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FINAL REPORT OF AN AUDIT
CARRIED OUT IN
GERMANY
FROM 12 FEBRUARY 2018 TO 21 FEBRUARY 2018
IN ORDER TO
EVALUATE MEMBER STATE ACTIVITIES TO PREVENT TAIL-BITING AND AVOID
ROUTINE TAIL-DOCKING OF PIGS

In response to information provided by the competent authority, any factual error noted in the draft report has been corrected; any clarification appears in the form of a footnote.

Executive Summary

The report describes the outcome of an audit in Germany from 12 to 21 February 2018. The objective of the audit was to evaluate the suitability and effectiveness of the measures in place to prevent tail-biting and to avoid routine tail-docking of pigs.

The report concludes that although central and Länder authorities have spent considerable sums on research and communicate on its results, their strategies to reduce tail-biting and avoid routine tail-docking of pigs have not produced tangible results and tail-docking is still routinely carried out in the country.

Funding at federal and Land level to farmers has succeeded in raising standards to enable the rearing of a small percentage of animals with intact tails but at a high cost. EU funding incentives are not used in any coordinated way to reduce tail-biting and avoid routine tail-docking of pigs through improving environmental or management systems even though this was recommended by a Federal Advisory Committee (centre of competence) in 2015.

The authorities have drafted an Action Plan to improve enforcement of the legislation on tail-docking of pigs. The benefit is that it includes requirements for recording base-line data on tail-biting incidence, farm risk assessments, and ongoing farm improvement measures. However, the process to reach agreement both at working group and Ministerial level, and to make important additions such as better defined compliance criteria, might take several years to implement.

Although the national requirements for pig premises are more detailed than EU legislation and this provides an opportunity to improve conditions on farms, in general, national legislation and guidance on many aspects of existing law does not provide sufficiently clear compliance criteria to enable inspectors and farmers to make a judgement on whether these farms are compliant. Interpretative guidance, agreed at Länder level, while binding in certain Länder has only an advisory status in others.

Private veterinary certificates justifying the need to tail-dock are not sufficiently based on evidence that other measures have been taken to prevent tail-biting. This, together with the lack of verification of these certificates during official controls, results in routine tail-docking.

Official controls provide a good level of surveillance for animal welfare standards. However, the authorities do not use certain available data, such as tail-damage or other animal-based criteria recorded in slaughterhouses, to measure the occurrence of tail-biting on-farm and this is a missed opportunity to set intervention levels for follow-up actions on farms and to enhance the level of risk-based checks.

The 11 million docked pigs (30kg weaner pigs) received from other Member States present a challenge for the competent authority to change management practices on the farms receiving these animals. It is positive that the Action Plan includes proposals to address this with trading countries.

The report contains recommendations to the German authorities to address the shortcomings identified.

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ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

Abbreviation	Explanation
BMEL	Ministry of Food and Agriculture - (<i>Bundesministerium für Ernährung und Landwirtschaft</i>)
EU	European Union
<i>Kreis</i>	District or county
<i>Land/Länder</i>	Federal State(s)
LAV	<i>Land</i> working group on consumer protection (<i>Länderarbeitsgruppe Verbraucherschutz</i>)
SchwIP	Tail-biting intervention programme – (<i>Schwanzbeiß Interventions Programm</i>)
The Recommendation	Commission Recommendation (EU) 2016/336 of 8 March 2016 on the application of Council Directive 2008/120/EC laying down minimum standards for the protection of pigs.
Pig Directive	Council Directive 2008/120/EC

1 INTRODUCTION

This audit took place in Germany from 12 to 21 February 2018 as part of the planned audit programme of DG Health and Food Safety. An opening meeting was held with the German competent authorities on 12th February 2018. At this meeting, the objectives of, and itinerary for, the audit were confirmed by the audit team and additional information required for the satisfactory completion of the audit was requested.

The audit team comprised two auditors from DG Health and Food Safety and a national expert from a Member State and was accompanied throughout the audit by representatives from the central competent authority the Ministry of Food and Agriculture - (BMEL- *Bundesministerium für Ernährung und Landwirtschaft*).

2 OBJECTIVES AND SCOPE

The objective of the audit was to evaluate the suitability and effectiveness of the measures in place to prevent tail-biting and to avoid routine tail-docking of pigs.

The scope of the audit included:

- Primarily measures taken and documentation from the period March 2015 to December 2017 but actions taken by the competent authority and others prior to this date were also included as findings in the audit report;
- Activities of competent authorities;
- Activities of farmers' associations, meat and feed industry, academia and Non-Governmental Organisations (NGOs) to prevent tail-biting and avoid routine tail-docking of pigs;
- Voluntary (quality) schemes, financial incentives or any other factors that aim to encourage and support farmers in avoiding tail-docking.

The main legal requirements are included in:

- Council Directive 2008/120/EC¹;
- Council Directive 98/58/EC²;
- Regulation (EC) No 854/2004 of the European Parliament and of the Council³;
- Regulation (EC) No 882/2004 of the European Parliament and of the Council⁴.

¹ Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (OJ L 47, 18.2.2009, p. 5)

² Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23)

³ Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ L 139, 30.4.2004, p. 206)

In assessing compliance with Council Directive 2008/120/EC the audit team will take into account Commission Recommendation (EU) 2016/336 (hereafter: The Recommendation) and the accompanying Staff Working Document⁵.

In pursuit of the objectives, the following meetings were held:

Meetings with competent authorities			Comments
Competent authority	Central	2	Initial and closing meetings, including meetings with representatives of <i>Länder</i> (<i>Land</i> 1 and <i>Land</i> 2), pig producer associations, research institutions and German Veterinary Chamber
	<i>Länder</i>	2	<i>Land</i> 1 and <i>Land</i> 2
Farms		4	Farm 1: 900 sows, 5000 weaner pigs, 1000 fattening pigs; Farm 2: 1500 fattening pigs; Farm 3: 100 breeding sows, 950 (weaner pigs and fattening pigs); Farm 4: 1400 fattening pigs.
Slaughterhouse		1	Slaughterhouse visit
Meeting with Stakeholders		1	Meeting with researchers from <i>Land</i> 1 and <i>Land</i> 2, pig producer association (<i>Land</i> 1).

3 LEGAL BASIS

The audit was carried out under the general provisions of EU legislation and, in particular Article 45 of Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules and Article 10 of Council Directive 2008/120/EC (hereafter the Pig Directive) laying down the minimum standards for the protection of pigs.

EU legal acts quoted in this report are provided in Annex 1 and refer, where applicable, to the last amended version.

4 BACKGROUND

Germany is the largest producer of pork and the second largest producer of pigs in the EU with approximately 23,500 pig farms (8,400 breeding and 19,700 slaughter holdings).

⁴ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1)

⁵ Commission Recommendation (EU) 2016/336 of 8 March 2016 (OJ L 62, 9.3.2016, p. 20) on the application of Council Directive 2008/120/EC laying down minimum standards for the protection of pigs and Commission Staff Working Document on best practices with a view to the prevention of routine tail-docking and the provision of enrichment materials to pigs (C (2016)1345 final).

German sow farmers keep about 1.9 million sows and produce an estimated 45 million 30 kg weaner pigs annually. Each year about 11 million weaner pigs less than 50 kg are transported to Germany, mainly from Denmark (6,2 million) and the Netherlands (4,7 million). In addition, approximately 4.5 million slaughter pigs more than 50 kg, mainly from the Netherlands, are imported to Germany for slaughter each year. In total 59 million pigs are slaughtered in Germany. About 95% of commercial pigs born and imported into Germany are tail-docked. There is little demand for undocked pigs in Germany. This is a major obstacle to getting greater efforts to avoid tail-docking.

In 2014 representatives from Denmark, Germany and the Netherlands drew up a position paper which was signed by the Ministers from these three countries plus Sweden. The paper is also supported by the Belgian authorities. It calls for an urgent update of the Pig Directive, in particular regarding the provision on tail-docking of pigs. These countries urged the Commission to amend the legislation, with the aim to ensure that the conditions, which apply before tail-docking can be carried out, must also apply for the *keeping* of tail-docked pigs to make slaughter pig's farms also responsible for bringing about a reduction in this practice.

In 2014, the European Parliament published a study indicating extremely low implementation of the Pig Directive in relation to tail-docking.

In 2016, the Commission published the Recommendation, which provides guidance on best practices as regards measures to reduce the need for tail-docking and an accompanying Staff Working Document on best practices with a view to the prevention of routine tail-docking and the provision of enrichment materials to pigs⁶.

