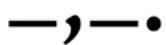


Food Labeling and Animal Welfare

RESEARCH NOTE #2 — Alice Di Concetto



Hand of Pork, Carrefour supermarket, Caerphilly, South Wales, 1987 © Paul Reas



European Institute
for Animal Law & Policy

ACHIEVING BETTER TREATMENT FOR ANIMALS

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Animal Law Europe, Bruxelles, 2021.



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Introduction

- 1 47%. European Commission, Special Eurobarometer 442: Attitudes of Europeans Towards Animal Welfare, 4 (2016).
- 2 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Region, A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system, 9, May 2020, available at: [EUR-LEX.EUROPA.EU](https://eur-lex.europa.eu)

Given the shortcomings of existing E.U. animal welfare regulations, and the difficulty of obtaining ambitious legislative reforms; consumer, food, and animal advocates have turned to increased transparency in the production of animal source foods as a way to better inform consumers and incentivize producers to transition to more humane farming practices.

Proponents of increased transparency of animal treatment via food labels hope to achieve several goals. Firstly, increased information would allow for more informed choices on the part of consumers who have the means to purchase more humanely produced food products, in a context where close to half of E.U. citizens “do not believe there is currently a sufficient choice of animal welfare friendly food products in shops and supermarkets¹.” More fundamentally, disclosing information on farming methods can lead to the improved treatment of animals through market pressure, by allowing virtuous producers to signal their products, pressuring others to upgrade their production methods to remain attractive. Such a market-based strategy therefore ultimately seeks to go beyond consumer empowerment, to transition the industry away from cruel methods of production, all the while bypassing the frequent political gridlock when it comes to legislative reforms.

Although based on the market, mechanisms such as labeling still call for regulatory oversight to ensure the quality and accuracy of information provided to consumers. However, in the E.U., it is the need for harmonized consumer information standards across the 26 different Member States that has spurred regulatory actions, in a context of growing integration of food policy as an E.U. competence.

In the past ten years, labeling initiatives informing consumers about farm animal welfare in food production have indeed proliferated in the E.U. to an astonishing degree. Today, there are a dozen labeling schemes pertaining to farm animal welfare in at least seven Member States, which exist alongside rules in E.U. legislation that already require producers to disclose the treatment of animals to consumers.

Anticipating the risk such proliferating labels pose to consumer protection and fair competition between producers, the E.U. institutions have identified the need to harmonize the delivery of animal welfare information on food products. In May 2020, the European Commission announced the creation of a standardized E.U. animal welfare label on food products². In parallel, some Member States, by way of the Council of the E.U., have expressed willingness to extend the mandatory labeling of farming methods for products in addition to shell eggs.



1. The Market Response to a Growing Consumer Demand for “Humane Labels”

3 European Commission, Special Eurobarometer 442: Attitudes of Europeans Towards Animal Welfare, 48 (2016).

4 *Ibid.*

5 *Ibid.*, 53.

1.1. Consumer Demand for More Information on the Welfare of Animals Used in Food Production

Common practices in industrial farm animal production have led to growing concerns among Europeans, with an overwhelming majority of E.U. citizens believing that “the welfare of farmed animals should be better protected.”³ Citizens have also identified that their purchasing choices have the potential to create change, with 59% of them willing to “pay more for animal welfare-friendly products,”⁴ and “more than half of EU citizens (52%) [looking for labels indicative of animal welfare] when buying products.”⁵

