. has quite a **comprehensive legislative framework** on farm animal welfare

‣ ...but there remains **important gaps** in the substance and enforcement of the texts

‣ In the Green Deal, the E.U. committed to **revise some of the farm animal welfare laws**, which will hopefully redress their limitations.

‣ At a more systemic level, the E.U. executive acknowledges the need to **shift to a more plant-based diet**.

‣ However, the law and policy measures announced for the next 4 years appear to be lacking ambition, as **the E.U. does not envision reforming the one policy that could enable such a shift**: the E.U. agricultural policy.
More on EU farm animal law & policy

The **Coller Animal Law Forum** (CALF)

- **A free, interactive database** listing better practice laws and policies.
- **Factsheets** on the topics of animal welfare, antibiotics use, and food & climate policies.

**CALF.law**

### Database

<table>
<thead>
<tr>
<th>Act / Policy</th>
<th>Jurisdiction</th>
<th>Policy/law field</th>
<th>Animals impacted</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Farming Directive</td>
<td>EU</td>
<td>Animal welfare</td>
<td>Beef cows, Dairy cows, Broiler chickens, Egg laying hens, Pigs, Sheep, Fish, Livestock</td>
</tr>
<tr>
<td>Egg-Laying Hens Directive</td>
<td>EU</td>
<td>Animal welfare, Agriculture</td>
<td>Egg laying hens</td>
</tr>
<tr>
<td>Pigs Directive</td>
<td>EU</td>
<td>Animal welfare, Agriculture</td>
<td>Pigs</td>
</tr>
<tr>
<td>Calves Directive</td>
<td>EU</td>
<td>Animal welfare, Agriculture</td>
<td>Beef cows</td>
</tr>
<tr>
<td>Broilers Directive</td>
<td>EU</td>
<td>Animal welfare, Agriculture</td>
<td>Broiler chickens</td>
</tr>
<tr>
<td>Transport Regulation</td>
<td>EU</td>
<td>Animal welfare, Agriculture</td>
<td>All animals</td>
</tr>
<tr>
<td>Slaughter Regulation</td>
<td>EU</td>
<td>Animal welfare, Agriculture</td>
<td>All animals</td>
</tr>
</tbody>
</table>

**Factsheets**

- Animal welfare
- Agriculture
- Livestock
- Beef cows
- Dairy cows
- Broiler chickens
- Egg laying hens
- Pigs
- Sheep
- Fish
Thank you for your attention