This audit is part of a Commission project aimed at improving the implementation and enforcement of the Pig Directive laying down minimum standards for the protection of pigs, particularly reducing systematic tail-docking of pigs in the EU.

As part of the DG SANTE project on reducing the routine tail-docking of piglets in the EU, Member States were asked to provide Action Plans by the end of January 2018 on how they intend to achieve compliance with the requirements of Directives 2008/120/EC and 98/58/EC in relation to pigs and specifically on the issue of prevention of tail-biting and avoidance of routine tail-docking.

The Directive leaves to Member States the choice of appropriate form and methods of ensuring compliance with these general conditions.

⁶ Commission Staff Working Document on best practices with a view to the prevention of routine tail-docking and the provision of enrichment materials to pigs (C(2016) 1345 final)

5 FINDINGS AND CONCLUSIONS

5.1 IMPLEMENTING MEASURES

Legal requirements

Points 4 and 8 of Chapter I of Annex I to Directive 2008/120/EC

Findings

1. The German Animal Welfare Law (*Tierschutzgesetz*) and the Regulation for Animal Welfare in Farm Animals (*Tierschutz-Nutztierhaltungsverordnung*) implement the requirements of Directives 2008/120/EC and 98/58/EC.
2. The requirements of point 4 of Chapter I of Annex I of the Pig Directive on the provision of enrichment material are transposed into German law by Paragraph 26 (1) No. 1 of the Regulation for Animal Welfare in Farm Animals.
3. *The Regulation for Animal Welfare in Farm Animals* does not include the exemplary list of enrichment materials and the organic nature of the examples listed in the Pig Directive has not been transposed into German national law.
4. The requirements of the second paragraph of point 8 of Chapter I of Annex I of the Pig Directive on the avoidance of routine tail-docking are transposed into German law by Animal Welfare Law Paragraph 6 (1) No. 3 in combination with Paragraph 5 (3) No. 3.
5. Some requirements of German national legislation provide criteria which are more specific or go beyond the requirements of Council Directive 2008/120/EC. See the section on Official Controls and Annex II for further details. It is worth highlighting that the national requirements for thermal comfort include lower temperature limits for different categories of pigs but do not provide upper limits which could be harmful to pigs. Space allowances for weaner pigs/slaughter pigs are more generous and provisions for feed and water are also specified.
6. *The Regulation for Animal Welfare in Farm Animals* includes a feeding regime "daily rationed feeding" (*tagesrationierte Fütterung*) not foreseen in the Directive. The Directive requires that where pigs are fed in groups and not *ad libitum* or by an automatic system feeding the animals individually, each pig must have access to the food at the same time as the others in the group whereas the Regulation for Animal Welfare in Farm Animals prescribes a ratio of pigs per feeding space of 2:1 for this type of daily rationed feeding regime, which is less than 1:1 that would be necessary for all pigs to be able to feed at the same time and is therefore not in compliance with Point 6 of Chapter I, Annex I of the Pig Directive.
7. The animal welfare working group on pigs (*AGT-Arbeitsgruppe Tierschutz, Projektgruppe Handbuch Tierschutzüberwachung in Nutztierhaltungen*) of the Land working group on consumer protection has agreed a Handbook for animal welfare controls in farm animal holdings (*Handbuch Tierschutzüberwachung in*

Nutztierhaltungen – hereafter the Handbook) aiming to harmonise the implementation of animal welfare legislation on pigs at *Land* level throughout Germany. The relevant *Land* Ministry must issue a Decree or instruction to implement the Handbook as binding advice for inspectors: if none has been issued the Handbook will only have advisory status. The federal authority confirmed that the applicability of the Handbook varied between *Länder*. A Decree or Order was in force in both *Land* visited during the audit (*Land* 1 and *Land* 2).

8. Paragraph 11 (8) of the Animal Welfare Law requires animal keepers to assess animal-based welfare indicators. There is no requirement to record the results of these assessments which makes it extremely difficult for the competent authority to monitor compliance with this requirement. Within the framework of its Animal Welfare Plan *Land* 1 is developing animal welfare indicators for a range of species and this may include an agreement with industry to document the results of assessment of animal welfare indicators on farm.

Sanctions and enforcement

9. The authorities can impose administrative fines for non-compliances with Directives 2008/120/EC and 98/58/EC if the corresponding legal requirement is stated in either Paragraph 18 of Animal Welfare Law or Paragraph 44 of the Regulation for Animal Welfare in Farm Animals. It was noted that some requirements of the provisions of Directives 2008/120/EC and 98/58/EC are not directly sanctionable through this system, for example: characteristics and sufficient quantities of enrichment material; thermal comfort of flooring and a dry lying area and others.
10. The authorities refer enforcement actions relating to demonstrable long term or repeated suffering or pain to the public prosecutor for the purpose of criminal proceedings under Article 17 of the Animal Welfare Law.
11. The authorities may take enforcement action through Article 16a of the Animal Welfare Law to order farmers to make necessary changes where administrative fines, or Article 17 of the Animal Welfare Law, are not applicable. Where the authorities demonstrate that an order was not complied with they can also impose a sanction for not complying with the order. Any follow up visits for this purpose are also chargeable to the farmer.

Strategy for prevention of tail-docking and avoidance of routine tail-docking

12. The central competent authority estimates the incidence of tail-docking in Germany is over 95%.
13. Data on the frequency of tail-biting/tail lesions in pigs is not systematically collected on farms or in slaughterhouses except in connection with research and demonstration projects. However, the federal authority estimates that it is approximately 5% on farms which tail-dock, and among pigs involved in research projects which have not undergone tail-docking, the average is approx. 70 % (range: 24-94 %).

14. The Land and federal authority's strategy since 2011 for the prevention of tail-docking and avoidance of routine tail-docking over the medium to long term (not defined) has consisted of:
- Funding research to: discover the causes of tail-biting and support trials and projects to develop advisory strategies (central government and *Länder*); put research findings into practice and make them accessible to farmers in animal welfare pilot and demonstration projects (central government) and on a website (planned).
 - Maintaining close contact with the industry (central government and *Länder*).
 - Participation in two working groups on pig welfare with representatives from The Netherlands and Denmark, and representatives from Sweden and Belgium in one of the two groups. One of the objectives is to exchange experience and as far as possible harmonise enforcement. The last two meetings of one of the working groups focused on implementation of The Recommendation. However, no specific agreements on harmonising enforcement policy have been made. The next meetings will focus on proposing solutions to the issue of cross border trade in docked piglets for further fattening.
 - One *Land* offering results-based financial incentives to reduce tail-docking (the 'Curled-tail bonus') see paragraphs 55-58 below.

Action Plan

15. An important new component of Germany's strategy for the prevention of tail-docking and avoidance of routine tail-docking is its Action Plan to comply with the legislation on tail-docking of pigs. This was drafted by an animal welfare technical subgroup of the *Land* working group on consumer protection (LAV) and approved in principle by the Conference of State Secretaries of the *Länder* and the Federal Government in January 2018. It includes the following proposals:
- Individual farm-specific risk assessment for tail-biting or ear-biting, including farm-specific animal welfare indicators and slaughterhouse findings.
 - Implementation of farm-specific improvement measures to reduce the risk of tail or ear-biting until no more tail- or ear-biting occurs in at least 95% of docked animals.
 - Rearing small groups of pigs with intact tails as "control groups".
 - Increasing the proportion of undocked animals to achieve full tail-docking avoidance or, if appropriate, taking further improvement measures.
 - Systematic recording of findings on pigs' tails or ears.
 - Proposals for dealing with the trade in docked pigs.
 - Further development of the system for collection and transmission of findings in slaughterhouses.
 - Relevant training - especially for farmers.

- Recording progress of the actions proposed above as well as economic effects/impacts.
16. The Action Plan is scheduled for further discussion with the agriculture sector, research bodies and in the LAV animal welfare working group. It will then be presented to the Conference of State Secretaries and Agriculture Ministers in April 2018. The joint federal/*Länder* working group (welfare of pigs) will then be responsible for developing implementing measures by autumn 2018, after which it will be sent to the *Länder* for implementation and enforcement.
17. The audit team noted:
- There is no proposal to develop additional compliance criteria for legal requirements related to tail biting risk factors which cannot at present be adequately enforced (See Annex II).
 - The concept of requiring on-farm risk assessment has been proposed. There are no defined parameters or indicators for farm risk assessment.
 - The concept of requiring on-farm improvement measures until tail-biting targets are reached has been proposed. There are no defined, specific improvement measures put forward yet.
 - Whilst there are dates put forward for discussing the proposals, there are no deadlines for approving the plan and implementing it, and no proposals for prioritising its implementation or enhancing controls to monitor this or deadlines for enforcement. Working groups under the LAV can take a long time to reach consensus agreement on animal welfare issues.