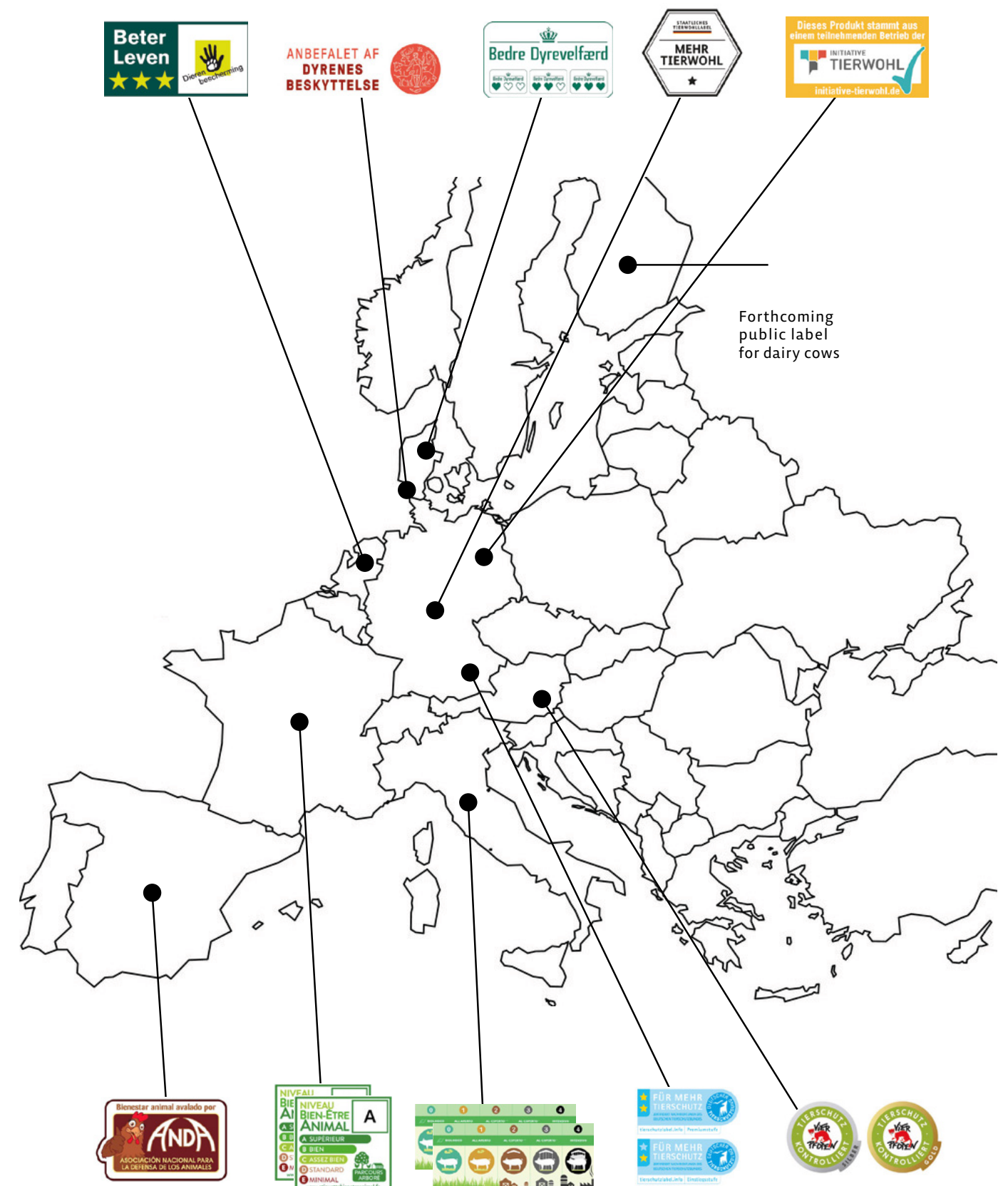
1.2. Market Response to such a Demand

Producers have taken such consumer demand seriously. Since the late 2000's, producers have been offering front-of-pack labeling information regarding the animal welfare impact of their products, and producers have often formed alliances with the nonprofit and public sectors to coordinate on the creation of these labels. Such labels have all been voluntary and can be distinguished in two ways: between labels providing information about the level of animal welfare afforded to animals used in animal production – “animal welfare labels” – and labels providing information about the method of production as it relates to animals, usually by indicating the housing methods of animals – “method-of-production labels.”

Today, there exist 11 labels in the E.U. Member States, with an additional one under development for dairy in Finland.

ANIMAL WELFARE LABELS IN THE E.U.

See Annex I for a more detailed description of these labels.



2. The Development of an E.U. Legal & Policy Framework

2.1. Existing Initiatives

2.1.1. ANIMAL WELFARE STANDARDS IN THE E.U. ORGANIC LABEL

Production rules for E.U. Organic certified products are set in Regulation 834/2007 on organic production and labeling of organic products (Organic Regulation),⁶ which first entered into force in 1991 and has been revised only twice since – in 2007 and again in 2018.

