



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

Strasbourg, 10.III.1976

I. The European Convention on the Protection of Animals Kept for Farming Purposes, drawn up within the Council of Europe by the Committee of Experts on the Protection of Animals, was opened for signature by the member states of the Council of Europe on 10 March 1976.

II. The text of the explanatory report prepared on the basis of that committee's discussions and submitted to the Committee of Ministers of the Council of Europe does not constitute an instrument providing an authoritative interpretation of the text of the Convention although it may facilitate the understanding of the Convention's provisions.

Introduction

The Convention on the Protection of Animals Kept for Farming Purposes was drawn up following the proposals of the Consultative Assembly set out in Recommendations 620 (1971) and 641 (1971) on the protection of animals in industrial stock-breeding. On the basis of these recommendations, the Committee of Ministers decided to submit the draft Convention proposed by the Assembly to the Committee of Experts on the Protection of Animals which had already drawn up the European Convention on the protection of Animals in International Transport opened to signature by the member states of the Council of Europe on 13 December 1968.

The Committee of Experts on the Protection of Animals held four meetings between 24 May 1972 and 25 January 1974. At the end of its fourth meeting, the committee submitted a draft Convention to the Committee of Ministers.

The Committee of Ministers requested the opinion of the European Committee on Legal Co-operation (CCJ) in respect of this draft Convention.

In addition, the Commission of the European Communities, which was represented on the committee of experts by an observer, having made known the interest which the European Economic Community would have in being given the possibility of becoming, as such, a Contracting Party to the future Convention, the Committee of Ministers included in the text of the Convention appropriate provisions, whose text had been negotiated by the Secretariat of the Council of Europe and the Commission of the Communities and which have been agreed to by the Council of the European Communities.

(*) 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.

At the end of its discussion on the matter, the Committee of Ministers adopted the text of the European Convention on the Protection of Animals Kept for Farming Purposes and decided to open it for signature by the member states of the Council of Europe and by the European Economic Community at the occasion of the 255th meeting of the Deputies in March 1976.

General considerations

1. In preparing the Convention which is the subject of this report, the Committee of Experts on the Protection of Animals used as its starting point the draft Convention on Animal Welfare in Intensive Rearing appended to Recommendation 641 (1971) of the Consultative Assembly. This draft had been elaborated by the Committee on Agriculture of the Consultative Assembly on the basis of a text presented by the World Federation for the Protection of Animals.

2. The committee also took note of the national laws of the states participating in its work and in particular of the German Animal Protection Law of 24 July 1972. The second chapter of the German Law, which deals with the keeping of animals, inspired a number of provisions proposed by the committee.

3. The committee considered that the Convention should be based on ethical principles.

4. The committee agreed that the Convention should contain a set of general principles setting out the requirements necessary to safeguard the welfare of animals kept for farming purposes, in particular those kept in modern intensive stock-farming systems

5. Detailed regulations should be worked out by a Standing Committee giving priority to the elaboration of standards concerning modern intensive stock-farming systems. They should be in conformity with the general principles of the Convention and based on scientific knowledge concerning the various species. The Standing Committee should follow the development of scientific research and new methods in animal production, in the light of which it should review already adopted regulations in order to amend them where appropriate.

6. The Standing Committee should be empowered to act in order to facilitate the friendly settlement of any difficulty arising between Contracting Parties out of the execution of the Convention. At the request of a Contracting Party it should be authorised to give an advisory opinion on any question concerning the protection of animals.

7. The committee of experts found it desirable that there should be in each Contracting State one or more advisory bodies to facilitate the work of the Standing Committee. These bodies should, in particular, study questions arising from the development of new methods in animal production. The Standing Committee should, however, be authorised to request information from these bodies on any question of importance to its work.

Comments on the provisions of the Convention

Title

8. The title indicates that the Convention is concerned only with the protection of animals kept for farming purposes.

The committee of experts examined the possibility of extending the scope of the Convention to the welfare requirements of all animals. It came, however, to the conclusion that it is of particular importance to safeguard the welfare of animals kept for farming purposes, and that the requirements necessary for these animals could best be dealt with separately.

The protection of animals kept for other purposes, for instance, as pets, for racing or other sports, for exhibition, or for experimental or industrial purposes, as well as the protection of wild living animals, fall outside the scope of the Convention as does the slaughtering of animals.

