

# Animal Perceptions in Animal Transport Regulations in the EU and in Finland<sup>1</sup>

**Outi Ratamäki**

*PhD, University of Eastern Finland, Philosophical Faculty, School of Humanities,  
Joensuu, Finland and Finnish Environment Institute (SYKE),  
Environmental Policy Centre, Environmental Governance Studies Unit,  
Joensuu, Finland*

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outi.ratamaki@ymparisto.fi

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## ABSTRACT

*The long-distance transportation of horses to slaughter has been strongly criticized in various political arenas: in Europe there is now a campaign underway to end transportation that takes over 8 hours. This debate is investigated here by means of a case study. The research data consists of regulatory texts used in the EU and in Finland. These texts are analyzed initially according to their contents, that is, a content analysis, designed to find out how and in which connections the animal is conceptualized. This analysis is then amplified by means of critical discourse analysis to discover the kinds of discourse that are most powerful and stabilized, and also to reveal their institutional origins. The results show that there is a strong difference between market-driven and animal-centric interpretations of unnecessary suffering. It is also evident that pressure has been growing in favour of the animal-centric perspective on the part of both animal welfare NGOs and of citizens. Nevertheless, it has been observed that the fields of science that could offer expertise on the issue have been poorly utilized in the process of devising policies.*

**Keywords:** Horses, long-distance transportation, slaughter, EU regulation, animal welfare, conceptions of animal, Science-Policy Interface, Animal Transport Act, Animal Welfare Act, Animal Turn.

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## 1. INTRODUCTION

This article examines the regulation of animal transportation in the European Union (EU) and in Finland from the perspective of animal conceptions. Specific attention will be paid to the *Finnish Animal Transport Act* and Council Regulation (EC) no. 1/2005. The analysis will also be supplemented by other relevant or closely related directives, regulations, and texts. The overall motivation behind this discussion is the recent changes in the ways in which animals have been conceptualized. In addition, the selection of this particular case study of animal transportation has been motivated by the recent debate over the welfare of horses during long-distance<sup>2</sup> transportation. In the past few years, this topic has come to the public's attention throughout the EU and also further afield. An international coalition campaign has come into existence with the name *Handle with Care*<sup>3</sup> led by World Society for the Protection of Animals, WSPA. Launched in 2008, the campaign is a joint effort on the part of the WSPA, Animals Australia, Born Free, Compassion in World Farming, Dyrenes Beskyttelse, Eurogroup, the Humane Society of the United States, the Royal Society for the Prevention of Cruelty to Animals in both the UK and Australia, and World Horse Welfare. The common goal is to work towards ending long-distance transportation of live animals. In Europe, the most prominent role has been played by World Horse Welfare, which has organized a lobbying campaign targeting the Members of the European Parliament (World Horse Welfare 2011a).

There are many reasons why horses, of all animals, have attracted so much attention in the public discussion of animal transportation. It has been shown that, compared to cattle, horses are more likely to suffer from injuries during transportation (Stefancic and Martin 2005; Dalla Villa et al. 2009). *Equidae* suffer easily from dehydration, fatigue and exhaustion during and after transportation (World Horse Welfare 2011b), and hence one of the most debated of the issues involved has been the transportation of horses to slaughter (Stull 2000). The fact that horses transported to slaughter are often in poor condition even at the start of the journey increases the risk of injury or death. World Horse Welfare (2011b) has suggested that these *Equidae* should not be transported beyond 8 hours and that every 4,5 hours they should be provided with one hour with free access to water and forage. At present, however, horses are permitted to be transported for 24 hours, and this long journey can be repeated after a 24-hour

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<sup>2</sup> According to the EC 1/2005, long-distance means more than 8 hours.

<sup>3</sup> See <http://www.handlewithcare.tv>.

rest period (EC 148/62; Corson and Anderson 2008). The problems are reinforced by the fact that the inspection, supervision and monitoring of the transportations have had their own serious shortcomings as a result of insufficient resources (Cussen 2008).

The public discussion can be examined as a case study of a more general paradigm shift in the ways in which animals are conceptualized in Europe and western cultures generally. Animal sentience has been one of the leading arguments in this paradigm shift (Würbel 2009). In this article, the argument of an animal as a sentient being is studied in the context of legislative texts related to animal transportation. The research question is: *What kind of animal perceptions are predominant in the legislation concerning animal transportation and what is their institutional basis?* The focus will be on the letter of the law, not on the enforcement of the legislation. Analysis will start with a short review of the literature on the so-called “animal turn”.