Originally, the 1991 Organic Regulation did not cover animal-based products. In 1999, the E.U. Legislature amended the 1991 Organic Regulation, by way of a supplementing regulation, to include livestock production within its scope.⁷ With this supplementing regulation came animal welfare standards for cattle, pigs, sheep, goats, horses, and chickens.⁸ The E.U. Legislature then revised the Organic Regulation in 2007, further including the “[respect] of high animal welfare standards” as one of its general objectives, even though animal welfare standards in the regulation remained unchanged.⁹

In 2019, however, the European Court of Justice imposed the requirement that all animals used for meat in organic production must be stunned before killing.¹⁰ With this ruling, the European Court of Justice further extended the scope of the animal welfare standards in the Organic Regulation, which had traditionally focused on regulating on-farm methods of production, using only non-committal language when referring to the slaughter of organic animals.¹¹

While Court of Justice decisions take effect immediately, the most recent revision of the Organic Regulation, adopted in 2018, will not lead to changes until 2022. Key among these changes will be the inclusion of additional species to the Organic Regulation such as fish,¹² rabbits, and deer, and by adding additional animals within its scope – breeding sows and egg-laying hens (“parent stocks”), as well as juvenile egg laying hens (“pullets”).

Overall, the animal welfare standards in the E.U. Organic Certification have improved over the past 30 years. However, such standards on animal welfare remain relatively low compared to most consumers’ expectations. For instance, for animals other than poultry, animal welfare standards in the Organic Regulation only go beyond allowed common industry practices (mutilations, extreme confinement) to a marginal extent.

6 Council Regulation (EC) N° 834/2007 of 28 June 2007 on organic production and labeling of organic products and repealing Regulation (EEC) N° 2092/91, O.J. L 189, 1–23, which will be replaced in 2022 by Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) N° 834/2007 (“2018 Organic Regulation”).

7 Council Regulation (EC) N° 1804/1999 of 19 July 1999 supplementing Regulation (EEC) N° 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs to include livestock production.

8 *Idem*, Annex (I)(3) and (V).

9 Annex III, Commission Regulation (EC) N°889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) N° 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control, O.J. (L 250), 38.

10 *Œuvre d'Assistance aux Bêtes d'Abattoirs (OABA) v Ministre de l'Agriculture et de l'Alimentation* *inter alia*, C-497/17, 26 February 2019.

11 Article 14(b)(viii); Article 15(1)(b)(vi). The Organic Implementing Regulation does not provide any rules regarding the slaughter of animals either.

12 The 2018 Organic Regulation included general provisions on fish but the Organic Implementing Regulation did not include detailed standards as for other species.

13 Point 3.4, p. 19, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on an Action Plan for the Development of Organic Production, available online [HERE](#).

14 Article 12, Commission Regulation (EC) N° 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) N° 1234/2007 as regards marketing standards for eggs, O.J.L. 163, 6 - 23 ("Eggs Marketing Standards Regulation").

15 Eggs Marketing Standards Regulation, O.J.L. 163

16 Further specifications can be found at Article 2, Eggs Marketing Standards Regulation, O.J.L. 163

17 Article 12(2) and Annex I and II, Eggs Marketing Standards Regulation, O.J.L. 163

18 Article 30(3), Eggs Marketing Standards Regulation, O.J.L. 163. This marking only applies to shell eggs sold in retail.

19 Article 2, Eggs Marketing Standards Regulation, O.J.L. 163, and Annex VII (VI)(II)(3), Regulation 13/08/2013 of 17 December 2013 establishing a common organization of the markets in agricultural products.

20 European Commission, Evaluation of Marketing Standards Contained in the CMO Regulation, the "Breakfast Directives" and CMO Secondary Legislation, 80 (2019).

21 European Commission, Evaluation of Marketing Standards Contained in the CMO Regulation, the "Breakfast Directives" and CMO Secondary Legislation, 84 (2019).

22 Article 35(1) , Regulation 1379/2013 of 11 December 2013 on the common organization of the markets in fishery and aquaculture products, OJ L 354/1 (in force since 2014).

23 Commission, Special Eurobarometer 475: EU Consumer Habits Regarding Fishery and Aquaculture Products, 7, 2017.

The Green Deal was an opportunity to correct these insufficiencies through the E.U. Organic Plan, which aims to reduce the agri-food sector’s environmental footprint through organic production. However, even though the E.U. Organic Plan includes the “enhancement of animal welfare standards” as one of its objectives,¹³ actions regarding animal welfare in the plan are either non-committal, or paraphrase the new standards on animal welfare in the new Organic Regulations adopted in 2018 and 2020.

