



Explanatory Report to the European Convention for the Protection of Animals during International Transport (Revised) *

Chisinau, 6.XI.2003

The text of this Explanatory Report does not constitute an instrument providing an authoritative interpretation of the revised Convention, although it might be of such a nature as to facilitate the application of the provisions contained therein. This Convention was opened for signature in Chisinau, on 6 November 2003, on the occasion of the 113th Session of the Committee of Ministers.

Introduction

1. On 19 March 1996, at the first meeting of the Working Party for the preparation of their third Multilateral Consultation, the Parties to the European Convention for the protection of animals during international transport (ETS No. 65) recognised that the experience acquired and scientific results obtained since the opening for signature of the Convention permitted them to foresee bringing the provisions up to date and clarifying their wording in order to facilitate its implementation.

The 1968 Convention

2. The Convention was elaborated by a Committee of experts set up by the Committee of Ministers in 1965, in reply to Recommendation 287 (1961) of the Consultative Assembly of the Council of Europe on the international transit of animals. In this Recommendation, the Consultative Assembly, "Considering that the humane treatment of animals is one of the hallmarks of Western civilisation, but that, even in member States of the Council of Europe, the necessary standards are not always observed", recommended "that the Committee of Ministers should draft, and invite the members States to sign and ratify, a Convention for the regulation of the international transit of animals based on a draft prepared by the World Federation for the Protection of Animals, it being understood that the Convention would be open to accession by other States with the least possible formality."

The Convention was opened for signature on 13 December 1968 and entered into force on 20 February 1970.

The Convention was amended according to the provisions of the Additional Protocol (ETS 103) which entered into force on 7 November 1989, to provide for the signature by the European Community.

(*) 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.

Revision of the Convention

3. The revision of the provisions of the 1968 Convention was carried out taking into account the Recommendations of the Committee of Ministers Nos. R (87) 17 on the transport of horses, R (88) 15 on the transport of pigs, R (90) 1 on the transport of cattle, R (90) 5 on the transport of sheep and goats, and R (90) 6 on the transport of poultry.

4. Observers from the World Society for the Protection of Animals (WSPA), the International Air Transport Association (IATA), the European Livestock and Meat Trading Union (UECBV), already consulted for the elaboration of the initial Convention, as well as the Animal Transportation Association (ATA), the European Confederation of Agriculture (CEA), the Economic Commission for Europe (United Nations), Eurogroup for Animal Welfare and the Federation of Veterinarians of Europe (FVE), participated in the revision of the Convention.

5. The revised Convention builds on the lessons learnt from the last 30 years of experience and scientific results made available during this period. It contains provisions designed to overcome defects and to facilitate the implementation of the principles of the Convention.

The revised Convention was built as a framework convention laying down essential principles applying to all species. It provides for technical protocols which can be amended following a simplified procedure, facilitating thereby their updating in the light of scientific evidence and experience acquired.

The revised Convention provides for the denunciation of the original Convention. The Parties are thus not simultaneously bound by contradictory undertakings.

6. After examination and approval by the Parties to the original Convention on 18-20 June 2002, the draft revised Convention was submitted to the Committee of Ministers, which in turn adopted it at its 843rd meeting of the Ministers' Deputies, on 11 June 2003.

7. The revised Convention was opened for signature by the Member States of the Council of Europe and the European Community in Chisinau, on 6 November 2003.

General considerations

1. A large proportion of the animals carried in international transport are destined for slaughter in the receiving country. For these animals, the Parties to Convention ETS 65 at a Multilateral Consultation (hereafter: "the Parties") recognised that for animal welfare reasons, the ideal would be to restrict this traffic to carcass meat thus ensuring that the animals were slaughtered in the country of origin.

2. For practical reasons, the Parties have endeavoured to detail the welfare requirements of the principal species only. However, they considered that humane treatment should extend to all species of animals.

3. The Parties have not established detailed rules and procedures for all the species covered by the Convention, because of their widely differing welfare requirements.

4. The Parties have established more detailed rules by type of transport rather than by species because the conditions which could affect the welfare of the animals transported are more dependent on the type of transport used.

5. The Parties have considered only those questions relating directly to the welfare requirements of animals in international transport. They recognised that these provisions are also, in general, relevant for transport within the territory of a contracting Party.

6. The Parties regarded consideration of civil responsibilities for fulfilling the provisions of the Convention as falling outside their mandate.