## 2. ANIMAL SENTIENCE AND THE PARADIGM SHIFT

Animals have attained new positions in the ways in which they are investigated and studied in science. One of the terms frequently used in the context of this transition has been the “animal turn” (e.g. Linzey and Yamamoto 1998; Cavalieri 2001). The core idea behind these novel ways of understanding animals is concerned with the animals’ capacity to feel and be self-aware (Dawkins 2006). This transformation has resulted in several theoretical and methodological innovations (Duncan 2006). Ethologists have found support in the new technologies investigating animal sentience and intelligence (see, for example, Appleby 2008; Faragó et al. 2010).

The animal turn is not solely concerned with the development of the science and its new results; after all, philosophers have discussed animals and their sentience for a long time. Caring for nonhuman animals as sentient beings was introduced and discussed in classical antiquity, for example by Pythagoras (Sorabji 1993; Franklin 2005). However, in modern times, mainstream thinking has separated nonhuman animals from humans with respect to their respective mental and cognitive abilities or rights (Singer 1990). According to Duncan (2006), the reason for this has been the strong popularity of the behavioural sciences. This popularity has been strongly challenged since the 1970s, both in the philosophical literature concerning animal rights, the leading scholars including Peter Singer (1990, originally 1975) and Tom Regan (1983) and also in ethology since the publication of *The Question of Animal Awareness* by Griffin in 1976

(see also Duncan 2006). The book *Animal Suffering: the Science of Animal Welfare*, by Marian Dawkins (1980), has had a strong influence on ethology (Webster 2006).

Scholars in the fields of political science and law have also participated in the debate. In political science, for example, Robert Garner (2004), Siobhan O'Sullivan (2012), Alasdair Cochrane (2010), and Sue Donaldson with Will Kymlicka (2011) have all approached politics from the animal-centric point of view. These authors have explained and described the animal movement, its various forms of activity, and the status of animals in different sectors of society. In the field of law, for its part, many researchers have analyzed the legal status of animals in contemporary law, with arguments focused especially on future changes. The position of animals as "property" seems to be one issue among others that divides legal scholars (Francione 2000, 50-80; Wise 2001). According to Gary L. Francione (2000, 151), the institution of animals as property needs to be abolished. This means that mere protection against suffering and pain is not satisfactory if reflected against the interests that animals themselves have. Francione (2004) is highly critical of the concept of *unnecessary* pain. In his book, *Rattling the Cage*, Wise (2000) discusses the possibility of basic legal rights for animals, such as liberty and equality. Approaches of this nature have been criticized, for example, by Richard A. Posner (2004), who takes a pragmatic and human-centric point of view. Richard A. Epstein (2004) also does not think that the abolition of animal usage for humans' benefit would succeed. Sunstein (2004) suggests that, no matter how one wishes to formulate animals' legal rights, it is the enforcement and application of these laws that would matter the most to animals. In the present article, however, it is recalled that words count.

Humanists have also participated in the formulation of the animal turn. Perceiving animals as agents and subjects has been introduced in post-humanist writings, for instance, by Cary Wolfe (2010) and Donna Haraway (2008). Haraway (2008) reminds us that animals are "significant others" for humans and the world that we live in is "more than human". Josephine Donovan and Carol J. Adams, in their book *Beyond Animal Rights*, take a critical approach to animal rights theories. They hold the opinion that these theories are very abstract and rational and hence they fail to recognize the emotional and affective side of human-animal relations. This view is arguably wrong since emotions matter and are powerful in formulating humans' relationship to animals.

This short introduction shows how multidisciplinary the research into conceptualizing animals and human-animal relations is. It also serves as a basis for reflection between current legislation and the changing under-

standing of animals. New research results concerning animals, their welfare, and sentience are needed and requested so that they might serve as a basis for the reformulation of laws and regulations. The role to be played of science is also evident in this case study focusing on animal transport act, as will be shown later.