2.1.2. LABELING OF THE HOUSING SYSTEM FOR SHELL EGGS

E.U. law has imposed the systematic labeling (also referred to as “marking”) of housing systems for table eggs, domestically-produced and imported,¹⁴ since 2008.¹⁵ Under Regulation 589/2008 (Eggs Marketing Standards), all table eggs¹⁶ must be labeled according to their method of production, which are “0 – organic;” “1 – free range;” “2 – barn;” “3 – from caged hens.”¹⁷ The rules also further impose a “non-EC standards” (non-European Community) mark for imports where there is “no sufficient guarantee as to the equivalence of rules.”¹⁸ However, this requirement does not apply to lower quality table eggs for business-to-business.¹⁹

The Eggs Marketing Standards have indeed been pivotal in improving the treatment of egg-laying hens, by informing consumers of the more humane choice, and by providing distributors and producers a blueprint for transitioning away from cages, up to free range in the egg business.

In a span of 15 years, from 2006 to 2019, with the Eggs Marketing Standards having come into force in 2012, 54% of the egg-laying hen population on farms have shifted from caged housing to cage-free systems (barn, free range, and organic systems).²⁰

Further linking this shift in more humane production methods to the Eggs Marketing Standards, a 2019 report from the European Commission concludes that “the rules for indicating the farming methods applied for laying hens [method-of-production labeling for table eggs] have been effective in promoting alternative production methods.”²¹

2.1.3. THE LABELING OF CATCHING METHOD FOR FISH

Since 2013, E.U. law requires fish producers to indicate the catching method of fish on the front-of-pack, and more specifically, whether the fish has been caught, caught in freshwater, or farmed, and the type of fishing gear used.²² Even though a Eurobarometer survey found that 75% of EU consumers considered the information of whether a fish was farmed or caught wild to be important²³, the extent to which information on the catching method of fish provides information on the welfare of animals is still unclear.



2.2. Prospective Regulatory Actions Under the Green Deal

2.2.1. REVISION OF MARKETING STANDARDS: EXPANDING THE SCOPE OF MANDATORY METHOD-OF-PRODUCTION LABELING

The EU sets rules on the information delivered to consumers on packages, through a set of 18 legislative acts called “marketing standards.” The stated objective of marketing standards is to “take into account the expectations of consumers and to contribute to the improvement of the economic conditions for the production and marketing of agricultural products and their quality.”²⁴

Marketing standards exist for eggs,²⁵ hatching eggs,²⁶ bovine meat,²⁷ milk and dairy products,²⁸ and poultry meat.²⁹ Of all the existing marketing standards rules, only the marketing standards for eggs and poultry meat inform consumers on the level of animal welfare afforded to animals, through labeling of the housing system.

While the marketing standards for eggs impose mandatory disclosure of the housing systems on all table eggs sold in retail points of sales (see *supra*), the marketing standards for poultry meat only provides regulatory definition for a set of positive terms. Although the use of these terms are voluntary, producers must use them and comply with the standards associated with these terms if they choose to describe their product in a positive manner. These terms are “extensive indoor (barn-reared);” “free range”; “traditional free range”; “free range – total freedom.”³⁰

Although these terms only describe quality methods of production, this set of regulatory definitions could form the basis of a mandatory labeling system for production methods for broiler chickens, as once envisaged by the E.U. Legislature in the Broiler Directive.³¹

In 2017, the European Commission (DG Agri) began the process of revising marketing standards regulations.³² Such a revision could potentially result in the enactment of marketing standards for pork, and could lead to expanding method-of-production labeling for all animal source food, starting with egg products, as proposed by the German Minister for Agriculture, Julia Kloeckner, to the Council of the E.U. in 2021.³³

2.2.2. REVISION OF E.U. QUALITY SIGNS REGULATION

The European Union provides a number of standards for quality certifications, which are the quality labels and the organic certification. EU’s Quality Labels mostly include Geographical Indications, which are, for food products, the E.U. Organic label (see *supra*) Protected Designation of Origin (PDO), the Protected Geographical Indication (PGI), and the Traditional Speciality Guaranteed (TSG). These E.U. Quality Signs Regulation could serve as an adequate vehicle for the enactment of a voluntary animal welfare certification, like the one in which the Commission has expressed interest.³⁴

2.2.3. THE ENACTMENT OF A FOOD SUSTAINABILITY FRAMEWORK LAW?

Information to consumers on animal welfare might also come through a new legislation on food sustainability, which the European Commission announced it will enact in its communication on the EU Farm-to-Fork Strategy.³⁵ However, for now, this new legislation tends to focus on nutrition labeling only.