The competent authority's guidance on reducing the risks of tail-biting and avoiding routine tail-docking

18. The Handbook for animal welfare controls in farm animal holdings gives guidance and instructions for carrying out official controls on pig farms but, as indicated in paragraph 7 above, all *Länder* have not made the handbook binding for inspectors.
19. National legislation and guidance does not provide sufficiently clear compliance criteria and guidance to enable inspectors and farmers to make a judgement on whether farms comply with the existing law. Inspectors echoed the need for clarification of instructions to enable them to make enforcement decisions.

Land instructions and guidance

20. The *Land* 1 Consumer Protection and Food Safety Office - *Landesamt für Verbraucherschutz und Lebensmittelsicherheit*) have drafted the following guidance documents (See Annex II for further details) which provides:
- Guidance explaining which types of enrichment material comply with German national legislation;

- Advice on how to implement The Recommendation;
 - A set of measures providing guidance on how to implement the legal requirements on tail-docking in pigs;
 - Additional information on enrichment materials for pig farms that still tail-dock / rear pigs with docked tails.
21. The authorities in *Land 2* have drafted the following guidance documents:
- Two advisory documents drafted by the *Land 2* State Research Centre for Agriculture (*Landesanstalt für Landwirtschaft*) on measures against tail-biting, suitable environment enrichment activities, and implementing measures from the Regulation for Animal Welfare in Farm Animals are available to staff of public authorities and advisors.
22. Whilst all of the above guidance documents contain differing levels of information providing benchmarks for different audiences (pig sector, official veterinarians), none of them provide specific binding criteria to enable inspectors and farmers to understand what would be compliant with the existing legislation for evidence that injuries to pigs' ears or tails have occurred, or conditions or management systems that must be changed before carrying out tail-docking.

Farm Risk Assessment

23. There is no data at central or *Länder* level of how many farmers in Germany have carried out a risk assessment on the causes of tail-biting.
24. A validated on-farm risk assessment and tail-biting intervention programme (*Schwein Intervention Programme-SchwIP*) combining animal and resource-based indicators (based upon German experience of rearing pigs i.e. predominantly tail-docked pigs), has been developed by the German Federal Research Institute (*Friedrich Loeffler Institute*). It is currently applied on a strictly voluntary basis and has mainly been carried out on farms taking part in research studies, funding programmes, and other projects.
25. Some *Länder* are considering requiring an annual mandatory on-farm risk assessment preferably using a validated tool such as SchwIP. The central authority and German State Research Institute consider that SchwIP is neither technically suitable for this nor suitable in terms of content. The audit team considered that using SchwIP (on a frequency as yet to be determined) as proof of on-farm risk assessment, together with the implementation of ongoing farm improvement measures, would be concrete evidence of action taken to address risk factors on farm and this has proven effective to reduce overall levels of tail-biting in research findings. However, part of the criteria that are used in the SchwIP questionnaires / data sheets to calculate tail-biting risk do not go beyond legal minimum national requirements or industry standards (e.g. cooling facilities, feeding space, feed composition) and therefore its usefulness in terms of achieving significant progress with regard to the keeping of pigs with intact tails is questionable.

26. There are a few additional generic checklists and a decision tree on risks for tail-biting on the pig sector Curled Tail (*Ringelschwanz*) website but these do not meet the requirements of The Recommendation as regards the scope to be covered and the combination of animal and non-animal-based animal welfare indicators.

Initiatives in *Land 1* and *Land 2*

27. *Land 1* has developed several initiatives on providing advice and funding on the prevention of tail-biting and avoidance of routine tail-docking under its Animal Welfare Plan (2011-2018)
- A brochure to advise farmers on the prevention of tail-biting “*Ratgeber zur Reduzierung des Risikos für Schwanzbeißen bei Schweinen*”
 - An expert network that was set up in 2015 to assist farmers in their efforts to prevent tail-biting and avoid tail-docking. The expert network provides training sessions for consultants and farmers and enables farmers that participate in the Curled-tail-bonus program to share their experiences on keeping pigs with intact tails.
 - The ‘Curled-tail-bonus’.
28. There is no data on tail and ear lesions systematically collected on farms or in slaughterhouses. There is an initiative - financed under *Land 1*'s Animal Welfare Plan- to harmonise and document slaughterhouse *post-mortem* findings on pigs. This study found that tail lesions were included in the *post-mortem* records in more than 80% of slaughterhouses. Data or analyses on the frequency or severity of tail lesions were not available.
29. The strategy in *Land 2* is to encourage investment in adequate housing for animals, implement practical projects and provide information to farmers in order to create the conditions under which an increasing proportion of pig-farmers will, in the medium term, be able to dispense with tail-docking. This is being facilitated through the funding (approximately 1 Million EUR) of demonstration farms where tail-docking is avoided, investments in improved facilities and management and the provision of information to farmers on enrichment material and measures to limit tail-biting.
30. A round table for animal welfare including the agricultural sector (pig-farmers included), researchers and consumers was set up by the *Land 2* government in 2012. It issued a Joint Declaration on animal welfare in 2015. Tail-docking in piglets is one of seven points in this declaration.
31. Since October 2016 a number of small scale (20-40 pigs) projects on the avoidance of tail-docking in full cycle farms have been funded by *Land 2*. Advice on risk factors was given together with an evaluation of results and discussions in a workshop with advisers and veterinary practitioners. The aim is to extend the approach to other farms. Currently 12 farms have completed a first cycle with a total of approximately 330 pigs, and eight farms are conducting a second cycle.

Other Initiatives

32. The Animal Welfare Initiative (*Initiative Tierwohl*) is an initiative by retailers, meat industry and farmers' organisations to promote "animal-welfare-friendly and sustainable meat production" and gradually improve animal welfare in livestock farming. It is not an animal welfare label. Scheme retailers pay a few cents per kg of meat to the Initiative to finance animal welfare measures on participating farms. Farms must fulfil basic criteria (of which one criterion goes beyond minimum requirements / basic industry standards) and have to choose at least one other eligibility criterion (some of which do go beyond minimum legal/basic industry standards). Depending on the criteria chosen farmers receive a financial compensation for each pig sold. An intact tail is not a criterion in the programme.
33. A German animal welfare voluntary label is being developed. Stakeholders include agricultural, slaughterhouse and research sectors. The label foresees an entry and premium level within a national legal framework, includes product traceability, and is open to other Member States and non-EU countries. Entry level criteria are planned to include: up to 30% more space; permanent access to roughage and rootable enrichment material; solid floor in resting area for weaner pigs; action plans to avoid routine tail-docking and a minimum weaning age of 28 days. The premium level is roughly equivalent to the organic standard (70-100% more space, free-range area, no tail-docking). There will be standard independent monitoring of compliance with the criteria. Legislation to implement the label is planned for the end of 2018. The audit team noted, on the basis of the discussions up to now, that the keeping of pigs with intact tails is not a criterion in the entry level, neither does it foresee specific requirements and deadlines for the farm action plans to avoid tail-docking.

Pig sector associations

34. The strategy of the pig sector is to work with stakeholders on disseminating research findings and examples of good practice in the prevention of tail-docking and avoidance of routine tail-docking.
35. In the view of German pig sector associations, it is premature to put a deadline on announcing targets or a date for ending tail-docking due to the multifactorial nature of the tail-biting risks. They also viewed the statement of the German Veterinary Chamber that pig rearing conditions should be adapted to the animals instead of the existing situation where animals must adapt to their environment (giving rise to welfare and production problems within conventional rearing and housing systems) as a political choice to take rather than a technical issue to solve or one of ensuring compliance with existing legislation. The Pig Directive clearly states in Point 8 of Chapter I, Annex I that before resorting to tail-docking "other measures shall be taken to prevent tail-biting and other vices, taking into account environment and stocking densities" and "for this reason inadequate environmental conditions or management systems must be changed."