Hence, in the present article the animal-centric position will guide the analysis of the data. It will be asked whether and, if so, how an understanding of an animal as a sentient being is present in or relevant to the animal transportation acts. In the following, explanations will sought by reading the judicial texts, first, using content analysis, and then secondly, by identifying animal discourses.

### 3. DATA AND METHODS

The primary data for this article has been provided by the Council Regulation (EC) no. 1/2005, the *Finnish Animal Transport Act*, and the *Finnish Animal Welfare Act*. The analysis of this data will start with its content analysis. Content analysis is a way to identify and categorize the themes and topics present in any given text (Smith 2000; Hsieh and Shannon 2005). In addition, spoken language, figures, and pictures, and even non-verbal communication can be analyzed in this way (Fairclough 1993; Smith 2000). In this study it is not useful or necessary to identify all of the themes in the text, and so the analysis will be restricted to the topics related to the conceptualization of an animal.

A relevant question for the research task at hand concerns which parts, words, phrases, sentences, etc. contain descriptions or assumptions related to animals. Similarly, the absence of such descriptions or assumptions will also be regarded as an interesting finding. This approach can be termed “directed content analysis”, which according to Hsieh and Shannon means a content analysis in which “analysis starts with a theory or relevant research findings as guidance” (Hsieh and Shannon 2005).

After identifying those parts of a text that deal with animals, the analysis will be taken to another level of textual analysis. Words, phrases, and figures of speech have a tendency to stabilize. Some words “stick” with certain meanings or perceptions (Ahmed 2004). When certain ways of using language become established and stabilized, a discourse is formulated. A discourse is a stabilized and collectively shared way of describing or defining things (Ostrom 1999; Dryzek 2000). Discourses are powerful. According to Ostrom (1999, 51), discourses are rules that are formulated in human language. Dryzek (2000, 18) describes discourses as institutional

software. These rules and institutional software are important for the functioning of societies, but as they contain values and have ethical outcomes they can be challenged.

Animal discourses within Western societies have been accused of maintaining animal suffering (Stibbe 2012). The way in which animals and their relation to humans have been determined allows the continuum of practices that cause pain and suffering to animals. Arran Stibbe uses discourse analysis as a tool in his attempt to overcome or replace these destructive discourses with alternative, more animal-friendly discourses. This demonstrates that discourses can change and that they can be changed. Critical discourse analysis aims at revealing the political and practical significance of discourses and also the societal power relations that maintain such discourses (Fairclough 1993; van Dijk 1993).

#### 4. CONTENTS OF THE COUNCIL REGULATION

Council Regulation (EC) no. 1/2005 of 22 December 2004 (on the protection of animals during transportation and related operations) and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) no. 1255/97 (later: Council regulation) are applied in all the member states when animals are being transported in connection with an economic activity. Here, the focus will be on the kind of themes, concepts or ideas that the regulation contains.

The Council regulation provides a reason for the regulation: “For reasons of animal welfare”. The elimination of technical barriers to trade and allowing market organizations to operate smoothly are also mentioned, but it is evident that the protection of animals and their welfare is the key motivation behind the regulation.

In conceptualizing animals, the Council regulation is applied to *live vertebrate animals*. No further explanation is provided about what an animal is. While the concept of an animal has not been characterized in the Council regulation, many other aspects have been accorded highly detailed descriptions. Article 2 contains the definitions for such aspects as the container, journey, keeper, means of transport, place of departure, and unbroken *Equidae*; and the list goes on.

Animal welfare, suffering, pain or injury are not defined, yet they are key concepts in the regulation. Article three states that animals should not be transported “in a way likely to cause injury or undue suffering to them”. It also requests that “all necessary arrangements have been made to minimize the length of the journey and meet animals’ needs during the

journey”. Animals should be loaded and unloaded “without using violence or any method likely to cause unnecessary fear, injury or suffering”.

The role of science is mentioned several times. The Council regulation contains phrases such as “consulting the competent scientific committee”; “to take into account new scientific evidence”; “in the light of new scientific advice”; etc. Thus, the Council regulation opens up an array of data relevant to new, scientifically-based animal conceptualizations. Which sciences these phrases refer to is, however, not determined. The European Community follows a methodology that involves both science and field information (Gavinelli, Ferrara, and Simonin 2008). In the following, the role of science is explored.