24 Regulation (EU) N° 1308/2013, Recital 71.

25 Eggs Marketing Standards, *O J L* 163/ 6 – 23

26 Commission Regulation (EC) N° 617/2008 of 27 June 2008 laying down detailed rules for implementing Regulation (EC) N° 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks, *O J L* 168/5–16.

27 Commission Regulation (EC) N° 566/2008 of 18 June 2008 laying down detailed rules for the application of Council Regulation (EC) N° 1234/2007 as regards the marketing of the meat of bovine animals aged 12 months or less, *O J L* 160/22–25.

28 Regulation (EU) N° 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organization of the markets in agricultural products, *O J L* 347/671–854.

29 Council Regulation (EC) 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) 1234/2007 as regards marketing standards for poultrymeat, *O J L* 157/ 46 – 87.

30 Article 11 and Annex V, Commission Regulation (EC) N° 543/2008.

31 Article 5, Directive 2007/43/EC laying down the minimum rules for the protection of chickens kept for meat production.

32 European Commission, Evaluation and Fitness Check (FC) Roadmap, 2, available for download [HERE](#)

33 Council of the EU, German Delegation, Labeling of Foodstuffs Containing Eggs Regarding the Farming Method of Laying Hens, available online [HERE](#)

34 Regulation (EU) N° 1151/2012 of the European Parliament and of the Council of 21 November 2012 on Quality Schemes for Agricultural Products and Foodstuffs, *O.J. (L 343)*, 14.12.2012, p. 1–29.

35 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Region, A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system, p. 14, May 2020.



Conclusion

36 Regulation (EC) N° 1924/2006 of the European Parliament and of the Council of 20 December 2006 on Nutrition and Health Claims Made on Foods, O.J. (L 404), 9–25.

Overall, the E.U. institutions have been active on the issue of food consumer information as it relates to farm animal welfare, even though the challenge of harmonizing the standards and format of the information delivered to consumers on front-of-packs remains salient.

On the other hand, the E.U. Legislature paid little attention to the issue of false advertising, including under the form of labels. While the Commission takes on this laudatory goal of extending and harmonizing consumer information, there remains room for producers to employ deceptive language and outright false claims. Yet, cleansing the market of false claims should be a priority, before even considering creating an additional label, which, if lacking clear informational requirements, may create more confusion.

Perhaps the most efficient and harmonized way to address the problem of misleading information would be for the Commission to revise the Claims Regulation³⁶ so as to include the farm animal welfare-related claims to its scope. This would tighten the latitude producers have in making certain claims, leading to more accurate consumer labeling.



Alice Di Concetto

I am a French and US-educated lawyer specializing in animal law. In 2021, I founded the European Institute for Animal & Policy, the first think tank dedicated to advancing the interests in EU legislation.

This research note has been drafted with the considerable help of **Ilyana Aït Ahmed**, a Masters student at the Sciences Po Law School.

Annex 1

FACTSHEETS OF EXISTING ANIMAL WELFARE LABELS IN THE E.U.

ANDA HUEVOS

Country: Spain
Year of creation: 2013
By: Asociación Nacional para la Defensa de los Animales – ANDA (nonprofit) and AVIALTER (inter-branch organization)(nonprofit - private)
Type of certification: Single level
Type of information: the level of animal welfare
Scope: Species covered: Egg-laying hens, soon expanding to pigs.
Production stages covered: On-farm standards only.
Standards:
[LINK AVAILABLE HERE](#)
[LINK AVAILABLE HERE](#)



BEDRE DYREVELFÆRD

Country: Denmark
Year of creation: 2017
By: The Danish Veterinary and Food Administration with a coalition of retailers (public-private)
Type of certification: Multi-level, three levels (hearts)
Type of information: the level of animal welfare
Scope: Species covered: Pigs, broiler chickens, beef and dairy cattle.
Production stages covered: From breeding to transport for slaughter purposes.
Standards:
[GENERAL STANDARDS](#)
[more informations](#)
[PER LEVELS](#)



