

**Summary of the “Accountability Report: the Karim Allah and Elbeik’s crises. Animal welfare during sea transport”, by Joaquín Ortega Abogados, S.L law firm**

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## Background

On 18th December 2020, the livestock vessels Karim Allah (1) and Elbeik (2) departed from the ports of Cartagena and Tarragona (Spain), bound for Iskenderun (Turkey). Originally foreseen as a 10-day journey from a European (EU) to a non-EU country, the 2,600 bovines onboard underwent a three-month odyssey with a fatal outcome. When the Karim Allah and the Elbeik arrived in Turkey (nine and 10 days after departure, respectively), the animals on board of both cargos were rejected by the competent authorities of the importing country due to a disagreement with the Spanish competent authorities regarding certain details contained in the veterinary export certificates the latter had issued. The same happened when the two vessels reached Libya (on 6 and 9 January 2021, respectively).

From that moment, the two livestock vessels navigated the Mediterranean sea without a destination, looking for buyers in other non-EU countries. The Karim Allah came back to Cartagena on 22 February 2021. The Elbeik’s return was further delayed to 18 March 2021. Once back in Cartagena, Spanish official Inspectors (attached to the Animal Health Inspection Service of the Agriculture and Fishing Area of the Region of Murcia) boarded the vessels and found the animals in detrimental conditions. The Spanish Ministry of Agriculture, Fisheries and Food (MAPA) issued orders to kill the animals for health and welfare reasons, in line with the Inspectors’ recommendations. The killing operations started on 6 (Karim Allah) and 25 (Elbeik) March 2021, respectively. The method used to process the animals was not disclosed.

1) IMO nº 6519144.

2) IMO nº 6718427.

Animal Welfare Foundation (AWF) and Eurogroup for Animals, deeply concerned about the suffering the 2,600 bovines had to endure over a three months period, commissioned the law firm Joaquín Ortega Abogados, S.L. an in depth analysis of these two cases. The aim was to identify the roles and responsibilities of the actors involved in these transport operations. Evidence collected and reported by the law firm indicates that the welfare of the animals on board of these livestock vessels was seriously compromised.

## Analysis of the liability of the parties involved

The whole crisis developed after the rejections of the animals onboard Elbeik and Karim Allah by the Turkish and, later, the Lybian authorities. The reason behind these rejections is **a lack of agreement in the interpretation of the concepts of zone, region or country with regards to bluetongue outbreaks, between the importing countries' authorities and the Spanish competent authorities.** As reported in the legal analysis, the Spanish Authorities were responsible to ensure that the certificates for export were issued in compliance with the different pieces of law, agreements and guidelines applicable to these cases (3). Instead, the Spanish authorities, even after having been notified on 20 December 2020 by the Turkish authorities about their planned intention of rejecting animals on board of Karim Allah due to suspected bluetongue infection, did not provide additional information. Therefore, they missed the chance of specifying that animals onboard of Karim Allah, as well as Elbeik, originated from two bluetongue-free areas (Teruel and Zaragoza, respectively), despite the fact they are located in Aragon, a region in which an outbreak of bluetongue was detected on 4 November 2020 in the province of Huesca. By reiterating the validity of the veterinary certificates originally issued in which Aragon was indicated as the animals' origin, **the Spanish authorities were at the source of what became an animal welfare crisis at sea.**

This is just one of the breaches identified and reported by the legal analysis, which assessed the liability of all the parties involved in these transport operations.

3) Namely: Regulation (EU) 2017/625, the Royal Decree 993/2014 of 28 November, the "Informative Note on the Conditions of Export of Live Animals from Spain to Turkey", and the World Health Organisation (OIE) Terrestrial Animal Health Code.

Indeed, despite the solid arguments referred by **the Turkish and Lybian authorities** to proceed with the animals' refusals, both countries **failed to meet the requirements as laid down by the World Organisation for Animal Health (OIE), establishing that in the event of a refusal of a livestock vessel, the welfare of animals should be the first consideration.** Article 7.2.11 of the OIE Terrestrial Animal Health Code sets forth the responsibilities of the importing countries (i. e. to provide adequate isolation facilities for the unloading of the animals and their safe containment) until the resolution of a given situation. None of this was provided for by the authorities of the countries above-mentioned, despite the fact that the two vessels docked in their Ports for several days.

The whole saga involving these two livestock vessels was characterised by a **rather passive attitude of all the authorities involved, including the European Commission itself, which allowed for the slowness of an excessively bureaucratic process to affect the animals,** by prolonging the suffering of more than 2,600 animals for over three months.

**Delays in ending the sufferings of these animals, shall also be posted to the exporters** (i.e. Beef World, S.A. and World-Trade, S.A for Karim Allah; and Ganados Ferru, S.L. for Elbeik) that violated Article 3 (a) (b) of Council Regulation 1/2005 by not requesting the vessels' masters to immediately return to Spain after the Lybian refusals, thus unnecessarily prolonging the suffering of the animals onboard the two vessels. With regards to Elbeik, the exporter also breached Article 5.1 of Royal Decree 993/2014, Article 9 of Royal Decree 542/2016, and failed to meet the requirement of Article 7.2.3 of the OIE Terrestrial Animal Health Code, as the veterinary export certificates were not provided for all the animals loaded. Indeed, **there is a discrepancy between the number of animals authorised by the Veterinary Export Certificates (i.e. 1,789 head) and the number of animals loaded according to the CABI (Roadmap) (i.e. 1,871 head).** Such a discrepancy was also reported by the Inspectors Attached to the Animal Health Inspection Service of the Agriculture and Fishing Area of the Region of Murcia.

