COMMON POSITION (EC) No 57/2002
adopted by the Council on 27 June 2002


THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37 and 152(4)(b) thereof,

Having regard to the proposal from the Commission (1),

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

Following consultation of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty (3),

Whereas:

(1) Harmonisation of animal-health requirements applicable to the non-commercial movement of pet animals between Member States and from third countries is necessary and only measures adopted at Community level can enable that objective to be achieved.

(2) This Regulation concerns the movement of live animals covered by Annex I to the Treaty. Some of its provisions, in particular concerning rabies, have as their direct objective the protection of public health, while others concern solely animal health. Article 37 and Article 152(4)(b) of the Treaty are therefore the appropriate legal basis.

(3) Over the past ten years the rabies situation has improved spectacularly throughout the Community following the implementation of programmes for the oral vaccination of foxes in regions affected by the sylvatic-rabies epidemic that has swept through north-eastern Europe since the 1960s.

(4) This improvement has led the United Kingdom and Sweden to abandon the system of six months’ quarantine they applied for decades, in favour of an alternative, less restrictive system providing an equivalent level of safety. Provision should therefore be made at Community level for the application of a special system for the movement of pet animals to those Member States for a transitional period of five years and for the Commission, in the light of the experience gained and a scientific opinion from the European Food Safety Authority, to present a report in due course with appropriate proposals. Provision should also be made for a rapid procedure to decide on a temporary extension of the above transitional regime, particularly if the scientific assessment of the experience gained were to make necessary longer time periods than those currently laid down.

(5) Cases of rabies observed in pet carnivores in the Community now mainly affect animals originating in third countries where an urban type of rabies is endemic. The animal-health requirements generally applicable hitherto by the Member States to pet carnivores introduced from such third countries should accordingly be made more stringent.

(6) However, derogations should be considered for movement from third countries belonging, from the animal-health standpoint, to the same geographical region as the Community.

(7) Article 299(6)(c) of the Treaty and Council Regulation (EEC) No 706/73 of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products (4) provide that Community veterinary legislation applies to the Channel Islands and the Isle of Man, which, for the purposes of this Regulation, are therefore to be considered as part of the United Kingdom.

(8) A legal framework should also be established for the animal-health requirements applicable to non-commercial movement of species of animals not affected by rabies or of no epidemiological significance as regards rabies and with regard to other diseases affecting the species of animals listed in Annex I.

(9) It is appropriate that this Regulation should apply without prejudice to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (1).

(10) 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 (2).

(11) Existing Community animal health requirements, and more specifically Council Directive 92/65/EEC of 13 July 1965 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC (3), generally apply only to trade. To avoid commercial movements being fraudulently disguised as non-commercial movements of pet animals within the meaning of this Regulation, the provisions of Directive 92/65/EEC on the movement of animals of the species specified in Parts A and B of Annex I should be overhauled, with the aim of ensuring their uniformity with the rules set out in this Regulation. With the same aim, provision should be made for the possibility of specifying a maximum number of animals that may be the subject of movement within the meaning of this Regulation, above which the rules regarding trade will apply.

(12) The measures provided for by this Regulation are designed to ensure a sufficient level of safety in regard to those health risks involved. They do not constitute unjustified obstacles to movement coming within its field of application, since they are based upon the conclusions of groups of experts consulted on the matter and in particular on a report by the Scientific Veterinary Committee published on 16 September 1997, HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

This Regulation lays down the animal-health requirements applicable to the non-commercial movement of pet animals and the rules applying to checks on such movement.

Article 2

This Regulation applies to the movement between Member States or from third countries of pet animals of the species listed in Annex I.

It shall apply without prejudice to Regulation (EC) No 338/97.

Provisions based on considerations other than those relating to animal-health requirements, and intended to restrict the movement of certain species or breeds of pet animals, shall not be affected by this Regulation.

Article 3

For the purposes of this Regulation:

(a) ‘pet animals’ means animals of the species listed in Annex I which are accompanying their owners or a natural person responsible for such animals on behalf of the owner during their movement and are not intended to be sold or transferred to another owner;

(b) ‘passport’ means any document enabling the pet animal to be clearly identified and including the points that enable its status with regard to this Regulation to be checked, which is to be drawn up in accordance with the second paragraph of Article 17;

(c) ‘movement’ means any movement of a pet animal between Member States or its entry or re-entry into the territory of the Community from a third country.