OFFICIAL WEBSITE

ANBEFALET AF DYRENES BESKYTTELSE

Country: Denmark
Year of creation: 1992
By: Dyrenes Beskyttelse (nonprofit)
Type of certification: Single level
Type of information: the level of animal welfare
Scope: Species covered: Pigs, turkeys, broiler chickens, egg-laying hens, cattle (calves, beef & dairy), buffaloes, lamb, sheep, ducks and geese, bison. Soon to expand to fish.
Production stages covered: From breeding to slaughter
Standards: [EGG-LAYING HENS](#) — [PIGS](#) — [CATTLE](#)
[DAIRY COWS](#) — [SHEEP AND GOAT](#) — [BISON](#)

ANBEFALET AF
DYRENES
BESKYTTELSE



OFFICIAL WEBSITE

BETER LEVEN

Country: The Netherlands
Year of creation: 2007
By: Dierenbescherming (nonprofit)
Type of certification: Multi-level, three levels (stars)
Type of information: the level of animal welfare
Scope: Species covered: Broiler chickens, egg-laying hens, calves, beef cattle, rabbits, dairy cows, and turkeys.
Production stages covered: From breeding to slaughter.
Standards: [CALVES](#) — [DAIRY COWS](#) — [BEEF CATTLE BROILER](#)
[CHICKENS EGG-LAYING HENS](#) — [RABBITS](#) — [TURKEY](#)



OFFICIAL WEBSITE

BMEL TIERWOHL INITIATIVE

Country: Germany
Year of creation: Forthcoming
By: The Federal Ministry of Agriculture
Type of certification: Multi-level, three levels
Type of information: the level of animal welfare
Scope: Species covered: Pigs, turkeys, broilers, and dairy cows.
Production stages covered: From farm to slaughter.
Standards: [PIGS](#)

[OFFICIAL WEBSITE](#)



ETICHETTATURA BENESSERE ANIMALE

Country: Italy
Year of creation: 2020
By: Compassion in World Farming Italia and Legambiente (nonprofit)
Type of certification: Multi-level, from 0 to 4 (pigs) - 5 (dairy cows)
Type of information: Method of production (housing system)
Scope: Species covered: Pigs, and dairy cows.
Production stages covered: On-farm standards
Standards: [PIGS](#) — [DAIRY COW](#)

No official website, this label is a proposal and is not currently implemented.



ÉTIQUETTE BIEN-ÊTRE ANIMAL

Country: France
Year of creation: 2018
By: Compassion in World Farming France, La Fondation Droit Animal, Ethique et Sciences (LFDA), OEuvre d'Assistance aux Bêtes d'abattoirs (OABA), and Casino (nonprofit-private sector)
Type of certification: Multi-level, from A to E
Type of information: Method of production (housing system, transport duration, and slaughter method) and animal welfare level
Scope: Species covered: Broiler chickens, soon to expand to pigs.
Production stages covered: From breeding to slaughter
Standards: [BROILER CHICKENS](#)

[OFFICIAL WEBSITE](#)



FÜR MEHR TIERSCHÜTZ

Country: Germany
Year of creation: 2013
By: Deutsche Tierschutzbund (nonprofit)
Type of certification: Multi-level, two levels (stars)
Type of information: the level of animal welfare
Scope: Species covered: Broiler chickens, pigs, egg-laying hens, dairy cows, calves.
Production stages covered: From breeding to slaughter.
Standards: [ENTRY LEVEL](#) — [PREMIUM LEVEL](#)
[GUIDELINES](#) (detailed criteria)

[OFFICIAL WEBSITE](#)



HALTUNGSFORM

Country: Germany
Year of creation: 2019
By: Coalition of retailers (private sector)
Type of certification: Umbrella label*, multi-level from 1 to 4.
Type of information: Method of production (housing system)
Scope: Species covered: Broiler chickens, pigs, turkey, beef cattle, dairy, ducks, and rabbits.
Production stages covered: On-farm treatment.

[STANDARDS](#)

[OFFICIAL WEBSITE](#)

* umbrella label: a label that categorizes different labels into different segments and levels, in an attempt to rationalize proliferating labels.



INITIATIVE TIERWOHL

Country: Germany
Year of creation: 2015
By: A coalition of producers, processors, and retailers (private)
Type of certification: Single level certification
Type of information: the level of animal welfare
Scope: Species covered: Pigs, broiler chickens, and turkey.
Production stages covered: From farm to slaughter.

