

INTRODUCTION TO THE DEVELOPMENT OF THE COUNCIL OF EUROPE CONVENTIONS FOR ANIMAL PROTECTION – ETHICS, DEMOCRATIC PROCESSES AND MONITORING

by

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Summary

The work of the Council of Europe for the protection of animals is defined along with the principles reasons for its interest and legal activities. It recognises the importance of animal welfare and the contribution which animals make to human health and the quality of life. The care of animals is one of the hallmarks of western civilisation and this work has firm moral foundations. This work has responded to the increasing interest in the area by both European society and their Governments. The ethical basis of the Conventions for transport, farmed animals and pets are briefly outlined. The democratic processes used within the Conventions are laid out. Striking a balance between the needs of man in using animals and the needs of animals by the Convention communities is firmly based on science and practical experience. The necessity to agree recommendations by unanimity has led to several working practices to resolve differing views stemming from science, socioeconomic, cultural and religious positions. The future work of the Conventions is mainly to revise recommendations in the light of new scientific knowledge, biotechnology, new systems of husbandry and to extend them to cover a wide variety of species. Emphasis is also placed on improved monitoring of implementation of the Conventions. Continued close cooperation with the European Union is foreseen. Parties have continued to ratify the Conventions. Increasing awareness of welfare should result yet further Parties considering using the Conventions to provide a firm foundation for their legal measures to improve the welfare of animals.

What is the Council of Europe?

The aim of the Council of Europe, an intergovernmental organisation, founded in 1949 is to protect and promote human rights, rule of law and pluralist democracy (1). It currently has (46) countries and 5 observer States. It has encouraged democratic institutions at national regional and local level to promote respect for the principles of the rule of law. Its intergovernmental activities have resulted in almost 200 Conventions and agreements of which six Conventions relate to the protection of animals. These were the first international legal instruments laying down the ethical principles for transport, the farming, and the slaughtering of animals as well as their use for experimental purposes and as pets. This paper aims to highlight some of the principles used to develop the Conventions for transport, farmed animals and pets and discusses the democratic process used for the handling of conflict between science, technical advice and practical implementation and monitoring.

Why does the Council of Europe have Conventions on animal protection?

The Council of Europe's work on animal protection was started in the 1960s. It recognised the importance of animal welfare and the contribution which animals make to human health and the quality of life. There are two reasons for this. First of all, respect for animals counts among the ideals and principles which are the common heritage of its State members as one of the obligations upon which human dignity is based. Secondly, in all State members animal protection

has become a topical subject on which governments have agreed to the necessity of concerted action. Six Conventions have been drawn up - two for animals during international transport (ETS 65, 1976 and Protocol ETS 103, and Revised Convention ETS 193, 2003); for animals kept for farming purposes (ETS 87, 1976); for animals for slaughter (ETS 102, 1979); for vertebrate animals used for experimental and other scientific purposes (ETS 123, 1986); and for pet animals (ETS 125, 1987). All of these Conventions are based on the principle that, "for his own well-being, man may, and sometimes must, make use of animals, but that he has a moral obligation to ensure, within reasonable limits, that the animal's health and welfare is in each case not unnecessarily put at risk." The development of each Convention has tended to address particular areas of ethical concern in differing ways responding to the preoccupations of Member states and civil society.

European Convention on the protection of animals during international transport

The 1968 Convention on transport was produced in response to a recommendation 287 (1961) of the Consultative Assembly of the Council of Europe on the international transit of animals which stated "Considering that the humane treatment of animals is one of the hall-marks of Western civilisation, but that, even in State members of the Council of Europe, the necessary standards are not always observed". The ethical basis was stated as "Animated by the desire to safeguard, as far as possible, animals in transport from suffering". "Considering that progress in this respect may be achieved through the adoption of common provisions regarding the international transport of animals" It provides a framework laying down the essential principles applying to all species of animals during transport.

This Convention was revised in 2003 to account for the experience acquired and the new scientific advances over 30 years of application. It was also necessary to bring the provisions up to date and to clarify their wording in order to facilitate implementation. The revised Convention lays down detailed standards for the international transport of cattle, sheep, goats, pigs, poultry and horses. It covers the preparation of the journey from loading to unloading design of transporters, fitness to travel, handling, veterinary controls, certification and lays down special conditions for transport by road, air, sea and rail. Work is underway on drafting technical protocols concerning space allowances, watering, feeding, and rest as well as codes of conduct for transporters aimed at improving application of the Convention.

European Convention for the protection of farmed animals

The European Convention for the protection of animals kept for farming purposes (ETS 87) is a "framework convention" which gives principles for the keeping, care and housing of animals in particular in modern intensive stock farming systems. It applies to animals bred or kept for the production of food, wool, skin, or fur, or for other farming purposes. This convention arose in response to concerns for animal protection arising from increase the scale of livestock production and increasing intensity of production using installations which depended on automatic processes. These changes had occurred as result of pressure to ensure food security by the application of recent advances in science and technology to improve the efficiency of animal production. In the 1960s these concerns were expressed by individuals and groups interested in the ethics and improving the care of animals in several countries.

