

CHALLENGES OF THE EU ANIMAL WELFARE LEGISLATION – IMPLEMENTATION AND ENFORCEMENT IN POLAND

Monika Gębska

Department of Economics and Organisation of Enterprises of Warsaw University of Life Sciences
Head of Department: prof. dr hab. Henryk Runowski

Key words: animal welfare law, implementation, regulation

Słowa kluczowe: prawo, dobrostan zwierząt, wdrożenie

A b s t r a c t. The animal welfare (AW) legislation is included in the EU directives and is obligatory for EU Member States. However, its implementation is not always smooth and on time. The aim of the paper was to present the obstacles and reasons of delays of AW law implementation in Poland. Face to face interviews with Polish stakeholders were conducted in 2013¹. The interviewees were selected due to their involvement in the AW issue as part of their regular job (farmers, official veterinarians, representatives of farmers' associations and meat producers) or their voluntary interest (NGOs). The delays and obstacles have been caused mainly by financial, social, organizational problems and only to a small extend by lack of animal welfare knowledge or knowledge transfer. It is vital to build up AW awareness of all the parties concerned e.g. farmers, meat producers, officials and consumers.

INTRODUCTION

The issue of the animal welfare has become very important in the EU. Its legislation has been introduced over years. The legislation concerning slaughtering goes back to 1974 but the real ground for animal welfare is the European Convention for the Protection of Animals Kept for farming purposes² from 1978. The Treaty of Lisbon, which came into force 1st December 2009 states that in the future any new European law referring to any activities connected to animals shall take into account animal welfare. Until now AW legislation has been expanded and developed for different species and different operations in farms, transport and slaughtering. Currently protection of farm animals comes from numerous Council Directives (98/58/EC, 2008/119/EC, 2008/120/EC, 1999/74/EC, 2002/4/EC, 2007/43), Commission Decisions (2006/778/EC, 2006/778/EC, 78/923/EEC) and Council Regulations (EC 1234/2007, (EC) 589/2008). Protection of animals at the time of slaughter and killing is regulated separately in Council Directive 93/119/EC, Council Regulation (EC) 1099/2009, and Council Decision 88/306/EEC of 1988. Regulations with regard

¹ *The EUWelNet project was co-financed by the European Commission, agreement SANCO/2012/G3/EU-WELNET/SI2.635078.*

² *European Convention for the protection of animals kept for farming purposes, Official Journal, L 323, 17/11/1978, p. 0014-0022.*

to protection of animals during transport are European Convention for the Protection of Animals during International Transport, Council Regulation (EC) 1/2005 amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97. Additionally the area is covered by Council Decision (2004/544/EC), Commission Regulation (EC) 639/2003 of 9 April 2003 laying down detailed rules pursuant to Council Regulation (EC) 1254/1999.

Legal requirements concerning animal welfare in Poland just follows EU law. There are several legal acts covering three areas: farm, transport, killing and slaughtering practices. The main regulations with regard to farms are: *Farm Animal Husbandry and Breeding Act* of 21st August 1997 (*Ustawa z dnia 21 sierpnia 1997 r. o ochronie zwierząt*) amended on 12th March 2004 and *Animal Health Protection and Infectious Disease Control Act* of 11th March 2004 (*Ustawa z dnia 11 marca 2004 r. o ochronie zdrowia zwierząt oraz zwalczaniu chorób zakaźnych zwierząt*) amended 7th January 2005. They are followed by Ordinances of the Minister of Agriculture and Rural Development like those describing minimum housing standards for farm animals species, or prepared by Chief Veterinary Officer introducing veterinary and identification rules³.

Farm animal welfare during transport is regulated by two ordinances introduced by the Minister of Infrastructure. They describe methods and conditions of transporting animals and rules at any kind of control posts used during transport. They are accompanied by Instructions on animal transport created by the Chief Veterinary Officer. Farm animal welfare at the time of slaughtering and killing is regulated separately. The ordinances introduce conditions and methods as well as qualifications of a professional dealing with slaughtering and killing. Additionally, the Chief Veterinary Officer prepared the instruction on the procedures for slaughterhouse inspections with respect to animal welfare.