36. The German Livestock Association (BRS- *Bundesverband Rind und Schwein e.V*) has, for the last six years, organised an annual meeting for stakeholders to exchange information on risks for tail-biting and avoiding tail-docking in pigs. It has developed a website giving information on the avoidance of tail-docking, provision of enrichment material at [Curled Tail Info](#). It includes: an on-line decision-tree; checklists for farm risk assessment and improvement measures and a list of expert advisers at: [Curled Tail Advisors](#).
37. The German Pig Farmers' Interest Group (*Interessengemeinschaft der Schweinehalter Deutschlands e.V* - ISN) is involved with and disseminates the results of federal and *Länder* research projects on pigs to its 10,000 members.
38. Three out of four farmers met during the audit were not aware of any initiatives with regard to avoidance of routine tail-docking.

Research

39. A list of EU (including German) research activities on tail-biting and avoidance of tail-docking can be downloaded from the German State research institution website⁷. The website <http://www.ringelschwanz.info/projekte/projekte.html> will list *Länder* projects on the subject shortly.
40. There have been more than 50 research projects in this area since 2011 and the Federal Ministry of Food and Agriculture (*Bundesministerium für Ernährung und Landwirtschaft*) has spent EUR 3 to 4 million since 2011 on research and budgeted EUR 2.5 million on demonstration farms between 2013 and 2020/21. Since 2014 nine model and demonstration farms were funded by the Federal Ministry of Food and Agriculture as part of the animal welfare pilot and demonstration project for reducing the risk of tail-biting in pigs. In addition, as part of the animal welfare pilot and demonstration project, a number of consultancy projects have been promoted in which various guidelines and the App "Stallcheck" have been developed and published. These tools are intended to assist farmers and advisers.
41. The central authority's interim conclusion on their funded research is that the changes to the environment and management necessary to rear pigs with intact tails are relatively onerous and entail considerable cost. Results of research and demonstration projects have not been used to improve enforcement strategies to ensure compliance with the provision of Directives 2008/120/EC and 98/58/EC.
42. The pig sector disseminates information on risk factors for tail-biting and avoidance of routine tail-docking, is involved in consultations, and has funded meetings, but it has not funded any research on this topic.

⁷ <https://www.fli.de/en/institutes/institute-of-animal-welfare-and-animal-husbandry-itt/departments-working-groups/working-group-pigs/research-projects-about-tail-biting/>

Veterinary association

43. The Federal Chamber of Veterinarians has not issued any specific recommendations or guidelines on tail-docking or avoidance of routine tail-docking. It has issued an on-farm checklist to all private veterinary practitioners which is used in some *Länder* every 6 months to attest that measures have been taken by farmers to avoid tail-biting on farms. Private pig veterinary practices then sign an attestation on the necessity for tail-docking based upon the checklist and farmers retain these on file.
44. Official veterinarians in *Land 1* reported that almost all piglet producing premises have been issued with these attestations. The exemption to routinely tail-dock piglets is never based upon documented evidence of tail or ear lesion on farms required by point 8 of Chapter I, of Annex I to Directive 2008/120/EC.
45. The audit team noted that the evidence in the document attesting to the need for tail-docking did not always correspond to the information on the checklist. Measures were only taken on a reactive basis to deal with tail-biting outbreaks. Statements on the need for tail-docking were not based upon any demonstrable evidence of assessment of measures which should be taken to improve inadequate environmental conditions or management systems that are required by point 8 of Chapter I, of Annex I to Directive 2008/120/EC before resorting to tail-docking. Although these are not certificates required by veterinary legislation they are not consistent with the spirit and principles of the certification directive (Article 3 (1) and (2) of Directive 1996/93/EC⁸) and the general principles of certification of the Federation of Veterinarians in Europe (FVE)⁹.
46. Similar attestations are used on many premises rearing fattening pigs which receive tail-docked pigs in *Land 1*. Official veterinarians in two out of four *Kreis* (District Authorities) in *Land 1* reported that they had made enquiries with farmers to ensure they took and recorded measures to improve environmental conditions. One *Kreis* required piglet producing premises in their area that tail-docked their pigs to obtain a document from the fattening premises, also in Germany, justifying the need for tail-docked pigs. Official veterinarians reported that they could not and did not take any action when farms with slaughter pigs received tail-docked pigs from other Member States. Official veterinarians had not questioned the plausibility of the attestations provided by private practitioners.

Conclusions on Implementing Measures

47. The strategy put in place by the central competent authority and *Länder* to reduce tail-biting and avoid routine tail-docking of pigs has not resulted in better compliance with the relevant provisions or in a significant reduction in the number of pigs routinely tail-docked.

⁸ Council Directive 96/93 of 17 December 1996 on the certification of animals and animals products (OJL 13, 16.1.97, p. 28)

⁹ <http://www.fve.org>

48. Although the recently drafted Action Plan to improve enforcement of the legislation on tail-docking of pigs is a positive development, the draft lacks defined compliance criteria and implementing details and as it is not yet approved by the Conference of the Ministers of Agriculture. The process to reach agreement both at working group and Ministerial level might take several years on the basis of similar previous procedures.
49. In general national legislation and guidance do not provide sufficiently clear compliance criteria and guidance to enable inspectors and farmers to make a judgement on whether farms comply with the existing law. Interpretative guidance, agreed at *Länder* level, is not uniformly binding or implemented in all *Länder*.
50. The existence of detailed national requirements for pig premises provides an opportunity to improve conditions on farms. An error in transposition of feeding requirements and a lack of the list of enrichment materials which are organic in nature from the Pig Directive means that German legislation causes difficulties for interpretation and enforcement of these EU requirements.
51. Private veterinarians are signing certificates to justify tail-docking for farms where changes to environmental conditions or management systems have not been made before carrying out tail-docking. These statements or certificates, together with the absence of official verification, result in routine tail-docking of piglets.
52. The high number of docked pigs (30kg weaner pigs) received from other Member States present a challenge for the competent authorities to change management practices on the farms receiving these animals. It is positive that the Action Plan includes proposals to address this with trading countries.

5.2 ECONOMIC FACTORS

Legal requirements

Article 33 of Regulation (EU) No 1305/2013¹⁰

Findings

European and National Funding Measures in the Pig Sector

53. An advisory committee *Kompetenzkreis* of the Federal Government was set up in 2014 to advise the Federal Minister on animal welfare issues including tail-docking. It included industry, Non-governmental organisations, veterinarians, retailers and researchers. It recommended that federal and state governments should consistently align measures on avoiding routine tail-docking to the European Agricultural Fund for Rural Development programmes of the *Länder* and that funding for improvements to pig housing should be

¹⁰ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 (OJL 347, 20.12.2013, p.487) on support for rural development by the European Agricultural Fund for Rural Development.

based on projects which are favourable to the rearing of pigs with intact tails. It recommended that the Task force on Agricultural Structures and Coastal Protection should review the existing laws (*Gesetzes um Maßnahmen zur Verbesserung des Tierschutzes*) and guidance and amend where possible taking avoidance of tail-docking and a results based approach into account.

54. Information on funding for agriculture and rural development programmes in Germany which are financed or co-financed by the European Union Fund for Rural Development can be found at: https://ec.europa.eu/agriculture/rural-development-2014-2020/country-files/de_en

Land 1

55. Since 2015, *Land 1* has financed (with EU funding under Measure 14 of the European Agricultural Rural Development Fund) the “Curled tail bonus”. The scheme for fattening pigs started in 2015 with a premium of EUR 16.50 per fattening pig and involves a one-year commitment to rear groups of up to a maximum of 1000 fattening pigs per round (3000 per year) with intact tails. Participating farms have to comply with a number of animal welfare criteria during the whole funding period one of which is that a minimum of 70% of funded pigs must have an intact (not docked and not bitten) tail. In the first year on-the-spot checks revealed that, on average, 93 percent of curled tails were intact. In 2017 the scheme was extended to weaner pigs and in addition a scheme for the housing of sows was added.
56. The funding (all figures are approximate) is: In 2016, EUR 3.3 million was granted for 201,000 fattening pigs. In 2017-2018, EUR 5 million is being spent on:
- Fattening pigs: 216,000 animals EUR 3.5 million.
 - Piglets: 183,000 animals EUR 1.5 million.
57. The amount of compensation payable for the costs of individual animal welfare measures was calculated by the *Land 1* Chamber of Agriculture as follows: EUR 16.50 per fattening pig; EUR 5 per weaner pig. This means that a closed cycle farm can get a bonus of EUR 21.50 per pig reared from 6 to 115 kg. A substantially different figure of EUR 6.70 per pig was calculated by the Danish pig research centre for the additional costs in Denmark of rearing of pigs with intact tails from 7 to 110 kg.
58. The “Curled-tail bonus” has been well received by farms and about 1.1 % of the pigs fattened in *Land 1* now receive the bonus. However, this has not made a significant change in the percentage of farms rearing pigs with intact tails during this period. There are approximately 150 herds in the curled tail bonus programme out of 16,500 herds subject to controls in *Land 1*. In addition, about one third of farms in the Curled Tail Bonus programme are organic herds or part of an existing welfare label and therefore already reared pigs with intact tails before entering the programme.
59. *Land 1* funded approximately EUR 15 million between 2015 and 2017 on investments on 19 pig farms under the subsidy for agricultural investment programme (*Agararinvestitions*

Förderprogram) as part of the EU Rural Development funding for investments in physical assets.