Article 1

9. This article contains the definitions necessary to delineate the scope of the Convention. The provisions of the Convention and of the recommendations made under its Article 9 shall apply only to such animals as are specified in Article 1. The term "modern intensive stock-farming systems", with regard to which the only specific provisions contained in the Convention are found in Article 7, has been defined in Article 1 because this definition will be applicable wherever the term will be used in recommendations of the Standing Committee.

Article 2

10. Chapter I of the Convention sets out certain principles to which each Contracting Party undertakes to give effect.

In addition the committee considered that detailed provisions in the form of recommendations should be elaborated by a Standing Committee, which also should be able regularly to revise these detailed provisions in the light of the scientific developments and the development of modern animal production. This is provided for in Chapter II.

Articles 3, 4, 5 and 6

11. These articles set out principles relating to particularly important aspects of animal welfare. The committee endeavoured to elaborate principles which are precise enough to prevent a completely free interpretation, but wide enough to allow for different needs. The underlying idea is to avoid any unnecessary suffering or injury and to secure conditions that shall be in conformity with physiological and ethological needs of the individual animals. These provisions were conceived as guiding principles for the subsequent elaboration of detailed measures in the form of recommendations of the Standing Committee provided for in Chapter II of the Convention

It is after the drawing up of such recommendations, the implementation of which the Contracting Parties will decide upon in good faith that the parties will be led to frame legislation or regulations to give effect to the principles.

Article 7

12. The committee considered that in extensive farming systems, for instance where animals are on pasture in mountain areas, a daily inspection could not reasonably be required. For this reason different requirements have been made for animals in general and animals kept in modern intensive stock-farming systems.

Article 8

13. The committee believed that it would be useful to enable member states which had not yet become parties to the Convention to participate in the work of the Standing Committee as observers. It is important that the Standing Committee should start its work as soon as possible and with the participation of all member states which are expected to become parties to the Convention.

Article 9

14. Recommendations by the Standing Committee shall be made by unanimity of the votes cast. This means that abstentions are not counted. Consequently, a Contracting Party which would be unable to vote for a proposal, might nevertheless permit its acceptance by abstention from the vote.

15. According to the Convention, after the adoption of a recommendation by the Standing Committee, the Contracting Parties will have a six-month period or a longer period decided upon by the Standing Committee within which to decide whether to accept them or not.

A party, which has formally declared that it will not accept the recommendation, will not have to implement it, but the basic obligation will remain to negotiate towards the implementation of the guiding principles. Failing such a declaration or if it is made by only a single Contracting State, the parties which have not made this declaration shall be considered by virtue of the Convention to be under an obligation to implement the recommendation, either through legislation or regulations or through administrative practice. The validity of a recommendation may, however, subsequently be set aside at any time, for example if new circumstances arise or should fresh scientific knowledge become available. The Standing Committee should in any case periodically examine all the recommendations which it has drawn up and should complete and amend them in the light of scientific and other developments.

Article 10

16. The Standing Committee is authorised to do whatever it finds necessary to facilitate a friendly settlement of any difficulty arising between Contracting Parties out of the execution of the Convention. In this way disputes might normally be avoided.

Article 11

17. The advisory opinion which the Standing Committee is authorised to give may concern any question of animal welfare put to it by a Contracting Party. On the other hand, it is not authorised to express any such opinion without the request of a Contracting Party.

Article 12

18. It is recommended that each Contracting Party appoint one or more advisory bodies to assist the Standing Committee in its work, but the Convention does not oblige them to do so. When a Contracting Party nominates such a body it is entirely free to decide its composition and competence.

Article 13

19. The purpose of this article is to facilitate the adoption of amendments to the Convention if such should appear desirable in the light of the experience after it has functioned for a certain time.

Articles 14 to 18

20. 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. They have, however, been expanded in order to allow the European Economic Community to become, as such, a Contracting Party to the Convention according to the same procedure as that envisaged for the member states of the Council of Europe, namely signature followed by the deposit of an instrument expressing the willingness to be bound by the Convention.

To take account of the changing nature of the competence of the European Economic Community in the field covered by the Convention, a declaration was presented by the Community, of which the Committee of Ministers of the Council of Europe took note at the time of the adoption of the text of the Convention and according to which the necessary competence for implementing the European Convention on the Protection of Animals Kept for Farming Purposes may be vested, as the case may be, in the member states or in the Community itself, for whom it is to state how such competence is distributed in accordance with its internal procedures.