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 Directorate G – Veterinary and International Affairs
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COMMON UNDERSTANDING

on Article 3(a) of Regulation (EC) No 998/2003 of the European Parliament and of the Council regarding the term "accompanying" in the definition of pet animals

The issue

The issue concerns the case of a dog that, for practical reasons, is transported by airlines as special baggage in the hold and is therefore not physically in the immediate proximity of the owner and, as the case may be when the owner was not able to travel in the same plane as his dog, also timely disconnected from the movement of the owner.

The question arose whether a dog can be considered as "accompanying its owner" within the meaning of the definition of a pet animal laid down in Regulation (EC) No 998/2003¹, if the dog is travelling

- (a) on the same means of transport as its owner either in the cabin or in the hold, or
- (b) in a different means of transport under the responsibility of a transport company.

Legal background

1. Council Directive 92/65/EEC² lays down the animal health requirements governing trade in and imports into the Union of dogs, cats and ferrets. It provides that the animals are to come from holdings that meet the requirements of Article 4 and are to satisfy the health requirements set up in Articles 10, or in case of imports, in Article 16.

The health conditions in Articles 10 and 16 refer to the relevant health requirements laid down in Regulation (EC) No 998/2003.

¹ Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC (OJ L 146, 13.6.2003, p. 1)

² Directive 92/65/EEC of 13 July 1992 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 (OJ L 268, 14.9.1992, p. 54.)

2. Council Directives 90/425/EEC³ and 91/496/EEC⁴ on veterinary checks applicable to trade in and imports of animals do not apply to veterinary checks on movements of pet animals accompanied by and under the responsibility of a natural person, where such movements are not the subject of a commercial transaction.
3. In addition, those animals are also subject to the conditions laid down in Council Regulation (EC) No 1/2005⁵ on the protection of animals during transport which does not apply to the transport of animals which does not take place in connection with an economic activity.
4. The definition of pet animals is provided for in Article 3(a) of Regulation (EC) No 998/2003 as follows:

"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".

Consequently, to fall within the definition of "pet animals", and therefore the scope of Regulation (EC) No 998/2003, the animals must meet the following conditions:

- (a) it must be of a species listed in Annex I;
- (b) its movement must be triggered by the need of the owner to move, and
- (c) it must not be intended to be sold or transferred to another owner in the context of the regulated movement.

DG SANCO analysis

According to Commission Legal Service, as long as the animal is travelling in the same means of transport as its owner, owner and animal are part of the same movement because the word "accompanying" in the definition of a pet animal does not imply that the animal in question has to be in the immediate proximity of its owner.

As a consequence, the above understanding would not exclude a scenario where the animal has to be transported in the hold during the movement of the owner, and the owner must temporarily delegate his responsibility for the animal to a natural person to load or unload the animal (ground staff) and during the transport operation (captain of the aircraft).

The delegation of responsibility is not determined by time, as it may well be that the dog has to be delivered to the airport time in advance and can only be retrieved hours after the flight.

As a result, the uninterrupted responsibility of natural persons for the animal is also ensured in the case where the animal cannot immediately follow the owner during his movement and is delivered to the place of loading, loaded, transported, unloaded and retrieved by natural persons, some of them possibly designated by a contracted legal person, to whom the responsibility for the animal was delegated by the owner.

³ Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra- Community trade in certain live animals and products with a view to the completion of the internal market (OJ L 224, 18.8.1990, p. 29.)

⁴ Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC (OJ L 268, 24.9.1991, p. 56.)

⁵ Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1.)

Common understanding

Without prejudice to the exclusive competence of the European Union Court of Justice to authoritatively interpret Union legislation, the representatives of the Member States, Croatia, Iceland, Norway and Switzerland and the Commission agreed at the meeting of the Standing Committee on the Food Chain and Animal Health of 8 March 2012 the following Common Understanding of the term "accompanying" in the definition of a pet animal laid down in Article 3(a) of Regulation (EC) No 998/2003:

1. The movement of a dog falls by default under the animal health conditions laid down in Directive 92/65/EEC and therefore the checks provided for in Directive 90/425/EEC or 91/496/EEC.
2. To move with a dog under the conditions laid down in Regulation (EC) No 998/2003, the owner must prove that the dog meets the criteria in the definition in Article 3(a) thereof. This is by default the case if the dog remains during the movement in immediate proximity of the person indicated in the passport as the owner or the natural person acting on behalf of the owner.
3. However, to demonstrate that a movement of a dog that is disconnected from the movement of the owner in time and/or space continues to meet the criteria of the definition in Article 3(a) of Regulation (EC) No 998/2003, the owner shall:
 - (a) declare the non-commercial nature of the movement;
 - (b) indicate in that declaration the natural person to whom the responsibility for the animal during the intended movement of that animal has been delegated, either directly or through a contracted legal person (carrier);
 - (c) surrender on request by the competent authorities responsible for the checks the documentary proof (e.g. boarding pass or flight ticket) that the movement of the animal constitutes part of the movement of the owner.
4. The declaration referred to in paragraph 3(a) and (b)
 - (a) should be together with the passport accompanying the animal from one Member State to another,
 - (b) is provided for in point II.7 of the model health certificate set up in Annex II to Decision 2001/874/EU for the movement into the EU from third countries.