



Explanatory Report to the Protocol of Amendment to the European Convention for the Protection of Animals kept for Farming Purposes *

Strasbourg, 6.II.1992

Introduction

1. The European Convention for the protection of animals kept for farming purposes was opened for signature on 10 March 1976. It entered into force on 10 September 1978.
2. A Standing Committee of representatives of Parties to the Convention is responsible for the elaboration and adoption of recommendations to the Contracting Parties containing detailed provisions for the implementation of the principles set out in Chapter I of the Convention, to be based on scientific knowledge concerning the various species of animals.
3. In the course of its work, the Standing Committee identified some problems of animal welfare to which no explicit reference had been made in the Convention.
4. In order to ensure that all Parties could accept the powers of the Standing Committee to deal in its recommendations with the problems it had thus identified, the Standing Committee agreed, in accordance with Article 13 of the Convention, to make proposals to the Committee of Ministers for amending the Convention.
5. The draft Protocol of Amendment was approved by the Standing Committee on 24 May 1991 and submitted to the Committee of Ministers.
6. The Committee of Ministers adopted the Protocol of Amendment on 15 November 1991, and decided to open it for signature on 6 February 1992.

General considerations

7. After detailed discussions, the Committee concluded that biotechnology was developing rapidly, presenting positive as well as negative aspects for the welfare of animals, and that in the absence of any specific international agreement it was highly desirable to study these developments with a view to defining certain principles to be respected for the welfare of animals subjected to or resulting from biotechnological procedures.
8. In order to be empowered to deal in its recommendation with all aspects of biotechnology related to the welfare of animals kept for farming purposes the Standing Committee agreed, in accordance with Article 13 of the Convention, to formulate a proposal for amending the Convention.

(*) The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community entered into force on 1 December 2009. As a consequence, as from that date, any reference to the European Community shall be read as the European Union.

9. During the elaboration of a recommendation concerning fur animals, the Standing Committee discussed the killing of these animals, which is normally done at the farm. The Committee noted that the Explanatory Report on the European Convention for the protection of animals for slaughter (Strasbourg 1979, ETS 102) in its comments on Article 1, stated that that Convention would not cover any furred animals except rabbits.

10. In these circumstances, the Standing Committee agreed that the Convention should be amended to make explicit reference to the killing of fur animals.

11. In doing so, the Standing Committee was aware that the provisions in the Protocol should be conceived as general principles of animal welfare, which would be added to the general principles already laid down in the Articles 3 - 7 of the Convention and which would be subsequently elaborated by the Standing Committee in its recommendations under Article 9 of the Convention.

The Committee was careful, therefore, to draft these new principles in a way which would neither impede further research nor limit the aspects which the Committee could examine in future, but which would provide complete flexibility to cater for all health and welfare problems which could arise in respect of the various categories of animals kept for farming purposes.

Comments on the provisions of the Protocol of Amendment

Article 1

To make clear that the Convention covers both natural and artificial breeding of animals, the Committee agreed that Article 1 of the Convention should be reworded to include the word "breeding" and to refer, next to animals produced by the normal breeding process, explicitly to animals produced as a result of modifications or novel combinations of genetic material.

The Committee considered that the former definition of "modern intensive stock farming system" was in need of revision to take account of those husbandry methods which are intensive but which do not necessarily depend on technical equipment or do not necessarily involve the housing of the animals. In particular, the Committee wished to include all animals kept at high stocking densities or at high production levels and therefore requiring frequent attention.

Article 2

In order to ensure that the new provision on breeding would fall under the scope of the existing Article 2 of the Convention, the Committee agreed to insert it as a new Article 3 in the Convention.

In the light of the amendment of Article 1 of the Convention, the Committee understood the provision under new Article 3 as not to interfere with any experimental breeding in laboratories.

The Committee considered this provision as a requirement that breeding programmes must be designed to avoid foreseeable suffering or injury of the animals, such as difficult deliveries and lasting deformations. The Committee acknowledged that this provision does not prevent breeding which would cause minor or momentary suffering or injury (e.g. natural delivery, embryo transplantation) or which might necessitate interventions such as caesarians, which would not cause lasting harm.

The Committee agreed that the reasonable expectation in the second part of the sentence should be based on the phenotype or genotype of the animal concerned; this would exclude from the scope of this provision current practices of keeping animals in unfavourable husbandry systems, until satisfactory alternatives have been developed.

As for the words "unless it can be reasonably expected" the Committee noted that this or similar expressions can be found in most national legislations and that in the context of the Convention these words implied that no stockman should breed from genetically modified animals unless in the light of available scientific knowledge and/or established experience regarding animal health and welfare it could in general be reasonably expected that the animals, or the animals produced by these animals, would not suffer as a consequence of that breeding.

Furthermore, the Committee underlined that this expression would not prevent it from being more precise when translating this general principle into concrete recommendations.

The provision was worded so as to cover also animals resulting from for instance embryo transplantation or genetic modification procedures.

Article 4

The Committee considered that the administration of substances for therapeutic or prophylactic purposes in accordance with the animal's health or welfare requirements was sufficiently covered by regulations on veterinary medicine laid down elsewhere, and that there was no need to include additional safeguards in the present Convention.

In drafting this provision, the Committee was aware of the possible administration to animals, not only of therapeutic substances, but also of non-therapeutic substances for the diagnostic purposes, to improve the health or productivity of animals, to facilitate their identification etc. The Committee considered, however, that these and other developments should be the subject of recommendations, which could be elaborated on the basis of the general principle in Article 4 of the Protocol.

Consequently, the addition to Article 6 of the Convention was drafted in as flexible a way as the existing text of that Article.

The Committee specified that the administration of new substances to an animal must be preceded by scientific studies of animal welfare or by established experience which demonstrate that there will be no detrimental effect on the animal's health or welfare. It was agreed that this provision would allow for veterinary medicines to be administered, as well as substances which would kill the animal humanely.

The Committee considered that not only the condition and the state of health of animals must be inspected, but also their welfare, and amended the first paragraph accordingly.

Article 5

The provision in the second paragraph was drafted to apply both to animals which are to be killed on the farm (e.g. fur animals) and to animals which have to be killed on the farm (e.g. in emergencies) but not to animals slaughtered for his own consumption by the farmer in accordance with the provisions of the European Convention for the protection of animals for slaughter (Strasbourg 1979, ETS 102).

The expression "on the farm" is meant to cover both the farm buildings and the farm grounds.

Paragraph 3 was amended to read that temporary measures must be taken to safeguard not only the welfare of the animals, but also their health.

Articles 6, 7, 8 and 10

These articles are in conformity with the model final clauses adopted by the Committee of Ministers for conventions prepared within the framework of the Council of Europe.

Article 9

This provision was inserted to avoid the possibility that a Party, when signing or ratifying the Protocol of Amendment, would make a reservation on any provision of the Protocol, and therewith an indirect reservation on the Convention once amended.

The Protocol of Amendment of the Convention on the Protection of Animals kept for Farming Purposes widens the scope of the Convention in two main fields:

- animals subjected to or resulting from biotechnological procedures; and
- the killing of animals on the farm, particularly fur animals.