Finally, **the two exporters, together with the carriers** (i.e. Talia Shipping Line Co. S.A.R.L for Karim Allah; Ibrahim maritime LTD for Elbeik) **are found by the law firm to be responsible for the lack of contingency plans,** in breach of Article 15.1(c) of Royal Decree 542/2016 and Article 11.1 (b) iv of Council Regulation (EC) 1/2005, and in disregard of Article 7.2.3. of the OIE Terrestrial Animal Health Code.

The reports filed by the Spanish Inspectors (24 February and 19 March 2021, respectively) indicated that bovines did not receive appropriate care and that they were transported in critical conditions: the law firm identified and reported **evidence of the vessels' carriers failure in meeting OIE requirements and implementing applicable legal provisions.**

Specifically:

- Karim Allah's carrier breached the legal provisions on animal fitness for transport (Council Regulation 1/2005, Article 3(b)) and on the conditions for transport and maintenance of the means of transport (*Ibid.*, Article 3 (c) (d) and Annex I Chapters II, III and VI), and he also failed to meet the requirements on vessel and container design and maintenance laid down in Article 7.2.5.4 of the OIE Terrestrial Animal Health Code. Indeed, animals were found to be injured and with skin infections; pens partitions and the ventilation system were deteriorated; and bedding not provided for in any of the pens. Additionally, the requirements with regards to document availability (*Ibid.*, Annex II point 8; Royal Decree 542/2016, Article 9.3) were not complied with, as the Roadmap and the Registration Sheet were not provided to the Animal Health Inspection Service of the Region of Murcia, when they asked for clarification on nine unaccounted animals. It must also be noted that, as declared by the vessel's Master, **the bodies of dead animals were torn to pieces, and thrown overboard, with no confirmation as to whether a minimum distance from the mainland was kept, so that such actions did not pose a health risk.**
- The Elbeik's carrier breached the legal provisions on animal fitness for transport (Council Regulation 1/2005, Article 3 (b)) and on the conditions for transport and maintenance of the means of transport as well as annexed facilities (*Ibid.*, Article 3 (c) (d), and Annex I Chapters II, III and VI), and he also failed to meet the requirements on vessel and container design and maintenance laid down in the OIE Terrestrial Animal Health Code (Article 7.2.5.4). Indeed, animals were subjected to a situation of suffering and degradation, in a state of cachexia, standing on the corpses of other bovines; pens were in very detrimental conditions, not safe, and not adequately ventilated; all of this posing a danger to the integrity and life of the animals.

- (Elbeik follows) Violations to the legal requirements as well as disregards to the OIE guidelines on water and feed provisions (Council Regulation 1/2005, Article 3 (h), and Annex I Chapters III, IV, V and VI; OIE Terrestrial Animal Health Code, Article 7.2.3 and 7.2.9) were also non-complied with, as animals were found in a evident state of dehydration and starvation; also the drinking systems on board were off and/or not properly functioning. High concentration of ammonia and dirtiness were also detected onboard, in violation of the legal requirement on ventilation (Council Regulation 1/2005, Annex I Chapters II, III) and cleanless (*Ibid.*, Annex I Chapters II, III), and in disregard to the relevant OIE recommendations (OIE Terrestrial Animal Health Code, Articles 7.2.3, 7.2.5 and 7.2.9). Also, breaches to Article 7 (f) (g) of Law 8/2003 were assessed, as for the "treatment" of animals and their dead bodies as, for instance, dying animals were mixed with already dead ones.

## Conclusions

From this analysis the law firm outlines possible legal actions:

- The EU Commission should take action against the Spanish authorities, aimed at clarifying the correct implementation of the applicable EU law related to animal welfare during transport.
- The EU Commission should take actions aimed at clarifying whether the Croatian and Romanian Governments complied with current Regulations when granting transport authorisations to the livestock vessels Karim Allah and Elbeik.
- The Spanish authorities should launch administrative actions against the owners of the animals, the exporters, the vessels' owners, and the carriers in accordance with the procedure established in Law 39/2015 of 1 October, of the Common Administrative Procedure of the Public Administrations (LPACAP), because:
  - Animals that could have spread diseases with a high health risk were transported, since an attempt was made to re-import animals from a country with active foci of dangerous diseases; and
  - Dead bodies were abandoned, torn to pieces, and thrown overboard, posing serious health risk to public health, and there has been a serious violation of the legal requirements about animal welfare as they were transported in unsafe conditions.



- The Spanish authorities should assign criminal responsibilities to the parties involved, in accordance with Art. 337 of the Criminal Code. This article, included in the Chapter on environmental crimes, establishes the penalties, including a disqualification from the exercise of any profession related to animals, for those who cause unjustified suffering to animals. In addition, Art. 337.3 of the Spanish Criminal Code establishes a type of aggravated criminal offence for unjustified animal abuse resulting in death.
- The owners of the animals can take actions against the Spanish authorities (Responsabilidad Patrimonial de la Administración), in accordance with the procedure established in Law 39/2015 of 1 October 1, of the Common Administrative Procedure of Public Administrations (LPACAP). In this sense, the possible qualification of the actions taken by the SCA in the issuing of the veterinary export certificates to Turkey and to Libya will need to be clarified in court.

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Author: Francesca Porta, Senior Programme Officer, Farmed Animals

Editor: Agnese Marcon, Interim Communication Manager

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# EUROGROUP FOR ANIMALS

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Eurogroup for Animals  
Rue Ducale 29 – 1000 Brussels  
Tel: +32 (0)2 740 08 20

[info@eurogroupforanimals.org](mailto:info@eurogroupforanimals.org)  
[eurogroupforanimals.org](http://eurogroupforanimals.org)