EU regulations are meant to unite the diverse national economies by establishing common standards at Single European Market. In practice, meeting the requirements can be a challenge. EU member States have to adjust EU directives to their national legislation and they are responsible for their enforcement [Börzel et al. 2010]. FVO reports for the EU show that many EU countries still fail to implement and enforce common regulations. Poor enforcement of the common legislation has become a serious problem as it causes unfair competition and confuses consumers.

According to Kaeding 2006, EU legislation is often transposed too late, and more than 70% of the directives are not implemented by the deadline. The European Commission data published in 2010 illustrates that 74 single market directives had not yet produced their full effects due to lack of national transposition measures in one or more Member States. In addition, Member States too often grant themselves extra 6-9 months after the deadline to adjust to the legislation. Versluis [2007] writes that Member States very often

³ *Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 18 września 2003 r. w sprawie szczegółowych warunków weterynaryjnych, jakie muszą spełniać gospodarstwa w przypadku, gdy zwierzęta lub środki spożywcze pochodzenia zwierzęcego pochodzące z tych gospodarstw są wprowadzane na rynek*, Dz.U. 2003.168.1643. *Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 15 lutego 2010 r. w sprawie wymagań i sposobu postępowania przy utrzymaniu gatunków zwierząt gospodarskich, dla których normy ochrony zostały określone w przepisach Unii Europejskiej*, Dz.U. 2010.56.344 z późn. zm. *Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 28 czerwca 2010 r. w sprawie minimalnych warunków utrzymania gatunków zwierząt gospodarskich innych niż te, dla których normy ochrony zostały określone w przepisach Unii Europejskiej*, Dz.U. 2010.116.778. *Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 17 grudnia 2009 r. w sprawie sposobu ustalania poziomu obsady kurcząt brojlerów w kurniku, w którym są one utrzymywane*, Dz.U. 2009.223.1784. *Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 28 kwietnia 2004 r. w sprawie zakresu i sposobu prowadzenia ewidencji leczenia zwierząt i dokumentacji lekarsko-weterynaryjnej*, Dz.U. 2004.100.1022.

claim additional period of 6 to 9 month after deadline to adopt the EU legislation. Another problem is that the directives are often applied incorrectly. Kaeding [2006, p. 251] states that, „delayed and incorrect enforcement of EU legislation is highly problematic since it potentially jeopardize the credibility and reputation of the single market. This is a serious threat to the EU project as a whole”. A number of studies find that powerful member states are less likely to achieve timely compliance, while states that are net recipient of EU funding are more likely to achieve timely transposition [Thomas 2013]. The other reason for the improper implementation could be stakeholders’ lack of knowledge or imperfect knowledge transfer.

Sometimes decision makers in Member States do not understand the need for implementing new regulations, or believe that the new law can slow down their countries’ economies [Thomson at all. 2007, Steunenberg and Toshkov 2009, Zhelyazkova 2013]. Also, entrepreneurs and farmers or members of administration may be against being worried that the new regulations will negatively affect their businesses [Haverland and Romeijn 2007].

Steunenberg and Toshkov [2009] claim that, the higher probability of the directive implementation success, the higher level of compliance. The more the national law is similar to the regulations, the easier and more successful the process is, because of the stronger officials support. Transposition of the directives into the national law is primarily an administrative activity. Therefore, the government effectiveness and the quality of the civil service are of high importance.

Hille and Knill [2006] indicate that centralized decision making speeds up the process of EU directives incorporation. Moreover, some political preferences may have an effect on its timing and pace [Leiber 2005].

Nevertheless, Member States are obliged to implement and enforce the new law and all delays and irregularities can lead to an infringement procedure. One of the consequences of breaching the community legislation can be a heavy fine imposed by the European Courte of Justice. Therefore, it is important to examine the process of implementation of previous directives to find out the most often occurring obstacles. That would facilitate future directives implementations.

METHODS

The main goal of the survey was to identify the obstacles taking place during implementation of animal welfare regulations and their reasons in Poland. The main focus was to assess to what extend they are caused by stakeholders’ lack of knowledge or poor knowledge transfer. The survey was carried out based on the examples of three directives concerning AW:

- Council Directive 2007/43 of 28 June 2007 laying down minimum rules for the protection of chickens kept for meat production,
- Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs,
- Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing.