60. The animal welfare requirements to obtain funding of 20% for the basic level of the subsidy for agricultural investment programme relates to provisions on lying areas: bedding material; straw bedding or comfortable bedding; and a minimum of three different enrichment materials. To obtain funding of 40% for the premium level 20% more space must be provided. A minimum requirement to manage pigs without routine tail-docking was not stated.

Land 2

61. *Land 2* funded approximately EUR 8.4 million between 2015 and 2017 on investments on 66 pig farms under the subsidy for agricultural investment programme. Although there was no specific minimum requirement that the outcome should be avoidance of routine tail-docking, a "special agricultural programme" aimed at improving animal welfare in existing housing facilities, for example improvements in housing through the construction of free-range areas, supply systems for roughage and organic enrichment material/ soil for rooting, and structured pens.¹¹

Conclusions on Economic Factors

62. Funding at federal and *Land* level to farmers has succeeded in raising standards to enable the rearing of a small percentage of animals with intact tails but at a high cost.
63. EU funding incentives are not used in any coordinated way to reduce tail-biting and avoid routine tail-docking of pigs through improving environmental or management systems even though this was recommended by a Federal Advisory Committee in 2015.

5.3 OFFICIAL CONTROLS

Legal requirements

Directive 2008/120/EC

Directive 98/58/EC

Article 5 of Regulation (EC) No 854/2004 in connection with Section I, Chapter II, point B (1) and point C. of its Annex I and the relevant provisions of Section II, Chapter I of that Annex.

Article 3 and Article 43 (1) (b) of Regulation (EC) No 882/2004

¹¹ *In their response to the draft report the authorities indicated that since 2017, work on buildings has been eligible for funding only if key aspects of the work go beyond the minimum statutory requirements for dealing with tail-biting (for example a larger floor area which can be used without restriction (e.g. 0.9 m² for fattening pigs weighing 50 to 100 kg), and at least three different types of enrichment materials). During the selection procedure, preference is also given to investments in housing with structured pens and automated supply systems providing roughage and staple feed, as well as litter.*

Findings

64. The multi-annual national control plan for Germany indicates farms should be checked for compliance with animal welfare regulations on a risk and random basis and in response to following up incident reports. Neither *Länder* visited planned animal welfare inspections using the regime for risk-based official controls described in the Handbook.
65. In the majority of *Länder*, risk-based selection of farms and scheduled controls are coordinated between the authorities responsible for cross compliance (paying agencies) and animal welfare checks. This was confirmed in the *Länder* visited.
66. One local authority had categorised farms according to risk on the basis of local knowledge, and recorded one of three "traffic light" colours to mark the farm as low, medium or high risk. However, farms where non-compliances had been identified but subsequently resolved reverted to "green" and the past infringement was no longer obvious in the system. Regulation (EC) No 882/2004 Article 3 (1) (b) requires that operators' past record regarding compliance are taken into account when organising official controls.
67. In Germany in 2016 there were 321 pig farms subject to cross-compliance checks for animal welfare from the 8,666 applicants who kept pigs. In the same year, in the annual farm animal welfare report from the federal authority to the Commission (required by Commission Decision 2006/778/EC), of the 76,475 pig farms in Germany, official controls were carried out on 4,665 farms.
68. This 2016 report indicates that inadequate farmer knowledge or skills and over-stocking on production sites were the main non-compliances detected and that infringements were found on 22% of pig farms. The report is accompanied by a list of actions to address the major non-compliances, which is a compilation of actions proposed by individual *Länder*. The report does not identify which *Länder* proposed which actions and reports for 2015, 2016 and 2017 repeat the same actions, with one or two additional ones added each year.
69. The local authorities visited during the audit reported rates of infringements on pig farms much higher than the national average (22%). This is because these authorities carried out a large number of inspections of pig welfare when they were on farms for other purposes, in particular the German Pig Hygiene Regulation which requires 10% of pig farms to be inspected. All local authorities had used such visits as a surveillance of animal welfare conditions, and included an inspection of animal welfare when they noticed a possible infringement.
70. The local authorities also carried out unscheduled animal welfare inspections of pig farms in reaction to reports of potential or actual welfare problems from slaughterhouses and rendering plants. Follow-up visits were prioritised depending on the severity of the non-compliance and available resources, the latter was a particular issue in one district with a high pig density where priority had to be given to dealing with new reports from

slaughterhouses and rendering plants and follow up visits could not always be carried out as procedures required.

71. The two *Länder* visited during the audit did not have an overview of the level of non-compliances and controls carried out at local level on pig farms due to the underreporting of controls; only inspections required to meet the criteria of Decision 2006/778/EC were collated. Neither *Land* used the results of controls to feed into their respective animal welfare strategies on reducing tail-biting and routine tail-docking.
72. In both *Länder* visited controls were operated within a quality management system and documents and procedures helped to ensure inspections were carried out within a uniform framework. The system of reporting the results of inspections annually to the next level of authority also provided a certain level of supervision of the local authorities, but this review process did not identify weaknesses in the control system such as those highlighted above: the lack of overview of the level of non-compliances; risk based checks not taking into account the operator's past record; exclusion of inspections which took place at the same time as checks for other purposes, e.g. on the basis of Pig Hygiene Regulation.
73. Local authorities took a range of enforcement actions, especially where there was clear evidence of animal suffering and for those legislative requirements where there was clear guidance or procedures to make a practical assessment and where non-compliances could be directly sanctioned, such as the national requirement for the ratio of drinkers to pigs.
74. Inspectors faced difficulties in gathering reliable, robust, evidence of non-compliances. They mostly did not enforce legal requirements where the legislative requirements, compliance criteria, and guidance were not very specific, e.g. enrichment material; cleanliness of pigs and housing; requirements for dry comfortable bedding and suitable accommodation for sick or injured animals; maintaining temperatures within limits which are not harmful to the animals and maximum gas concentrations; (See Annex II for further details).
75. Inspection checklists do not include the requirements in relation to avoiding the routine tail-docking of pigs, and these are not enforced. Official controls do not ensure that evidence of ear and tail lesions is assessed and that preventative measures are taken before tail docking is carried out, contrary to the second paragraph of point 8 of Chapter I of Annex I of Council Directive 2008/120/EC.
76. Official controls of farms or slaughterhouses ensure that measures are taken in response to any tail-biting outbreaks which are found.
77. The audit team visited a slaughterhouse. Tail-biting was recorded as a relevant result within the meaning of Regulation (EC) No 854/2004 both during *ante* and *post-mortem* inspections. Farmers are informed about serious tail and ear injuries and the local authority responsible for the farm of origin also receive a report.

78. There is no harmonised scheme for assessing tail-biting and ear lesions of pigs and this is left to the slaughterhouse veterinarian's expert appraisal, albeit using certain reference documents. A project in *Land 1* concluded that proper training and supervision of auxiliaries had a big influence on the way data was recorded in slaughterhouses, and thresholds for indicators from *post-mortem* findings should be set at the level of each slaughterhouse as it was difficult to achieve consistency between different slaughterhouses. This project indicated that data needed to be collected for a year before starting to use it as an indicator. The Pig Health Service of the Agriculture chamber in *Land 1* uses this data to advise the worst performing farmers with recurrent poor results not only in relation to tail-biting but notably for high incidences of *post-mortem* lesions indicating respiratory disease (pneumonia and pleurisy) with a link to poor environmental and rearing conditions.