[STANDARDS](#)

[OFFICIAL WEBSITE](#)



TIERSCHÜTZ KONTROLLIERT

Country: Austria
Year of creation: 2012-2013
By: Four Paws (nonprofit)
Type of certification: Multi-level, two levels (gold and silver)
Type of information: the level of animal welfare
Scope: Species covered: Pigs, dairy cows, beef cattle, egg-laying hens, ducks, sheep, goats, broiler chickens, and turkeys.
Production stages covered: From breeding to slaughter.

Standards:

On-farm standards:

[DAIRY COWS](#) — [BEEF CATTLE](#) — [PIGS](#)

[EGG-LAYING HENS](#) — [BROILER CHICKEN](#) — [TURKEY](#) [DUCKS](#)

[SHEEP FOR MILK PRODUCTION](#)

[GOATS FOR MILK PRODUCTION](#)

[GOATS FOR MEAT PRODUCTION](#)

Standards for transportation and slaughter:

[DUCKS](#) — [BROILER CHICKEN](#) — [TURKEY](#) — [PIGS](#)

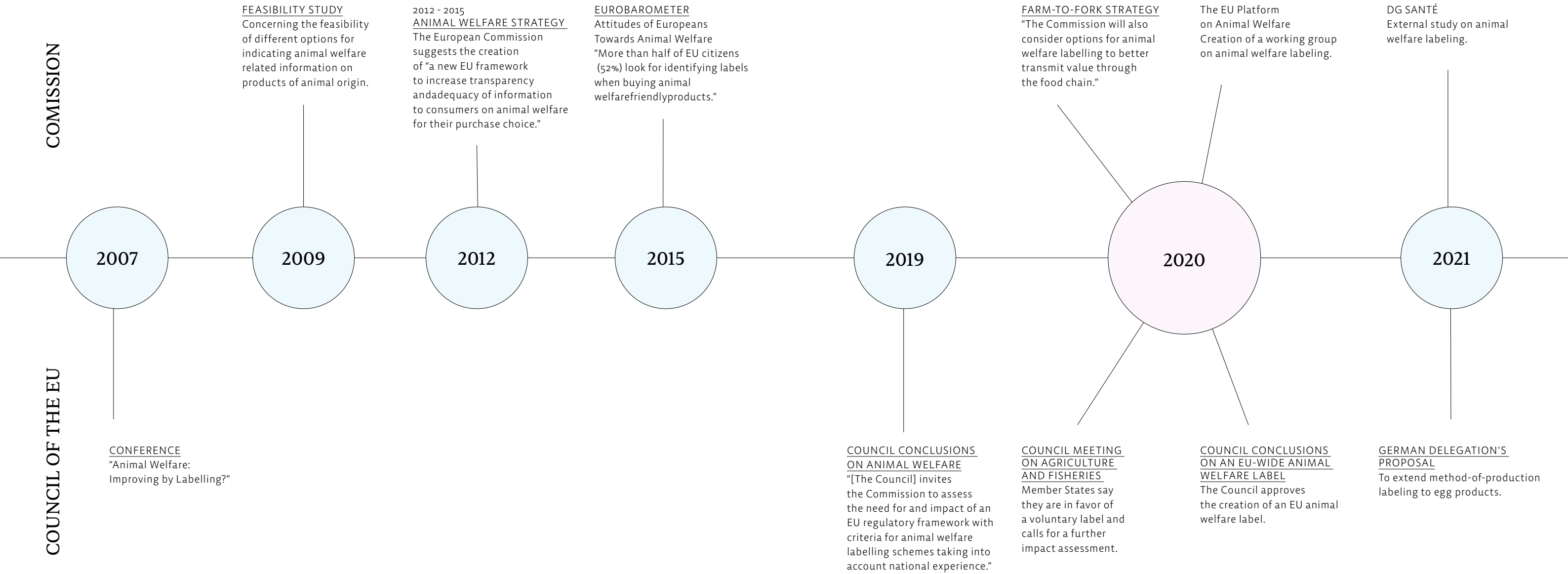
[BEEF AND DAIRY CATTLE](#) — [SHEEP AND GOATS](#)

[OFFICIAL WEBSITE](#)



Annex 2

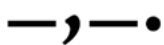
TIMELINE OF DISCUSSIONS ON ANIMAL WELFARE LABELING AT E.U. LEVEL



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