The survey was carried out with the use of guided interviews in June and July 2013. They were face-to-face meetings, about two-hour each. The interviewees were selected with regard to their connections with animal welfare organizations or involvement in

animal welfare issues at work. The interviewees were representatives of 14 organizations such as: The General Veterinary Inspectorate, scientific research centers, NGO's, meat processing industry with slaughtering houses, entrepreneurs – owners of private animal welfare standards, the national farmers associations, agricultural training center for advisers, agricultural consultancy for farmers and farmers.

THE NATIONAL IMPLEMENTATION

In 2013, 100% of Polish farms fully implemented directive 2008/120/EC for pigs, although there was a delay. In 2011, the percentage of farms which met the requirements differed depending on the size of herd. Those who didn't meet the requirement couldn't afford the necessary investments.

A similar situation was with the EU Directive 2007/43/EC for broilers. In 2011, 35% farms have not yet complied with group housing requirement. In 2013, the situation improved. All Polish farms fully implemented the directive. The Polish regulation gives an opportunity to get a maximum stocking rate up to 42 kg/m² when additional requirements are fulfilled.

The EU Directive 1099/2009 regarding killing animals set up the conditions for killing animals such as: killing method; expertise of the slaughterhouse staff; construction and equipment of slaughterhouses; equipment for restraint, procedure for sick animals. The implementation was easier. However, there were some financial problems (some slaughterhouses needed some serious investments to comply with the directive). Moreover, there was no national regulation clarifying procedures regarding training AW officers. As a result, in 2012, some slaughterhouses had not complied with the directive yet. Certified Animal Welfare Officers were only in 10.1% slaughterhouses. The recommended stunning method was used in 45.5% slaughterhouses, handling in 81.5%, check on stunning in 41%, bleeding in 96.3% and monitoring procedure in 22.7%.

THE IMPLEMENTATION OF THE REGULATION FOR BROILERS AND PIGS

The respondents had some difficulties identifying obstacles in the process of implementing EU animal welfare directives and regulations. They found a lot similarities in the implementation and in the enforcement of the two directives: Council Directive 2007/43 and Council Directive 2008/120/EC. The problems indicated in the implementation process most often referred to were the following: low citizen awareness, the number and size of farms, farmers' financial problems, difficulties in rules interpretation, problematic indicators of animal welfare, and weakness of NGOs.

The representatives of the NGO's and farmers associations pointed out that in Poland consumers do not pay much attention to the welfare of farm animals. Consumers are not willing to pay for products that are to become more expensive as a result of implementation of animal welfare directives. The inhabitants of rural areas in particular were of the opinion that animal products were already expensive and they would not be willing to pay more for them for the reasons quoted above. According to the representatives of the NGOs, there is no social control over producers, processors, traders etc. Consumers are rather passive, therefore currently in Poland only a few NGOs are dedicated to farm animals. They have

few members and their campaigns are limited in their range and not always visible. What is more, they are rather unwilling to cooperate with each other.

The interviewees pointed out that processors' and farmers' animal welfare awareness is still low, which hinders the appropriate implementation of the regulations. Farmers very often delay the implementation because they don't understand its importance and try to cut their costs. Several respondents mentioned that the Ministry of Agriculture and Rural Development does not emphasize the importance of the issue. There is no animal welfare policy, the issue is regarded as one of many important aspects of cross-compliance.

Another important issue, highlighted by the representatives of farmers associations was a big number and diversification of farms with animal production. For example, in pig sector there are many farms of different sizes. In 2013, there were in total 240,000 farms, but only 0.3% of those dealt with large-scale breeding and kept over 500 pigs. This makes it difficult to inform, train or cooperate with all farmers obliged to implement the new animal welfare rules. Currently, the main pig farmers' association cooperates with 400 breeding farms on a regular basis. It is clear, that it is the farmer who should be active and search for information needed for the proper implementation. The passive attitude of many producers was pointed out as one of the obstacles.

Additionally, a big number of farms is a challenge for officials when they monitor the quality of animal welfare law implementation.

The next obstacle pointed out by respondents was low profitability of pig and broiler farming. It was observed that if Polish farmers were more aware of positive economic aspects of animal welfare directives, they would be more willing to introduce the necessary changes. There are publications describing some economic results but concerning other countries. There is a need for empirical research at Polish farms. If there is no positive correlation between the introduced animal welfare rules and the economic results, the farmers should receive some financial compensation (help with co-financing the necessary investments or lower interests). The delay in the implementation was very often caused by the lack of funds for such an investment. Such an opinion was expressed by numerous respondents, farmers and representatives of Agricultural Advisory Center and Units.