Conclusions on official controls

79. The frequency of official controls on pig farms to check the requirements of non-welfare legislation and to react to incident reports gives a good level of surveillance and the opportunity to detect significant animal welfare non-compliances. Arrangements to verify the effectiveness of the control system, as required by Article 8 3(a) Regulation (EC) No 882/2004, did not always adequately verify the effectiveness of controls in targeting farms, or the effectiveness of inspections in bringing about compliance.
80. Apart from the small percentage of pig farms inspected for cross-compliance, authorities at local and *Länder* level do not use the results of official controls on farms to target risk-based checks for animal welfare nor feedback into national or *Länder* strategies on reducing tail-biting. Slaughterhouse data is not utilised routinely to measure the occurrence of tail-biting on-farm and to set intervention levels in slaughterhouses which could trigger follow-up actions on farms. However, feedback from the slaughterhouse does ensure that the most severe cases of tail-biting are investigated and the routine *post-mortem* data also makes farmers aware of some of their tail-biting issues. Slaughterhouse data on tail damage underestimates the real level of tail-biting on farm, but is still a useful indicator of conditions in fattening units.
81. Local authorities take actions to have non-compliances corrected and dissuade repeat offenders where they have been provided with clear and practical criteria for assessing legal requirements. Where criteria or procedures do not exist and practical assessments are difficult, the authorities mostly do not enforce these requirements.
82. The current instructions and guidance are not sufficient for inspectors to properly enforce the provisions of the Directive concerning whether effective changes to management or environmental systems had been made on farms prior to routine tail-docking. Existing instructions are not being applied.

6 OVERALL CONCLUSIONS

Although central and *Länder authorities* have spent considerable sums on research and communicate on its results, their strategies to reduce tail-biting and avoid routine tail-docking of pigs have not produced tangible results and tail-docking is still routinely carried out in the country.

Funding at federal and *Land* level to farmers has succeeded in raising standards to enable the rearing of a small percentage of animals with intact tails but at a high cost. EU funding incentives are not used in any coordinated way to reduce tail-biting and avoid routine tail-docking of pigs through improving environmental or management systems even though this was recommended by a Federal Advisory Committee (centre of competence) in 2015.

The authorities have drafted an Action Plan to improve enforcement of the legislation on tail-docking of pigs. The benefit is that it includes requirements for recording base-line data on tail-biting incidence, farm risk assessments, and ongoing farm improvement measures. However, the process to reach agreement both at working group and Ministerial level, and to make important additions such as better defined compliance criteria, might take several years to implement.

Although the national requirements for pig premises are more detailed than EU legislation and this provides an opportunity to improve conditions on farms, in general, national legislation and guidance on many aspects of existing law does not provide sufficiently clear compliance criteria to enable inspectors and farmers to make a judgement on whether these farms are compliant. Interpretative guidance, agreed at *Länder* level, while binding in certain *Länder* has only an advisory status in others.

Private veterinary certificates justifying the need to tail-dock are not sufficiently based on evidence that other measures have been taken to prevent tail-biting. This, together with the lack of verification of these certificates during official controls, results in routine tail-docking.

Official controls provide a good level of surveillance for animal welfare standards. However, the authorities do not use certain available data, such as tail-damage or other animal-based criteria recorded in slaughterhouses, to measure the occurrence of tail-biting on-farm and this is a missed opportunity to set intervention levels for follow-up actions on farms and to enhance the level of risk-based checks.

The 11 million docked pigs (30kg weaner pigs) received from other Member States present a challenge for the competent authority to change management practices on the farms receiving these animals. It is positive that the Action Plan includes proposals to address this with trading countries.

7 CLOSING MEETING

A closing meeting was held on 21 February 2018 with representatives of the competent authorities, at which the main findings and preliminary conclusions of the audit were presented by the audit team. The competent authorities agreed that the action plan initiatives have not yet achieved a full significance but they clarified that it is a long-term project and that they expect to achieve an impact with the continuous involvement of stakeholders and the creation of new working groups.

Land 1 indicated that they had already taken actions to address the findings of the audit team on: investment in equipment to measure air quality parameters; distribution of information regarding tail-biting risks; initiation of the drafting of guidelines for inspectors on sick pens and enrichment material.

8 RECOMMENDATIONS

The competent authorities are invited to provide, within 25 working days of receipt of the report, an action plan containing details of the actions taken and planned, including deadlines for their completion, aimed at addressing the recommendations set out below:

No.	Recommendation
1.	<p>To correct the errors in the transposition of Council Directive 2008/120/EC into national legislation relating to the feeding regimes laid down in Point 6 of Chapter I, Annex I of Directive 2008/120/EC and the omission of the exemplary list of enrichment materials listed in Point 4 of Annex 1 of Chapter I of Directive 2008/120/EC.</p> <p>Conclusions 50, 81. Findings 3, 6, 73, 74.</p>
2.	<p>To provide farmers and inspectors with clear compliance criteria so that farmers have a clear indication of what is required and inspectors can more effectively enforce the legal requirements of Council Directive 2008/120/EC and Council Directive 98/58/EC that are related to risk factors for tail-biting.</p> <p>Conclusions 48, 49, 50, 81, 82. Findings 17, 19, 22, 74, 75, and audit findings in Annex II.</p>
3.	<p>To develop of measurable criteria with regard to the risk factors and provide inspectors with instructions and guidance which enable them to enforce the provision on the prevention of tail-biting and avoidance of routine tail-docking, as laid down in the second paragraph of point 8 of Chapter I of Annex I of Council Directive 2008/120/EC, including how they should assess evidence of tail and ear lesions on farm and what constitutes sufficient measures by farmers to change inadequate environmental conditions or management systems before resorting to tail-docking of pigs.</p> <p>Conclusions 49, 50, 81, 82. Findings 17, 19, 22, 24, 25, 74, 75, and audit findings in Annex II.</p>

No.	Recommendation
4.	<p>To take account of identified risks such as past records (including analysis of a complete set of data from inspections) - as required by Article 3(a) of Council Regulation 882/2004 - compliance with the national requirement for tail-length in docked pigs, and evidence of suboptimal performance from slaughterhouses, to further target pig farms for inspection and action to mitigate risks for tail-biting on these premises.</p> <p>Conclusion 80. Findings 64, 66 and 78.</p>
5.	<p>To assess the incidence of tail-biting and the effectiveness of improvement measures taken on-farm as required in point 8 of Chapter I, of Annex I to Directive 2008/120/EC, including when piglets are going to be sent to rearing farms for further fattening and implement checks to verify the statements provided by private veterinarians to justify tail-docking.</p> <p>Conclusions 51, 52, 82. Findings 43, 44, 45, 46, and audit findings in Annex II</p>
6.	<p>To ensure that inspectors carry out official controls in accordance with documented procedures as required by Article 8(1) (a) of Council Regulation (EC) No 882/2004. In this regard, the implementing status of the Handbook for animal welfare controls in farm animal holdings (<i>Handbuch Tierschutzüberwachung in Nutztierhaltungen</i>) should be clarified in order that controls on pig premises related to Council Directives 2008/120/EC and 98/58/EC are consistently and effectively implemented.</p> <p>Conclusion 49. Finding 7 and audit findings in Annex II.</p>
7.	<p>To liaise with other Government Agencies responsible for funding new buildings where pigs are to be kept and renovating existing ones with the assistance of European funding under Article 17 of Regulation (EU) No 1305/2013 to ensure not only that payments related to such facilities are suitable to commitments going beyond the relevant mandatory standards where they are related to animal welfare but that in general all funded facilities, as a minimum, comply with relevant mandatory requirements (of Directives 2008/120/EC and 98/58/EC) including the avoidance of routine tail-docking e.g. slurry systems that can handle optimal enrichment materials, different temperature zones, suitable flooring, feeding, space allowances etc. In this regard the recommendations of the Federal Advisory Committee in 2015 should be borne in mind.</p> <p>Conclusion 63. Findings 53, 59, 60, 61.</p>

The competent authority's response to the recommendations can be found at:

http://ec.europa.eu/food/audits-analysis/rep_details_en.cfm?rep_inspection_ref=2018-6445

ANNEX 1 – LEGAL REFERENCES

Legal Reference	Official Journal	Title
Reg. 882/2004 - Article 45 (MS)	OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1	Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