7. The Parties emphasise that the provisions of the revised Convention shall not interfere with the sanitary and veterinary regulations of the Parties.

Brief comments on certain provisions in the revised Convention

Title

Because the word "protection" appears in the title, it is not thought to be necessary to emphasise that the animals concerned are live animals.

The term "international transport" is preferred to the word "transit" which, in several languages, includes only transports passing through one or more intermediate countries and might therefore give rise to difficulties in translation.

Article 1 – Definitions

Paragraph 1

It is understood that the Convention applies to transport between a member State of the European Community and a non-member State of the European Community as well as to a transport between two member States of the European Community, which will transit by a non-member State of the European Community.

Paragraphs 3 and 4

These definitions in no way prejudge civil or criminal law provisions in force at national level.

Paragraph 6

It is understood that transport can be either for commercial or non-commercial purposes.

Article 2 – Species

It is understood that international transport of circus animals falls under the scope of the revised Convention.

Paragraph 1

This Convention applies to all vertebrate animals. However, some provisions may be inapplicable to certain species because of the biological characteristics of that species. Examples are the provisions on females in lactation in Article 21 of the Convention, which are not applicable to poultry, and the provisions on floors and bedding in Article 16 of the Convention, which are not applicable to fish.

Paragraph 2 b.

For the purpose of this Convention, "pet animal" means any animal kept or intended to be kept by man, in particular at home, for his enjoyment and as a companion.

For the purpose of this Convention, horses are not considered as pet animals.

For the purpose of this Convention, by "accompanying" is meant accessible to and under the control of its owner.

This paragraph mainly concerns dogs and cats. However, the Parties wish to draw attention to the transport of animals described as pets when in fact they were being transported for commercial purposes.

Article 3 – Application of the Convention

Paragraph 2

The objective of this provision is to ensure an appropriate system of training, each Party being free to choose the method of its establishment. It was agreed that although intended for the attendant initially, it should concern all persons involved in the transport of animals. It is understood that training is an on-going process and applies therefore to both new and experienced personnel.

Paragraph 3

While considering that the revised Convention only applies to international transport of animals, the Parties, considering that its provisions aim at protecting the welfare of the animals, recognised their relevance for transport within the territory of a contracting Party.

Article 4 – Main principles of the Convention

Paragraph 3

Control points may be a border, or any other locations where any checks are carried out. This will include for example, spot checks carried out on, animals or vehicle during transport.

Paragraph 5

Strikes and similar circumstances can severely affect the welfare of animals in transport and the Parties therefore felt it necessary to refer in the revised Convention to the need to protect animals as far as possible in such circumstances; but they did not consider it appropriate to indicate how this should be done other than to specify that such action should be in accordance with the principles of the revised Convention.

Article 5 – Authorisation of transporter

Paragraph 1

For the purpose of this Convention, transport for commercial purposes is not limited to transport where an immediate exchange of money, goods or services take place in connection with the actual transport.

For instance, it also includes transport which directly or indirectly involve or aim at a financial gain.

A farmer transporting his own animals to a slaughter house in his own vehicle is thus considered transporting animals for commercial purposes. Furthermore, a transport of sport or breeding horses to a competition, show or exhibition which does not necessarily involve prize money but which may increase the value of the horses, is also considered to be a transport for commercial purposes.

Article 6 – Design and construction

Paragraph 2

It is understood that for the purpose of this Convention, "poultry" does not include ratites.

For poultry, standing upright is not recommended as they risk falling on top of one another during transport, resulting in other welfare problems.

Article 7 – Planning

Paragraph 7

This task of the person responsible for the transport of animals is particularly important when the animals change from one means of transport to another during the journey. It is also important when the animals are unloaded and later on reloaded during the same journey, for instance at resting points, and whenever the responsibility of their welfare changes from one person to another.

Article 8 – Attendants

Paragraphs 1 and 2

If the driver is also the attendant, he/she must have undergone specific and appropriate training or have had equivalent practical experience.

The word "specific" indicates that the training must be adapted to the species being transported and the means of transport.

The Parties expressed the wish that, in the near future, all those persons referred to in this article would have had a training period and that, in this way, reference to experience only will no longer be possible.

Paragraph 3

Even in the absence of an attendant, in accordance with Article 7 paragraph 7, a person shall always be designated who would be responsible for the welfare of the animals at any time during the journey.