Article 4

During an eight-year transitional period starting from the entry into force of this Regulation, animals of the species listed in Parts A and B of Annex I shall be regarded as identified as they bear:

(a) either a clearly readable tattoo; or

(b) an electronic identification system (transponder).

In the case referred to in point (b) of the preceding subparagraph, where the transponder does not comply with ISO Standard 11784 or Annex A to ISO Standard 11785, the owner or the natural person responsible for the pet animal on behalf of the owner must provide the means necessary for reading the transponder at the time of any inspection.


CHAPTER II

PROVISIONS APPLICABLE TO MOVEMENT BETWEEN MEMBER STATES

Article 5

1. When being moved, pet animals of the species listed in Parts A and B of Annex I must, without prejudice to the requirements laid down in Article 6:

(a) be identified in accordance with Article 4, and

(b) be accompanied by a passport issued by a veterinarian authorised by the competent authority certifying valid anti-rabies vaccination, or re-vaccination if applicable, in accordance with the recommendations of the manufacturing laboratory, carried out on the animal in question with an inactivated vaccine of at least one antigenic unit per dose (WHO standard).

2. Member States may authorise the movement of animals listed in Parts A and B of Annex I which are under three months old and unvaccinated, if they are accompanied by a passport and have stayed in the place in which they were born since birth without contact with wild animals likely to have been exposed to the infection or are accompanied by their mothers on whom they are still dependent.

Article 6

1. For a transitional period of five years starting from the date of entry into force of this Regulation, entry of the pet animals listed in Part A of Annex I into the territory of Ireland, Sweden and the United Kingdom shall be subject to the following requirements:

— they must be identified in accordance with point (b) of the first paragraph of Article 4, unless the Member State of destination also recognises identification in accordance with point (a) of the first paragraph of Article 4, and

— they must be accompanied by a passport issued by a veterinarian authorised by the competent authority certifying — in addition to the conditions laid down in Article 5(1)(b) — a neutralising antibody titration at least equal to 0,5 IU/ml carried out in an approved laboratory on a sample within the periods laid down in national rules in force on the date specified in the second paragraph of Article 25.

This antibody titration need not be repeated on an animal which, following that titration, has been regularly re-vaccinated at the intervals laid down in Article 5(1) without a break in the vaccination protocol required by the manufacturing laboratory.

The Member State of destination may exempt pet animals moving between these three Member States from the vaccination and antibody titration requirements provided for in the first subparagraph of this paragraph, in accordance with national rules in force on the date specified in the second paragraph of Article 25.

2. Except where the competent authority grants a derogation in specific cases, animals under three months old of the species listed in Part A of Annex I may not be moved before they have reached the required age for vaccination and, where provided for in the rules, they have undergone a test to determine antibody titration.

3. The transitional period laid down in paragraph 1 may be extended by the Council, acting by a qualified majority on a proposal from the Commission.

Article 7

CONDITIONS RELATING TO MOVEMENTS FROM THIRD COUNTRIES

Article 8

1. At the time of movement, pet animals of the species listed in Parts A and B of Annex I shall:

(a) when they come from a third country listed in Section 2 of Part B and in Part C of Annex II, and enter:

(i) one of the Member States listed in Section 1 of Part B of Annex II, satisfy the requirements of Article 5(1);

(ii) one of the Member States listed in Part A of Annex II, either directly or after transit through one of the territories listed in Part B of Annex II, satisfy the requirements of Article 6;

(b) when they come from another third country and enter:

(i) one of the Member States listed in Section 1 of Part B of Annex II:

— be identified by means of the identification system defined in Article 4 and

...
— have undergone:

— anti-rabies vaccination in accordance with the requirements of Article 5 and

— a neutralising antibody titration at least equal to 0.5 IU/ml carried out on a sample taken by an authorised veterinarian at least thirty days after vaccination and three months before being moved.

The antibody titration need not be renewed on a pet animal which has been re-vaccinated at the intervals laid down in Article 5(1).