According to some of the respondents, the differences in the implementation of the EU legislation across Poland and across the EU result in a different way of assessing the same elements. Sometimes rules are unclear even for official vets and other stakeholders.

The respondents gave some examples of such difficulties in rules interpretation. The directive states that "there should be space for sick animals (sick bay)", and its size depends on the size of the herd. The problem arises when officials start to measure the size of the herd (number of animals). Some of them use the number of hogs, some of them the number of all adult animals, some of them all animals. Another question is, should it be the yearly average or the number of animals on the day of a vet's visit?

Another example of difficulties with the proper interpretation of the directive is the question what the sick bay is? The directive states, that it is "a separate area". But some veterinarians interpret that "it should be "in a separate building", some of them say "space separated by walls", and some accept it is a separate pen.

A similar situation is with "permanent access to water": some veterinarians accept only an automatic nipple, other accept other types of drinkers. Some farmers give moist food or use troughs where they put water 2-3 times a day, which sometimes is also accepted.

It is clear that it is important to give very detailed instructions for stakeholders involved in the directive implementation to unify it.

Generally, the respondents agreed that the implementation should be assessed using animal welfare measures, however they did not mention any preferable indicators. The interviewers underlined the need for simplicity and quick application of the indicators in practice. The respondents highlighted that there should be a limited number of indicators, easy to implement and learn, not leading to additional bureaucracy.

On the contrary, the interviewers gave some examples of inappropriate indicators. In broilers production there is a need to maintain a low level of mortality. However, respondents said that this indicator depends on the quality of the chicks delivered by the breeder, as well as on the litter and fodder quality. These factors are often beyond of the farmers' control and therefore chicks mortality level shouldn't be used as an indicator.

Several problems were pointed out concerning the size, organisation and financing of Regional Agricultural Advisory Units. The number of advisors is very small in comparison to the number of farms, and it is constantly decreasing. There are 2500 advisors that can regularly cooperate with 10% of farmers willing to use advisory services, whereas in other European countries the ratio is higher by about 15-20%. Currently, one farmer can be visited by one of the advisors only once a year on average. This is not enough during implementation of the new animal welfare directive.

Insufficient financing can result in limited access to conferences or in scientific projects the advisors need to participate in to understand the new animal welfare requirements properly. That could influence the quality of their advising services.

Another aspect influencing advisors competencies is their low salaries. It results in high rotation of employees and therefore, in an increasing need for employing and training new staff.

According to one of the respondents, private advisors are not the solution because they might not always give objective advice, as they might try to sell certain products or technical solutions. Another barrier is the high price of the private services.

THE IMPLEMENTATION OF THE REGULATION FOR KILLING ANIMALS

With regard to the directive concerning killing animals in slaughterhouses, the respondents found its implementation easier. However, they noticed some financial obstacles – a lot of slaughterhouses need serious investments to comply with the directive.

The respondents referred to an administrative problem too. For a long time there was no national regulation clarifying who is responsible for training of animal welfare officers employed at slaughterhouses. According to the regulations such position is obligatory, but it is unclear who has the right to train workers and who might give them authorization (2013).

Most of the respondents stated that problems in implementation were not caused by the lack of knowledge. The respondents perceived the amount of training available as sufficient. Since 2008, training courses for farmers have been organised by advisory units in Poland. For example in Mazowieckie region over 200 training courses have been provided yearly (4000 farmers). Moreover, Agricultural Chambers organised over 180 training courses. All processors were trained. Additionally, farmers received information during several events organised by farmer associations, such as the POLSUS, the Polish Association of Beef Cattle Producers, the National Poultry Council. Those farmers who were interested could had a chance to participate in the training.

Only two interlocutors pointed out knowledge gaps mentioned earlier. Firstly, the stakeholders have insufficient data concerning economic aspects of implementation of the

AW Directives achieved at Polish farms. There are publications describing some results but from other countries. There is a need for empirical research at Polish farms.

Secondly, there are still no clear answers concerning which indicators could be used at farms to measure animal welfare. The respondents did not recommended any indicator. It may suggest another knowledge gap. They don't know enough about the subject.