ANNEX 2

Note: *DG SANTE audit findings are in italics*

Parameter Commission Recommendation (EU) 2016/336	Legal requirements Directive 2008/120/EC, 98/58/EC	Legal requirements <i>TierschutzG / TierschutzV</i>	Guidance provided in Handbook for animal welfare inspections in farm animal holdings (<i>Ausführungshinweise</i>). <i>This is not binding in all Länder</i>	Non-binding recommendations/ guidance 1 Laves (Land 1) 2 LGL/LfL (Land 2)
Enrichment material	“permanent access to a sufficient quantity of material to enable proper investigation and manipulation activities” (Directive 2008/120/EC Annex I, Chapter I, 4)	<p>Paragraph 26 (1) No. 1) of <i>TierSchNutzV</i> does not follow the directive as it does not list the exemplary list of materials laid down in point 4 of Chapter I, Annex I:</p> <p>"such as straw, hay, wood, sawdust, mushroom compost, peat or a mixture of such, which does not compromise the health of the animals".</p> <p><i>This omission could lead to problems with the interpretation of the general intent of the legislation – as the organic nature of the examples listed has not been transposed into the TierSchNutzV</i></p> <p>Only non-compliance with “permanent access to enrichment materials” is sanctionable with administrative fine. The other characteristics (sufficient quantity, proper investigation and manipulation activities”) are not (directly) sanctionable with fines.</p> <p><i>Inspectors vary in their approach to enforcing the missing requirements as it requires a more complex follow up procedure.</i></p> <p><i>For enrichment material, OVs in Land 1 referred to the LAVES homepage for interpreting findings on farm and in Land II the OVs referred to the FIS-VL database for guidance. The complete absence of enrichment material was directly sanctioned but there was variation in relation to the type of material considered acceptable. Some OVs considered that chains met the minimum requirement, while others gave an order when only chains were provided for correct enrichment material to be provided and imposed an administrative fine if this was not in place at a follow up visit.</i></p>	<p><i>No guidance given on the suitability and amount of materials, frequency of replenishment and plastic objects are not clearly excluded.</i></p> <p>Chains including those that are completely coated with plastic, salt licks, nipple drinkers and automatic feeders as the sole employment material or these devices in combination are not considered sufficient.</p> <p><i>No animal-based indicators are listed.</i></p>	<p>1 LAVES homepage provides recommendations on: suitability of materials but not on quantity or frequency of replenishment.</p> <p>2 LGL homepage provides recommendations and illustrated text and pictures on enrichment material</p>
Cleanliness	“a lying area physically and thermally comfortable as well as	Some further clarity is provided in Paragraph 22 (3) No. 7 of <i>TierSchNutzV</i>) “Floor in lying area shall be designed so that adverse effects on the health of pigs due to excessive or	<i>No guidance for the assessment of this requirement.</i>	LAVES homepage provides some exemplary improvement measures with

Parameter Commission Recommendation (EU) 2016/336	Legal requirements Directive 2008/120/EC, 98/58/EC	Legal requirements <i>TierschutzG / TierschutzV</i>	Guidance provided in Handbook for animal welfare inspections in farm animal holdings (<i>Ausführungshinweise</i>). <i>This is not binding in all Länder</i>	Non-binding recommendations/ guidance 1 Laves (Land 1) 2 LGL/LfL (Land 2)
	adequately drained and clean which allows all the animals to lay at the same time” (Directive 2008/120/EC, Annex I, Chapter I, 3)	insufficient heat dissipation are avoided” <i>The lack of criteria for either the cleanliness of the lying area or the cleanliness of the pigs themselves led to OV's making inconclusive statements when assessing the cleanliness of pigs. Some OV's did refer to guidance material on the FIS-VL database to help them in making this assessment, but this was not a binding requirement.</i>	<i>No animal-based indicators are listed.</i>	regard to pen structure (including lying area) here: LAVES examples of improvement measures regarding pen structure
Thermal comfort and air quality	“air circulation, dust levels, temperature, relative air humidity and gas concentrations must be kept within limits which are not harmful to the animals” (Directive 98/58/EC Annex, 10)	1 Additional requirements on gas concentrations are listed in Paragraph 26 (3) Nr. 1 <i>TierSchNutzV</i> : “Gas concentrations shall not continuously exceed 20 ppm NH ₃ / 3000ppm CO ₂ / 5ppm H ₂ S” 2 Requirement reducing heat stress in pigs: Paragraph 22 (2) No. 4 <i>TierSchNutzV</i> : “Adequate mechanism to reduce heat stress in pigs at high ambient temperatures” 3 Temperature requirements for suckling piglets (and weaner pigs) are laid down in Paragraph 27 (2) <i>TierSchNutzV</i> : <10kg with straw minimum 16 degrees Celsius <10kg without straw minimum 20 degrees Celsius 10kg – 20kg with straw minimum 14 degrees Celsius 10kg – 20kg without straw minimum 18 degrees Celsius >20kg with straw minimum 12 degrees Celsius >20kg without straw minimum 16 degrees Celsius <i>Though TierSchNutzV defines minimum temperatures for different categories of pigs, no maximum temperatures are laid down. Point 10 of the Annex to Directive 98/58/EC requires temperatures to be kept within limits which are not harmful to the animals. As a result OV's remarked on some of the farms visited that temperatures were "too hot" for certain categories of pigs but did not have any legal requirement to order farmers to take corrective actions.</i>	1 <i>No guidance for the assessment of this requirement.</i> <i>No animal-based indicators are listed.</i> <i>TierSchNutzV defines maximum gas concentrations but these are very difficult to enforce as the CA needs to prove that these were "continuously exceeded". Nevertheless the Handbook requires CAs to have equipment to measure gas concentrations but not all the CAs had made arrangements to meet this requirement. The Handbook does not provide any guidance on how such measurements should be made. The lack of enforceability of this requirement meant that certain OV's referred the farmer to farm advisors to check the functioning of the ventilation system but without any follow up.</i> <i>The SANTE audit team noted a stuffy atmosphere and a detectable level of NH₃ on both farms with fatteners. There was a lot of coughing and sneezing in these fattening units and there was mould on the walls of some of the older buildings, indicating a high humidity. Ventilation was not optimal in these buildings but these farms had been inspected as compliant by the local CA. The audit team noted that respiratory problems, to which poor ventilation is a contributing factor, were the highest reason for condemnations at slaughterhouses. Inspectors expressed difficulty with the interpretation and enforcement of this requirement because of the wording “Shall not continuously exceed” (in the <i>TierSchNutzV</i>) which makes this requirement very difficult to enforce.</i> 2 <i>Further guidance:</i> In addition to the shower or air conditioning system listed as an example in the official	LAVES homepage provides some examples of improvement measures with regard to thermal comfort and air quality here: LAVES examples of improvement measures regarding thermal comfort and air quality