## 5. ROLE OF SCIENCE IN DEVELOPING REGULATIONS IN THE EU

Since 2002, EFSA (the European Food Safety Authority) has played a leading role in providing scientific advice regarding all issues related to food and feed safety. This includes animal health and welfare. The EFSA panel for Animal Health and Welfare (AHAW)<sup>4</sup> consists of experts on risk assessment, quantitative risk assessment, modeling, microbiology and pathology (applied to infectious diseases of food-producing animals, including aquatic animals), epidemiology animal welfare and animal production (husbandry, housing and management, animal transportation, and the stunning and killing of animals).

In addition to EFSA, the Commission has various different expert groups to help them with legislative proposals and policy initiatives. The Expert Group on Animal Welfare<sup>5</sup> contains members from NGOs, the World Horse Welfare being one of them. In this particular group, associations related to animal production are also strongly represented. Animal welfare during transportation is actively on the group’s agenda.

Before the establishment of EFSA, the Commission rested on a number of different scientific committees, one of them being a Scientific Committee on Animal Health and Animal Welfare (SCAHAW)<sup>6</sup>. The members of the Scientific Committee on Animal Health and Animal Welfare were experts in animal health or behavior.

The composition of these expert groups indicates a strong link to the natural sciences. In 2002 the SCAHAW reported on the welfare of animals

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<sup>4</sup> See <http://www.efsa.europa.eu/en/ahaw/ahawmembers.htm>.

<sup>5</sup> See [http://ec.europa.eu/food/animal/expert\\_group\\_aw\\_en.htm](http://ec.europa.eu/food/animal/expert_group_aw_en.htm).

<sup>6</sup> See [http://ec.europa.eu/food/fs/sc/scah/members\\_en.html](http://ec.europa.eu/food/fs/sc/scah/members_en.html).

during transportation (European Commission 2002). This report starts with the idea of animals as sentient beings, with particular reference to the *Treaty of Amsterdam* (1997). Very soon after the presentation of this idea, the report continues by exploring the idea of animal welfare, and this in turn is discussed in more detail using concepts drawn from physiology, biochemistry, and the behavioral sciences. The report clearly states that “to be useful in a scientific context, the concept of welfare has to be defined in such a way that it can be scientifically assessed”. In 2011 it was AHAW’s turn to publish a report titled *Scientific Opinion Concerning the Welfare of Animals During Transport* (EFSA 2011). This report describes recent research findings concerning animal transport. The topics of discussion involving horses include fitness for transport, means of transport, transport practices, and space allowances. In the conclusions, it is stated that parts of the Council regulation are not in line with scientific knowledge. One of the problems is that the regulation as it stands permits long-distance transportation of horses.

In 2011 the European Commission reported on the impacts that the regulation had had on the protection of animals during transportation. In their report, the Commission acknowledges EFSA’s opinion, but notes that it “does not see that an amendment would be the most appropriate approach to address the identified problems. [...] For the time being this is best addressed by the adoption of guides to good practices” (European Commission 2011). The European Parliament was strongly critical of the Commission’s report, and:

[...] regrets that despite the new scientific evidence on horse transportation times submitted by EFSA, no recommendations for legislative changes were included in the Commission’s report; requests that the Commission propose a considerably shortened maximum journey limit for all movements of horses for slaughter, in accordance with Council Directive 2009/156/EC; insists furthermore on a thorough, science-based review of welfare standards for horses, if necessary accompanied by legislative proposals, including a reconsideration of vehicle design standards, space allowances and water provision. (European Parliament 2012)

The European Parliament also:

[...] strongly condemns the weak scientific basis and data on which the Commission report is based, such as a study from an external contractor based mainly on a survey to be completed by parties directly involved in or having a direct interest in the transport of animals. (European Parliament 2012)

## 6. “FINNISH ANIMAL TRANSPORT ACT”

Since the Council regulation is only applied to transportation in connection with an economic activity, a lot of transportation is left outside the application of the regulation. In Finland these transportations are regulated under the *Animal Transport Act*.

Like to the Council regulation text, this Finnish Act also contains definitions, for example, of “transport”, “long journey”, “means of transport”, “transport container”, and “transporter”. It also determines the conditions and requirements for transport, loading, and unloading. But it does not offer a definition of an animal.