CONCLUSIONS

In 2013, 100% of Polish farms fully implemented directive 2008/120/EC for pigs, although there was a delay. In case of 2007/43/EC directive in 2011, 35% farms have not yet complied with group housing requirement, but in 2013 all Polish farms fully met the requirements.

Only the EU Directive 1099/2009 regarding killing animals was more challenging in Polish conditions. 89.1% slaughterhouses have not complied with the demand of employing Certified Animal Welfare Officers. The recommended stunning method was used in 45.5% slaughterhouses, handling in 81.5%, check on stunning in 41%, bleeding in 96.3% and monitoring procedure in 22.7%.

Delays happen frequently also in case of other directives. An average delay ranges from 6-9 months. The length of the delay does not depend on the length of EU membership of an individual country. However, a relatively a short time of dealing with the issue in Poland results in the lack of AW policy and farm AW issue hasn't reached as much importance as in other European countries yet.

With regard to the Council Directive 2007/43 laying down minimum rules for the protection of chickens kept for meat production, the respondents identify one obstacle which is an improper indicator used for measuring animal welfare at the broiler farm. They suggested replacing the current indicator (chicks mortality) with some other one.

With regard to the Council Directive 2008/120/EC laying down minimum standards for the protection of pigs, the respondents identify a problem with its interpretation.

With regard to the Council Regulation 1099/2009 on the protection of animals at the time of killing there are bottlenecks identified in the administrative area – some necessary ordinances are missing.

The survey showed, that the obstacles in the implementation of European animal welfare legislation do not result from lack of knowledge but people's low sensitivity to animal welfare, number of farms and their sizes, farmers' financial problems, difficulties in interpretation of rules, problematic indicators of animal welfare, and NGOs' weakness.

The animal welfare issue is still rather new for Polish citizens and there is a great need to inform people about animal production systems. It could be done with the use of several campaigns.

Among the above mentioned obstacles there are some (like rules interpretation problems, applied animal welfare indicator, NGO's weakness) which can be rather easily overcome. The rules interpretation can be improved by building an animal welfare network, creating animal welfare focused websites with Frequent Answered Questions sections and establishing official consultancy centers.

Problematic animal welfare indicator can be discussed, improved or replaced. Some activities in this area are essential because the efficiency of directives implementation strongly depends on the users' understanding and approval.

The way to strengthen NGOs is building AW awareness in the society educating about animal production methods and its consequences to the animals and food safety.

The most challenging obstacles are structural problems of Polish agriculture (number and size of farms) which leads to financial problems or low profitability, especially at small farms. For them some financial support could be considered.

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Monika Gębska

WYZWANIA TOWARZYSZĄCE WDRAŻANIU DYREKTYW REGULUJĄCYCH DOBROSTAN
ZWIERZĄT W POLSCE

Streszczenie

Przepisy dotyczące dobrostanu zwierząt gospodarskich zawarte w dyrektywach UE obowiązują wszystkie państwa członkowskie. Wdrożenie tych przepisów nie zawsze przebiega sprawnie i nie zawsze zgodnie z harmonogramem. Celem artykułu było przedstawienie barier utrudniających w Polsce wdrożenie tych przepisów. Dane zebrano w 2013 roku metodą wywiadu kierowanego. Wywiady przeprowadzono z osobami wybranymi celowo ze względu na ich zaangażowanie w kwestie dobrostanu zwierząt w ramach pracy (rolnicy, urzędowni lekarze weterynarii, przedstawiciele stowarzyszeń rolników i producentów mięsa) lub działających w organizacjach pozarządowych. Wyniki badania wskazują, że trudności we wdrażaniu regulacji w zakresie dobrostanu zwierząt wynikały głównie z problemów społecznych, finansowych, organizacyjnych, a tylko w niewielkim stopniu ich przyczyną był brak wiedzy na temat dobrostanu lub jej wadliwy transfer. Istotnym działaniem zaradczym może być budowanie świadomości społeczeństwa w zakresie dobrostanu zwierząt: decydentów, rolników, przetwórców i konsumentów.

Correspondence address:

Dr inż. Monika Gębska
Warsaw University of Life Sciences
Faculty of Economic Sciences
Nowoursynowska St. 166, 02-787 Warsaw, tel. (22) 593 42 20
e-mail: monika_gębska@sggw.pl