Parameter Commission Recommendation (EU) 2016/336	Legal requirements Directive 2008/120/EC, 98/58/EC	Legal requirements <i>TierschutzG / TierschutzV</i>	Guidance provided in Handbook for animal welfare inspections in farm animal holdings (<i>Ausführungshinweise</i>). <i>This is not binding in all Länder</i>	Non-binding recommendations/ guidance 1 Laves (Land 1) 2 LGL/LfL (Land 2)
			justification to the ordinance, this may also be ensured by appropriate climate control, floor design and / or insulation in the barn (assistance for the assessment can be eg publications of the KTBL, the DLG and DIN standards). <i>3 No further guidance given</i>	
Competition for food and space	<p>1 “unobstructed floor area” (Directive 2008/120/EC, Article 3, 1a)</p> <p>2 "measures taken to prevent fighting (...) adequate opportunities to escape and hide from other pigs" (Directive 2008/120/EC, Annex I, Chapter II, D 1, 2)</p> <p>3 “feeding and watering equipment must be designed constructed and placed so that (...) the harmful effects of competition between the animals are minimised” (Directive 98/58/EC, Annex, 17)</p> <p>4 "permanent access to a sufficient quantity of fresh water" (Directive 2008/120/EC, Annex I, Chapter I, 7)</p>	<p>1 <i>Stocking density is lower than the Directive for the following ranges of animals:</i> Weaner pigs 20-30 kg: 0,35 m² per pig (instead of 0,30 m² in Directive) Fattening pigs 30-50 kg: 0,50 m² (instead of 0,4 m² in Directive) Fattening pigs 50-110kg: 0,75 m² (instead of 0,55 / 0,65 m² in Directive)</p> <p>2 <i>Nothing in addition to Directive requirements.</i></p> <p>3 Paragraphs 28 (3) No. 3+4 and 29 (3) of <i>TierSchNutzV</i> define ratios of pigs per feeding space for weaners and fatteners. <i>TierSchNutzV includes a feeding regime "daily rationed feeding" (tagesrationierte Fütterung) not foreseen in the Directive. As this is not ad-libitum, the Directive requires that all pigs should be able to feed at the same time so that competition for food is minimized; whereas TierSchNutzV prescribes a ratio of pigs per feeding space of 2:1 for this type of feeding regime, which is less than 1:1 that would be necessary for all pigs to be able to feed at the same time.</i></p> <p>4 Paragraph 26 (1) No. 2 of <i>TierSchNutzV</i> requires that every pig should have permanent access to water of sufficient quantity and quality; in the case of group housing, additional drinkers of sufficient number to be provided separately from the feeding place Paragraph 28 (3) No. 5 and 29 (3) <i>TierSchNutzV</i> requires one drinker for 12 weaners / fatteners</p>	<p><i>No animal-based indicators are listed for requirements 1-4.</i></p> <p>1 <i>Guidance is given on what constitutes unobstructed floor area and what must be deducted from total-area to calculate this.</i> <i>Guidance is provided on the use of balconies etc.</i></p> <p>2 <i>No further guidance given</i></p> <p>3 For rationed feeding, the minimum following feeding spaces should be adhered to: up to 25 kg 18 cm 26 to 60 kg 27 cm 61 kg to 120 kg 33 cm > 120 kg 40 cm In the case of <i>ad-libitum</i> feeding, a pig per feeding place ratio greater than 4 to 1 is only permitted for transponder feeding or “wet and dry” feeders <i>There is additional clarification on the requirements relating to the different feeding systems described: rationed feeding, daily rationed feeding and ad-libitum.</i></p> <p>4 The requirement for access to water applies to piglets from the first day of life, i. all piglets must also have access to water in the farrowing pen at all times. <i>There is guidance on the suitability and positioning of drinkers.</i></p>	<p>LAVES homepage provides some examples of improvement measures with regard to competition for food and space here: https://www.laves.niedersachsen.de/tiere/tierschutz/tierhaltung/schweine/beispielhafte-manahmentabelle-zur-hilfestellung-bei-der-umsetzung-der-rechtsanforderungen-bezuglich-des-schwanzkupierens-156336.html</p> <p>3 no additional information.</p> <p>4 LGL homepage provides guidance on the provision of water</p>
Health status	1 "sufficient number of	1. “ For feeding and caretaking of pigs a sufficient number	<i>No animal-based indicators are listed.</i>	LAVES homepage provides

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	<p>staff who possesses the appropriate ability, knowledge and professional competence“ (Directive 98/58/EC, Annex, 1)</p> <p>2 “sick or injured animals shall be accommodated in suitable accommodation with, where appropriate, dry comfortable bedding” (Directive 98/58/EC, Annex, 4)</p> <p>3 "specialised housings (for piglets weaned less than 28 days of age) which are separated from housings where sows are kept" (Directive 2008/120/EC, Annex I, Chapter II, C3)</p>	<p>of staff who possesses the appropriate knowledge and ability” (Paragraph 4 (1) No 1 TierSchNutzV)</p> <p>Paragraph 26 (1) No. 3 <i>TierSchNutzV</i> of the <i>TierSchNutzV</i> goes beyond the requirements of the Annex to Directive 98/58/EC in clarifying requirements for staff:</p> <p>Staff responsible for feeding and caretaking of pigs must possess:</p> <ul style="list-style-type: none"> • Knowledge about pigs’ needs with regard to feeding, care, health and husbandry • Basic knowledge about biology and behaviour of pigs • Knowledge about animal welfare legislation (Paragraph 26 (1) No. 3 <i>TierSchNutzV</i>) <p>2. <i>Minimum requirements of the Directive</i></p> <p><i>There was an inconsistent approach to enforcement of requirements for dry comfortable bedding and suitable accommodation for sick or injured animals (point 4 of the Annex to Directive 98/58/EC). Insufficient criteria to assess these requirements meant that OV’s had very different understandings of what is required. OV’s accepted that hard rubber mats, sometimes also small and dirty, met the minimal requirements. Certain OV’s again referred to reference material such as industry guidance on the number of sick pens according to number of pig places, but again this was not a binding requirement. This lack of clarity regarding what is required leads to suboptimal conditions for sick pigs.</i></p> <p>3. <i>Minimum requirements of the Directive</i></p>	<p>1 <i>No further guidance</i></p> <p>2 <i>No further guidance</i></p> <p><i>In practice the hard rubber mats seen in farms were not soft or comfortable, nor were they large enough to enable an animal to lie down, nor was there any guidance on how large they should be, or how many should be provided. i.e. per pen, or pen animal housed.</i></p> <p>3 Minimum requirements of the Directive. <i>No guidance on what can be considered adequate housings for early weaned piglets nor guidance on how to assess weaning age on farm production systems with tightly defined farrowing and weaning day ranges</i></p>	<p>some examples of improvement measures with regard to health status here:</p> <p>LAVES examples of improvement measures regarding health status</p>
Diet	<p>“animals are fed a wholesome diet appropriate to their age and species and which is fed to them in sufficient quantity to maintain them in good health and satisfy their nutritional needs.” (Directive</p>	<p>Minimum requirements of the Directive.</p>	<p>Minimum requirements of the Directive.</p> <p><i>No guidance for the assessment of this requirement</i></p> <p><i>No animal-based indicators are listed.</i></p>	<p>LAVES homepage provides some examples of improvement measures with regard to diet here:</p> <p>LAVES examples of improvement measures regarding diet</p>

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	98/58/EC Annex, 14)			
	<p>"Neither tail-docking nor reduction of corner teeth must be carried out routinely but only where there is evidence that injuries to sows' teats or to other pigs' ears or tails have occurred. Before carrying out these procedures, other measures shall be taken to prevent tail-biting and other vices, taking into account environment and stocking densities. For this reason, inadequate environmental conditions or management systems must be changed."</p> <p>Point 8 of Annex I of Chapter I of Directive 2008/120/EC</p>	<p>"The complete or partial amputation of body parts is prohibited. The prohibition does not apply if the intervention in individual cases is indispensable for the intended use of the animal for its own protection or for the protection of other animals" ((TierSchG Paragraph 6 (1) No. 3 in combination with Paragraph 5 (3) No. 3).</p>	<p>Routine tail-docking is prohibited (see also Directive 2008/120 / EC of 18.12.2008). Exceptions to the basic prohibition of amputation are only permitted if the intervention in the individual case is indispensable for the intended use of the animal for its protection or for the protection of other animals. Too high stocking density, inadequate climate, a high noise level, faulty slatted floors or lack of enrichment may cause tail biting. Before the tails of the piglets are docked, these influencing factors have to be checked and possible deficiencies have to be addressed. If the legal requirements are met, the tail tip of under four-day-old piglets may be shortened without anesthesia.</p> <p>A maximum of one third of the tail may be docked, a complete amputation is prohibited.</p> <p><i>OVs powers on enforcing the requirements for tail length are not clearly agreed within the CA. There is ongoing discussion as to whether OV's have the powers to enforce this particular requirement and if the requirements stated in the Handbook are actually enforceable.</i></p> <p><i>The avoidance of routine tail docking was not included in the checklists for inspection, and during inspections farmers did not have to provide evidence of tail and ear lesions or to indicate the improvement measures taken to justify the need for tail-docking. OV's do check compliance with relevant legal issues such as stocking density, climate, noise, slatted floors or lack of enrichment; however, they do not systematically link these requirements to prevention of tail-biting and avoidance of routine tail-docking.</i></p> <p><i>Where tail docking is carried out, the Handbook indicates that only a third of the tail should be removed. The SANTE audit team saw that pigs had been docked much shorter than this in the slaughterhouse and farms visited. Although OV's did agree that tails were too short, they had not considered this an enforceable requirement.</i></p> <p><i>Several cases of tail-biting in docked pigs were reported</i></p>	<p>LAVES homepage provides advice on how to implement Commission Recommendation (EU) 2016/336 LAVES): https://www.laves.niedersachsen.de/tiere/tierschutz/tierhaltung/schweine/reduzierung-der-notwendigkeit-des-schwanzkupierens-156135.html</p>

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			<i>from slaughterhouses or seen during inspections. OV's did check that measures were taken, however, as there was no procedure to do this, various actions were taken without an overall farm risk assessment or investigation of the underlying causes. Reports of recurring tail-biting on certain farms indicate that this approach has not been effective to address the underlying problems.</i>	