This three-month period shall not apply to the re-entry of a pet animal whose passport certifies that the titration was carried out, with a positive result, before the animal left the territory of the Community;

(ii) one of the Member States listed in Part A of Annex II, either immediately or after transit through one of the territories listed in Part B of Annex II, be placed in quarantine unless they have been brought into conformity with the requirements of Article 6 after their entry into the Community.

2. Pet animals must be accompanied by a certificate issued by an official veterinarian or, on re-entry, by a passport certifying compliance with the provisions of paragraph 1.

3. Notwithstanding the above provisions:

(a) pet animals from the territories listed in Section 2 of Part B of Annex II for which it has been established, under the procedure laid down in Article 24(2), that such territories apply rules at least equivalent to Community rules as provided for in Chapter III, shall be subject to the rules laid down in Chapter II;

(b) the movement of pet animals between, respectively, San Marino, The Vatican and Italy, Monaco and France, Andorra and France or Spain, and Norway and Sweden may continue under the conditions laid down by national rules in force on the date laid down in the second paragraph of Article 25;

(c) in accordance with the procedure laid down in Article 24(2) and on conditions to be determined, the entry of unvaccinated pet animals under three months old of the species listed in Part A of Annex I from the third countries listed in Parts B and C of Annex II may be authorised where the rabies situation in the country concerned so warrants.

4. The arrangements for implementing this Article, and in particular the model certificate, shall be adopted in accordance with the procedure laid down in Article 24(2).

Article 9

The conditions applicable to the movement of animals of the species listed in Part C of Annex I from third countries, and the model certificate which must accompany them, shall be established in accordance with the procedure laid down in Article 24(2).

Article 10

The list of third countries provided for in Part C of Annex II shall be drawn up before the date provided for in the second paragraph of Article 25 and in accordance with the procedure laid down in Article 24(2). To be included on that list, a third country must first demonstrate its status with regard to rabies and that:

(a) notification to the authorities of the suspicion of rabies is obligatory;

(b) an efficient monitoring system has been in place for at least two years;

(c) the structure and organisation of its veterinary services are sufficient to guarantee the validity of the certificates;

(d) all the regulatory measures for the prevention and control of rabies have been implemented, including the rules on imports;

(e) regulations are in force on the marketing of anti-rabies vaccines (list of authorised vaccines and laboratories).

Article 11

Member States shall provide the public with clear and easily accessible information concerning the health requirements that apply for the non-commercial movement of pets in Community territory and the conditions under which they may enter or re-enter such territory. They shall also ensure that personnel at entry points are fully informed of these rules and are able to implement them.

Article 12

Member States shall take the measures necessary to ensure that pet animals brought into Community territory from a third country other than those listed in Section 2 of Part B of Annex II are subject:

(a) if there are five pet animals or less, to documentary and identity checks by the competent authorities at the travellers' point of entry into Community territory;
(b) if there are more than five pet animals, to the requirements and checks laid down in Directive 92/65/EEC.

Member States shall designate the authorities responsible for such checks and immediately inform the Commission thereof.

Article 13

Each Member State shall draw up a list of points of entry as referred to in Article 12 and forward it to the other Member States and to the Commission.

Article 14

At the time of any movement, the owner or natural person responsible for the pet animal must be able to present the authorities responsible for checks with a passport or the certificate provided for in Article 8(2) certifying that the animal meets the requirements laid down for such movement.

In particular, in the case referred to in point (b) of the first paragraph of Article 4, where the transponder does not comply with ISO Standard 11784 or Annex A to ISO Standard 11785, the owner or natural person responsible for the pet animal must provide the means necessary for reading the transponder at the time of any inspection.

Where such checks reveal that the animal does not meet the requirements laid down in this Regulation, the competent authorities shall decide in consultation with the official veterinarian:

(a) to return the animal to its country of origin;

(b) to isolate the animal under official control for the time necessary for it to meet the health requirements, at the expense of the owner or the natural person responsible for it; or

(c) as a last resort, to put the animal down — without financial compensation — where its return or isolation in quarantine cannot be envisaged.

Member States shall ensure that animals which are refused authorisation to enter Community territory are housed under official control pending return to their country of origin or any other administrative decision.