Implicitly, it can be read that an animal is a living creature that can suffer, and experience pain and distress due to poor conditions or handling. As in the Council regulation, these terms are not given an explicit definition. In the government proposal preceding the law, it was stated that the same principles for animal protection by regulating transportation in connection with commercial activity should be applied to all transportation. In a section where the effects of the Act are discussed, the effects on state economy, personnel, and industrial and commercial activity are analyzed, but no effects on animals are ever opened up for discussion.

Both the Act and the government proposal involve a reference to the *Finnish Animal Welfare Act (247/1996)*, which is stated to be the primary Act concerning animal protection. The objective of this Act is to “protect animals from distress, pain and suffering in the best possible way”. The *Finnish Animal Welfare Decree* (chapter 4, section 14) provides some clarification of what is meant by “inflicting undue distress, pain and suffering to an animal”:

- 1) the use of live animals as targets for shooting practice or a shooting competition;
- 2) the use of spiked spurs, a spiked collar, or a spiked bit;
- 3) scaling or gutting a live fish or plucking or skinning an animal alive;
- 4) feeding a live bird or mammal or other vertebrate to an animal that is being cared for, unless this is necessary for returning the animal being cared for to the wild or otherwise absolutely necessary for the animal;
- 5) using human power other than that considered reasonable when the animal gives birth, for pulling out the fetus;
- 6) transporting an animal by suspending it by some part of its body;
- 6a) cutting the tail of an animal so that its skin and hypodermic tissue are damaged;
- 7) killing a reindeer or other domestic animal or an animal farmed for production purposes by shooting as in hunting, except for the shooting of a reindeer by a reindeer herder or other domestic animal or an animal

- farmed for production purpose for an acceptable reason that requires the immediate killing of the animal; and
- 8) other action or measure directed to an animal that causes undue distress, pain, or suffering to the animal.

Since the *Animal Welfare Act* is applied to *all animals*, the above list seems somewhat arbitrary, and in many cases, including many welfare issues related to animal transportation, it could be summarized in terms of the very obscure item number 8, which only repeats the overall object of the *Animal Welfare Act*. Item number 6 is the only practical example of what would be considered as the infliction of undue distress, pain and suffering to an animal in transport = transporting an animal by suspending it by some part of its body.

## 7. ANIMAL DISCOURSES IN THE COUNCIL REGULATION AND FINNISH LEGISLATION

In the following, attention will be drawn to those animal-related expressions that seem to be fairly stable, collectively shared, and firmly established in the legislative texts, that is, animal discourses. In addition to these well-established discourses there are also other potential discourses. Potential discourses imply expressions that which have been introduced but have not (yet) been institutionalized socially.

When looking for any coincidence of expression between the Finnish legislation and EU regulation, one particular phrase can be found. It seems that the phrase “inflicting undue pain, distress and suffering on animals is prohibited” is a shared way of determining the relationship between human activities and animal welfare.

According to the Council regulation, animals should not be transported if it is “likely to” cause injury or “undue suffering” to them. The term “undue” is repeated in the *Finnish Animal Welfare Act*: “[...] no undue distress may be caused [...] inflicting undue pain and distress on animals is prohibited”. This same phrasing is also used in the *Finnish Animal Transport Act*, in section 5.

However, the Finnish Acts offer other, stronger, phrases. In the *Finnish Animal Welfare Act* it is stated that animals should be protected from distress, pain, and suffering “in the best possible way”. The objective of the *Finnish Animal Transport Act* is to protect live animals against injury and illness as well as against “all avoidable” pain, distress and suffering. These phrases are not found in the Council regulation. From the point of view of implementation, it can be asked whether animals transported for other

than commercial purposes gain stricter protection than in the transports regulated under the Council regulation.

In addition to the EU and member state regulation, some international agreements offer support for animal welfare. The most important in this category is the *EC Convention for the Protection of Animals During International Transport* (Revised), which EU signed in 2004. The convention states that “every person has a moral obligation to respect all animals and to have due consideration for their capacity for suffering”. This statement has not achieved much reference in the material investigated. Instead, the statement given in the *Treaty of Amsterdam* declaring animals as sentient beings is cited more often in the research literature: “The Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals”. The European Union Animal Welfare Strategy takes this statement as a starting point <sup>7</sup>.