Article 9 – Fitness for transport

Paragraph 2 b

The term "for experimental or scientific purposes" is to be defined in accordance with the European Convention for the protection of vertebrate animals used for experimental and other scientific purposes (ETS 123).

Paragraph 2 c

Emergency treatment means veterinary treatment necessarily carried out in a clinic or a hospital.

Article 10 – Inspection/Certificate

Paragraph 2

It is understood that the sanitary certificate usually delivered by the authorised veterinarian will be sufficient warrant provided that all items for which provision is made in this paragraph are included. It is preferable to use a single document.

Paragraph 3

The first two paragraphs of this article specify the provisions which should normally apply. The Parties recognised, however, that there would be certain circumstances in which these provisions might be waived in accordance with specific agreements reached between Parties. The intention is that such waiver would only be exercised where the welfare of the animals is not prejudiced. This waiver may be exercised, for example, in the case of horses for sporting purposes.

Article 13 – Equipment and procedures

Paragraph 1

"Loading" does not mean only at the time of departure, but also any loading during transport. "Unloading" does not mean only at the time of arrival at destination, but also any unloading during transport.

The term "properly constructed ramp" includes the width which needs to be appropriate to the species loaded or unloaded.

Paragraph 2

When drafting the Convention, Parties considered that foot battens presented the greatest advantages from an animal welfare point of view. However, they wished to leave the way open for the development of other equivalent systems.

Article 14 – Handling

Paragraph 3

This provision does not prohibit the leading of an animal, without excessive force, with a rope or head collar.

Article 15 – Separation

Paragraph 1

The provision concerning hostile species takes into account the need to ensure that such animals should not be able to see, hear, or smell each other.

Article 17 – Space allowances (floor area and height)

Paragraph 1 (See also comment on Article 6 paragraph 2)

It is the intention to set minimum space allowances for certain species in a technical protocol to be adopted in accordance with Article 34 of the Convention.

Article 18 – Tying of animals

As a general principle, the condition of transport should be such that tying of animals is not necessary. However, it is accepted that tying the animals may be necessary in certain circumstances.

Article 20 – Watering, feeding and rest

The Parties recognised that animals need to be watered and fed according to their species and age. Furthermore, the youngest animals are those which need to be fed and specially watered more frequently. It is the intention to set a limit for maximum intervals for certain species in a technical protocol to be adopted in accordance with Article 34 of the Convention.

Article 21 – Females in lactation

This provision recognises the important practical problem difficulties associated with milking lactating females during transport.

Article 24 – Care during transport

The Parties recognised that even if the transport unit has a seal applied for health or customs purposes, the animals must be inspected, watered and fed.

Article 25 – Emergency/casualty care during transport

"First-aid care" means appropriate care competently administered.

The provision providing that animals "be killed in a way which does not cause them any additional suffering", means that if the person present in charge of the welfare of the animals is not competent to kill an animal of the relevant species, then he or she must find a competent person to do this as soon as possible if it becomes necessary to kill an animal during transport.

Article 27 – Special provisions for the transport by road

Paragraph 4

This check of the animals can be made at each rest or replacement of the driver.

Article 28 – Special provisions for transport by water

Paragraph 1

It is the responsibility of the Parties to ensure that the inspection takes place, regardless of the vessel's country of registration.

Paragraph 14

The Parties considered that the requirements of this article should apply in all cases, but that they could often be met by providing a single spare pen.

Article 29 – Special provisions for transport by rail or road vehicles on Roll-on- Roll-off vessels

Paragraph 6

Feed might be carried on board the vessel or in the road or rail vehicle, as agreed between the shipping company and the road or rail transporter.

Paragraphs 6 and 7

The person responsible for the transport must ensure that the arrangements referred to in those paragraphs are made.

Article 30 – Special provisions for transport by air

Paragraph 1

The Parties have recognised that it was not necessary that each aircraft must be permanently equipped with sophisticated measuring equipment for air flow and quality, temperature and pressure, according to the needs of the species concerned.

Paragraph 2

The term “commander” means the person designated to have full responsibility and authority to secure the safety of the aircraft and all persons, goods and live animals.

Article 36 – Settlement of disputes

Paragraph 1

The selection or appointment of competent authorities is entirely a matter for each Party.

Articles 37 to 41

These provisions are in line with the corresponding standard provisions included in other European conventions.

In general, the final provisions in this Convention follow the usual pattern of final clauses adopted by the Committee of Ministers of the Council of Europe for conventions and agreements drawn up within the Organisation.