CHAPTER IV
COMMON AND FINAL PROVISIONS

Article 15

Where the requirements applicable to movement provide for an antibody titration for rabies, the sample must be taken by an authorised veterinarian and the test must be carried out by a laboratory approved in accordance with Council Decision 2000/258/EC of 20 March 2000 designating a specific institute responsible for establishing the criteria necessary for standardising the serological tests to monitor the effectiveness of rabies vaccines (\(^1\)).

Article 16

For a transitional period of five years starting from the date of entry into force of this Regulation, those Member States which have special rules for the control of echinococcosis and ticks on the date on which this Regulation comes into force may make the entry of pet animals into their territory subject to compliance with those requirements.

For this purpose, they shall send the Commission a report on their situation with regard to the disease in question, setting out grounds for the need for additional guarantees to prevent the risk of introduction of the disease.

The Commission shall inform the Member States within the Committee provided for in Article 24 of those additional guarantees.

Article 17

For the movement of animals of the species listed in Parts A and B of Annex I, requirements other than those laid down by this Regulation may be laid down in accordance with the procedure laid down in Article 24(2).

The model passports which must accompany animals of the species listed in Parts A and B of Annex I which are being moved shall be drawn up in accordance with the procedure laid down in Article 24(2).

Article 18


\(^1\) OJ L 79, 30.3.2000, p. 40.
In particular, at the request of a Member State or on the initiative of the Commission, where the rabies situation in a Member State or a third country so warrants, a decision may be taken, in accordance with the procedure laid down in Article 24(3), that animals of the species listed in Parts A and B of Annex I coming from that territory must meet the conditions laid down in Article 8(1)(b).

Article 19

Part C of Annex I and Parts B and C of Annex II may be amended in accordance with the procedure laid down in Article 24(2) to take account of developments in the situation within Community territory or in third countries as regards diseases affecting the species of animals covered by this Regulation, in particular rabies, and, if need be, limit, for the purposes of this Regulation, the number of animals which can be moved.

Article 20

Any implementing measures necessary shall be adopted in accordance with the procedure laid down in Article 24(2).

Article 21

Any transitional provisions may be adopted in accordance with the procedure laid down in Article 24(2).

Article 22

Council Directive 92/65/EEC shall be amended as follows:

1. in Article 10:

(a) in paragraph 1 the word ‘ferrets’ shall be deleted;

(b) paragraphs 2 and 3 shall be replaced by the following:


The certificate accompanying the animals must also confirm that, twenty-four hours before dispatch of the animals, a clinical examination was carried out by a veterinarian authorised by the competent authority showing the animals to be in good health and able to withstand carriage to their destination.

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(c) in paragraph 4 the following shall be added after ‘carnivores’:

‘with the exception of the species referred to in paragraphs 2 and 3;’

(d) paragraph 8 shall be deleted.

2. The following subparagraphs shall be added to Article 16:

‘With respect to cats, dogs and ferrets, import conditions must be at least equivalent to those of Chapter III of Regulation (EC) No . . ./2002.

The certificate accompanying the animals must also confirm that, twenty-four hours before dispatch of the animals, a clinical examination was carried out by a veterinarian authorised by the competent authority showing the animals to be in good health and able to withstand carriage to their destination.’

Article 23

Before 1 February 2007 the Commission, after receipt of the opinion of the European Food Safety Authority on the need to maintain the serological test, shall submit to the European Parliament and the Council a report, based on experience gained and on a risk evaluation, together with appropriate proposals for determining the regime to be applied with effect from 1 January 2008 for Articles 6, 8 and 16.

Furthermore, before 1 January 2009 the Commission shall submit to the Council a report based on experience gained to determine the definitive system of identification provided for in Article 4. However, the need to require compliance with ISO standards for the transponders provided for in Articles 4 and 14 must be the subject of a Commission report before 1 January 2005.

Article 24

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply in compliance with the provisions of Article 8 thereof where measures have as their direct objective the protection of public health.
The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply in compliance with the provisions of Article 8 thereof where measures have as their direct objective the protection of public health.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be set at fifteen days.

4. The Committee shall adopt its rules of procedure.

Article 25

This Regulation shall enter into force on the twentieth day after that of its publication in the Official Journal of the European Communities.

It shall apply from . . . (*)

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at . . .