## 8. THE ANIMAL UNDEFINED AND THE VAGUENESS OF LEGITIMATE HUMAN-ANIMAL RELATIONS

What is most striking about the findings presented above is the lack of any definition of an animal. The *Treaty of Amsterdam* offers a definition (animals as sentient beings), but this is not repeated in the Council regulation or in Finnish legislation. These laws are referred to more frequently in the research literature and they are much closer to the implementation level than the *Treaty of Amsterdam*. Since an animal remains undefined, there is a lot of room for individual interpretations (Cussen 2008). In addition, the lack of any definition serves as an obstacle to discussion. How can you challenge the undefined? One result gleaned from the content analysis is that anything that goes beyond human experience or practices is left undefined in the regulative texts.

Another concern must be that the most significant discourse determining human-animal encounters in the legislation under inspection is also the weakest (from the perspective of animal welfare) of all of the possible discourses, that is, “undue pain, distress and suffering”. Even if the Council regulation states that animals should not be transported if it is *likely to cause injury* or “undue suffering” to them, the unclear definition of “undue” leaves a lot of room for interpretation and implementation.

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<sup>7</sup> See [http://ec.europa.eu/food/animal/welfare/actionplan/docs/aw\\_strategy\\_19012012\\_en.pdf](http://ec.europa.eu/food/animal/welfare/actionplan/docs/aw_strategy_19012012_en.pdf).

With regard to the other less well established discourses, for example, the phrase “all avoidable” might well result in different outcomes. It is possible to interpret this phrase in a way that the best way to avoid animal suffering during transport is to stop transporting live animals and focus instead on “meat-only” trade. This has been suggested by several NGOs as well as by the European Parliament (Garcés, Cussen, and Wirth 2008). The European Parliament states that “the transport of meat and other animal products is technically easier and ethically more rational than the transport of live animals for the sole purpose of being slaughtered” (European Parliament 2012). It is a paradox that one of the reasons why horses are transported long distances is the fact that consumers desire local meat (Marlin et al. 2011).

However, “all avoidable” could also receive other interpretations, depending on the context. The phrase could also be regarded as a synonym for “undue” if it is seen as subordinate to human interests. Osinga suggests that “as long as there is justification in terms of demand and markets, it should be possible to transport animals over long distances” (Osinga 2008). If trade and transport is taken as a starting point, then “all avoidable” means all avoidable while in transfer. The Council regulation also identifies this connection between trade and animal welfare but does not assert any priority over the other:

The Council has adopted rules in the field of the transport of animals in order to eliminate technical barriers to trade in live animals and to allow market organisations to operate smoothly, while ensuring a satisfactory level of protection for the animals concerned. (European Commission 2002)

The European Parliament does not like this evasion. It declares:

[...] animals should as a principle be slaughtered as close to their place of rearing as possible; notes in this connection that consumers are in favour of shorter transport times for animals destined for slaughter, but at the same time prefer to buy fresh meat; calls on the Commission, therefore, to explain what consequences are to be drawn from this. (European Parliament 2012)

The Parliament continues with a suggestion:

[...] insists on a reconsideration of the issue of limiting the transport time of animals destined for slaughter to eight hours taking account of loading time, irrespective of whether this takes place on land or at sea, with some exceptions taking into account geographic conditions in the outermost regions, sparse road networks, remote location or the option of longer transport of some animal species confirmed by scientific research results, provided that the rules on animal welfare are complied with. (European Parliament 2012)

Hence, the question is from whose perspective the phrases in the legislative texts should be interpreted. From the animal’s perspective, “all avoidable”

or “undue” would result in very different outcomes than from the perspective of the market economy. To solve this puzzle, the regulation should take a stand on how to balance the contradictions between the different interests. Here, the Commission plays a key role. To discover what the Commission’s position is on this issue cannot be resolved from the legislative texts. The regulation contains only norms and no arguments, and therefore it is impossible to conduct a “cause and effect” analysis from this kind of data. Hence, since the regulation cannot solve the conflict of interest, one has to look for other sources to learn about the Commission’s opinion. Gavinelli, Ferrara and Simonin (2008), from the Directorate-General Health and Consumers, adopt a position by stating that: “[...] to be internationally successful and accepted in the long term, animal welfare objectives need to be balanced with economic concerns”. The European Parliament offers a different perspective:

[...] whereas the protection of animals in the 21st century is an expression of humanity and a challenge facing European civilisation and culture; whereas all action designed to ensure the protection and welfare of animals should be based on scientific findings, as well as on the principle that animals are sentient beings whose specific needs should be taken into account. (European Parliament 2012)

One more interesting finding is the way in which the discourses change from one legislative level to another. The *Treaty of Amsterdam* is primary law within the EU and all regulation is subordinate to it. The international agreements, for example the *EC Convention for the Protection of Animals During International Transport*, are part of secondary legislation, but they are accorded priority over regulations and directives. The analysis presented in this paper shows, however, a clear shift from tighter to not-so-tight ethical concern over animals when the regulations move from the higher to lower levels of ruling. The EC conventions talks about morals, the *Treaty of Amsterdam* about sentient beings, Council regulation about causing undue suffering, and the *Finnish Welfare Decree* about not transporting animals suspended by some part of their body. It would be important to investigate how familiar the practitioners working with animals are with these different levels of ruling and which level they regard as the most important for implementation. It could then be argued that at that particular level the most important discourses should be described.

## 9. CONCLUSIONS: UN-INSTITUTIONALIZED ETHICS AND EMOTIONS

If reflected against the multidisciplinary character of the discussion surrounding animal welfare and sentience described at the beginning of this article, the regulation on animal transport offers a very narrow understanding of science. Ultimately, this also affects the conceptualization of an animal. The natural sciences provide the most powerful connections between science and the European Commission in the preparation of the regulation. Furthermore, some NGOs and stakeholders are given roles in the expert group itself. The social sciences, humanities, and economics play no institutionalized role in the policy processes. Despite this, experts in these fields could play a valuable role in describing and understanding the societal, cultural, and economic conditions underlying the current situation and also in connection with future change. Franck Berthe, Head of the Animal Health and Welfare Unit (AHAW), acknowledges this shortcoming:

While ethical, socio-economic, cultural and religious considerations are clearly not part of EFSA's remit, one should recognise that animal welfare is a complex, multi-faceted issue which includes ethical, socio-economic, cultural and religious dimensions. (Berthe 2013)

This kind of composition concerned with policy-making and technocratic or rational science is not uncommon (Flyvbjerg 2001), but as long as the needs of information are determined on the basis of commensurability and technical evaluation, the social sciences and humanities will have little chance of gaining a role involving their own expertise in the processes of devising acceptable policies.

On the other hand, the data used in this article shows that the connection between science and ethics can be identified from two convergent perspectives. First, the reasons for treating animals ethically can be drawn up from the existing applied animal behavior sciences (Würbel 2009); and secondly, welfare standards should be underpinned by ethical discussion, and it is appropriate that such an issue should be discussed in the public domain (Barnett et al. 2008). Neither of these arguments rests on the concern of the humanities or social sciences with the ethical discussion. Furthermore, the ethical and emotional aspects of animal welfare discussion may be labeled as “un-scientific”:

Animal welfare during transport is the subject of debate, a debate which has often been based on an emotional approach. However, it is important that the economic, scientific and practical dimensions should be also taken into

account by legislative and executive bodies and the animal welfare movement. (Osinga 2008)

Schuurman (in press) has shown that conceptions of equine welfare consist of a combination of emotional and instrumental relations. According to the content and discourse analysis presented in this article, Osinga's concern about the argument of the sentient dimension taking precedence over the economic or scientific dimensions remains invalid.

## 10. FINAL COMMENTS

Discussion of the long-distance transportation of horses contains a debate between the market economy and animal welfare discourses. There are many possible options for reference if one wishes to stress the importance of animal welfare. The *EC Convention for the Protection of Animals During International Transport* characterizes the relationship between humans and animals as *moral*, while the *Treaty of Amsterdam* declares animals to be sentient beings. The European Parliament sees the protection of animals as an expression of humanity and a challenge for European civilization and culture in the 21<sup>st</sup> century. These are examples of how the animal-centric point of view is already offered institutional support. However, the most institutionalized role in the governing bodies in the EU is dominated by the natural sciences, while NGOs and the industrial sector are regarded as advisories. The potential role of the social sciences and humanities has not been acknowledged, even though these are the fields with expertise on the current changes in human-nonhuman animal relations.

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