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Commissioner Kyriakides  
European Commission  
B-1049 Brussels, Belgium

Please reply to:

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Dear Commissioner Kyriakides

### Article 13 TFEU: Export of live EU farm animals to Libya at a time of escalating civil war

Thank you for your recent letter in reply to ours of 8 May.

We have warmly welcomed your personal commitment to improving animal welfare and have believed this would lead to the Commission taking a stronger approach in this field. Given your strong commitment to animal welfare, we are surprised – and disappointed - by your reply.

Your letter says that exports to Libya “are taking place in a context of private operations and not as the result of Union’s policy on agriculture or any other Union’s policy mentioned in Article 13 TFEU. In the light of the above, the Commission cannot prevent such operations as long as they are carried out in accordance with EU legislation”.

This is an extraordinary position for the Commission to take. Private operators operate within the policy framework and legislation adopted by the Commission and the other EU institutions. The Union’s policy and legislation on agriculture and animal transport permits – and does nothing to discourage – the export of live animals to non-EU countries.

One of the key roles of government (in this case the Commission and the Member States) is to regulate what private operators do (not just in agriculture but in all areas of economic activity). Governments tell private operators –through legislation and/or policy frameworks – which activities are legitimate and which are not. The Commission and many exporting Member States (MS) have decided that, despite the civil war in Libya, it is legitimate for private operators to continue to export animals to Libya. In formulating this policy, the Commission and the MS have clearly not paid full regard to the welfare requirements of animals as they are required to do by Article 13 TFEU.

**Breaches of the legislation:** Your letter says “the Commission cannot prevent such operations as long as they are carried out in accordance with EU legislation”. However, the Commission knows that live exports to the Middle East and North Africa are often not being carried out in accordance with Regulation 1/2005 as interpreted by the Court of Justice in the *Zuchtvieh* case.

Both competent authorities and organisers of live exports by sea often fail to comply with Regulation 1/2005.

Indeed the Commission's own recent overview report on transport by sea (2019-6835) highlights a serious range of non-compliances during live export journeys as do the Commission's audit reports on live exports from Spain (2018-6446), Croatia (2018-6447) and Slovenia (2018-6449). Breaches of EU legislation by organisers and transporters revealed by these reports include:

- Transport of unfit animals
- Transport of animals in temperatures above the legally permitted maximum
- Use of deficient livestock vessels
- Failure by organisers to have contingency plans for use in the event of emergencies
- Failure in some cases to submit journey logs to the competent authority of the MS of departure
- Failure by organisers to identify an authorised transporter for the sea stage of the journey. Under Article 6(6) of Regulation 1/2005 transporters must ensure that "an attendant accompanies any consignment of animals" including during the sea journey. Article 2(c) defines an attendant as "a person directly in charge of the welfare of the animals who accompanies them during a journey". This means that a representative of the transporter – the attendant - must accompany the animals while they are in the port, during loading, during the sea journey and during unloading. The presence of an attendant is essential to ensure that, as required by the *Zuchtvieh* ruling, the requirements of Regulation 1/2005 are respected during the stages of the journey that take place outside the EU. The failure to identify an authorised transporter results in there being no-one on the vessel who is in charge of the welfare of the animals during the long sea journey.

**A Commission letter to the MS would be helpful:** We urge the Commission to propose a ban on live exports. In the meantime it would be helpful if the Commission would write to the MS reminding them that in formulating and implementing their policy on live exports to Libya (and other non-EU countries), they must under Article 13 pay full regard to the welfare requirements of the animals. This means, inter alia, that they must consider (i) whether the stages of the journey after the animals leave the EU will be conducted in compliance with Regulation 1/2005 and (ii) whether authorities in the importing countries will be able to ensure that onward transportation and slaughter will be carried out in accordance with the OIE's international welfare standards.

The Commission's letter should also stress that MS must:

- require organisers to submit a journey log even when the journey from the place of departure to the port is under 8 hours
- reject journey logs that do not identify an authorised transporter for the sea stage of the journey.

**Final remarks:** After this reply we fear there will be no circumstance in which the Commission will respect Article 13 and invoke it to ensure that Member States respect the welfare of animals even in cases involving extreme suffering.

For many years we and others have informed the Commission of the extreme suffering – both during transport and slaughter - regularly involved in live exports. We are concerned that your letter refers to these as "some unfortunate events" while in reality they constitute systematic and continued disregard of the law over many years.

Yours sincerely

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Animal Welfare Foundation, Iris Baumgärtner, Vice-Chair  
Animals International, Gabriel Paun, EU Director  
Animals' Angels, Julia Havenstein, Vorsitzende  
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