For the European Parliament

The President

For the Council

The President

(*) Twelve months after the entry into force of this Regulation.
ANNEX I

SPECIES OF ANIMALS

PART A
Dogs
Cats

PART B
Ferrets

PART C

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ANNEX II

LISTS OF COUNTRIES AND TERRITORIES

PART A
Sweden
Ireland
United Kingdom

PART B
Section 1
Member States other than those listed in A
Section 2
Andorra
Iceland
Liechtenstein
Monaco
Norway
San Marino
Switzerland
The Vatican

PART C
List of third countries or parts of territories provided for in Article 10.
STATEMENT OF THE COUNCIL’S REASONS

I. INTRODUCTION


The European Parliament delivered its Opinion on that proposal at first reading on 2 and 3 May 2001 (3).

The Economic and Social Committee delivered an Opinion on 29 November 2001 (4).

The Committee of the Regions decided not to deliver an opinion.

After examining the Opinions delivered, the Council adopted a common position on 27 June 2002.

II. OBJECTIVE OF THE PROPOSED REGULATION

The purpose of the Regulation is to facilitate the free movement of pet animals while guaranteeing a high level of protection for human and animal health. To that end, it seeks to harmonise animal-health measures and the controls on non-commercial movements of pet animals within the Community and from non-member countries.

III. ANALYSIS OF THE COMMON POSITION

The Council, the European Parliament and the Commission share the same view on the balance to be achieved between the various objectives to be pursued, i.e. the maintenance of a high level of health protection in territories in which there has been no incidence of rabies for decades while ensuring the free movement of animals and their owners without excessive obstruction.

The Commission and the European Parliament have pointed out that that balance could be achieved by consolidating the situation created by the new rules intended to take the place of quarantine in those Member States that have required it to date for a transitional period long enough to permit the re-assessment of those rules.

The Council shared that approach, but felt it was necessary to lay down, for the entire European Community, rules for the admission of pet animals from non-member countries since the risk of spreading rabies was caused above all by animals that had stayed in non-member countries in which rabies was endemic. In order to guarantee a high level of protection against rabies those rules are modulated in order to take account of the epidemiological situations in different non-member countries. They also take account of the special situations of certain non-member countries that belong to the same geographical region as the Community and have the same health status.

In addition, the European Parliament considered it useful to make the identification of dogs and cats by tattooing transitional. The Council agreed to that approach, but postponed a decision on the choice of identification methods.

Accordingly, the Council does not consider it necessary to specify immediately that only transponders complying with standard ISO 11784 may be used, but prefers to postpone that decision to a subsequent review. It has therefore not accepted Amendment 7 of the European Parliament.
In order to guarantee greater transparency in the text and observe more fully the distinction between the basic components of the instrument, which can be amended only by legislative procedure, and the technical aspects, which can be updated by implementing measures (committee procedure), the Council has incorporated all the essential features, including the list of Member States that impose special requirements with regard to rabies, in the text of the Regulation.

Beyond that, the Council has adopted the other European Parliament amendments accepted by the Commission, albeit it with a number of drafting changes. It has also to a large extent adopted Amendment 13 on puppies and kittens, even if Article 4(2) allows for certain exceptions for movements between Member States.

The common position adopted by the Council is still based on the double legal basis of Articles 37 and 152(4)(b) TEC, since it deals with veterinary matters and is intended to protect both human and animal health. It is therefore only some of its provisions (in particular those concerning rabies) that can be said to have as their direct objective the protection of public health.

The Council felt that the reference to the decision of the OIE Animal Health Code would result in the exclusion of certain parts of the European Community from free movement, in particular after enlargement, and it has not adopted European Parliament Amendment 10.

Finally, the Council has rejected Amendment 14, which sought to exclude ferrets from the scope of the Regulation, as it preferred, in view of the movements of such pet animals, to incorporate in the common position special rules that took account of that species's characteristics and the availability of anti-rabies vaccines.

In conclusion, the Council considered it indispensable to lay down provisions to prevent any circumvention of the rules and in particular the possibility that commercial movements of pet animals could be carried out as non-commercial. To that end, in agreement with the Commission, it has made the necessary amendments to Directive 92/65/EC, which covers the commercial movements of the species covered by this Regulation.

IV. CONCLUSION

The Council feels that the fact that it has to a very large extent taken account of the European Parliament's positions ought to lead to the early adoption of the Regulation.