- For example Ruth Harrison, who played a key role for many years as an observer to the T-AP, described animals in intensive systems as merely machines and argued
 - *'Have we the right to rob (animals) of all pleasure in life simply to make more money more quickly out of their carcasses?'*
- Astrid Lindgren who played a key role in developing Swedish legislation argued that animals should where possible be kept in natural environments. She wrote
 - *" It might be possible to guarantee that young animals ... get a little summertime happiness, at least a temporary relief from the floors of barns, and crowded spaces where the poor animals are stored until they die. Let them see the sun just*

once; get away from the murderous roar of the fans. Let them get to breathe fresh air for once instead of manure gas”.

- These concerns lead the UK Government to set up the Brambell committee in 1965. They noted that animals were sentient stating
 - *“Animals show unmistakable signs of suffering from pain, exhaustion, fright, frustration and can experience emotions... and pleasure”.* And concluded that *“more was needed to protect animal welfare more than just preventing wanton cruelty.”*

The development of the Convention for the protection of farmed animals arose in response to these views from both governments and welfare organisations but was supported by groups representing veterinary, ethological and other scientists and the farming industries .

The Convention for farmed animals (ETS 87) is based on ethical principles. A Standing committee endeavours 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 effectively impose a duty of care on the keeper of modern intensive stock –farming systems to provide for food and water, freedom of movements, environmental conditions, avoidance of food liquids or substance which can cause harm, and inspections and care to maintain health and any equipment on which the animals depend.

The Protocol Amendment of the Convention (1992) increased its scope and addressed issues of breeding, additional substances given to animals, and on farm killing. . This stemmed from a variety of concerns:

- Firstly the need to address the welfare problems of animals which were kept intensively but may not be housed nor depend on technical equipment. Veterinarians such as Taylor (1972) had expressed the view that welfare problems seen in practice were more frequent in open range or traditional systems than intensive systems.
- Secondly a concern that biotechnology was developing rapidly and had both positive and negative aspects for the welfare of animals and there was a need to define principles which needed respecting. This related to a wide variety of issues such the selection for fast growth of young animals leading to conformational and disease problems and also to genetic selection for production traits, (E.g. milk yield or egg production) without due consideration of welfare traits. The scope of the Convention was extended to include breeding and also animals produced as a result of genetic combinations or novel genetic combinations. The general principle was established that for both artificial and natural breeding should not result in suffering or injury to the animals involved and a wide ranging obligation to ensure that animals kept for farming purposes could be kept without detrimental effects to their health or welfare.
- Thirdly the need to kill fur animals on farm as this was not covered by the Convention for the protection of Animals for Slaughter ETS 102 1979) on the killing.
- Fourth - concern that any new substances administered to animals should be subject to scientific study or by established experience to confirm that they were not detrimental
- Fifth - the need to ensure that the environment and management practices must fulfil the animal's biological needs rather than trying to adapt the animals to the environment by procedures such as mutilation.

The responsible Standing Committee (T- AP) has produced 12 recommendations laying measures to protect a wide variety of farmed animals- pigs, domestic fowl, cattle(including calves) , sheep, goats, ratites , domestic ducks, muscovy ducks, geese, fur animals, turkeys and fish. The Standing Committee gave priority to the elaboration of standards concerning modern intensive stock-farming systems and new systems of husbandry. In addition to the general

principles of the Convention, they are also 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 recommendations in order to amend them where appropriate. To facilitate its work in considering the detailed provisions the committee in 2003 further defined essential needs as

- those necessary to enable an individual to maintain its health and welfare by safeguarding its physiological and mental functions including performing satisfactorily species specific behaviour.
 - In defining the needs it should take account of established experience and scientific knowledge concerning the biological characteristics and genetic type, sex, age and physiological state of the animal.

Convention for the protection of pet animals

Among the ethical and other concerns which led to the 1987 convention on pet animals were:

- The moral obligations to respect all living creatures bearing in mind that pet animals have a special relationship with man
- The importance of pet animals in contributing to the quality of life and the consequent value to society
- The risks inherent in pet animals overpopulation for hygiene, health, safety of man and other animals
- Use of wild animals as pets should not be encouraged
- Recognition that some types of keeping pets posed a risk to their health and welfare.
- Need for common standards of attitude and practice which results in responsible pet ownership

In drawing up the Convention the Parties have invited non State members of the Council of Europe and cooperated very closely with non-governmental organisations representing the fields concerned: breeders, veterinarians, specialists in animal behaviour, animal protection associations etc. who participate as observers in the meetings .

The Convention covers all household pets for private enjoyment and companionship; animals intended or bred for such purpose as well as provisions on sanctuaries and stray animals. The basic principles are

- Nobody shall cause a pet animal unnecessary pain, suffering or distress
- Nobody shall abandon a pet animal

Provisions are included on breeding, boarding, keeping, age limits on acquisition, training, trading, commercial breeding and boarding, animal sanctuaries, advertising, entertainment, exhibitions, competitions and similar events, surgical operations, killing, supplementary measures for stray animals.

Democratic Process and method and means of standard setting

Under the authority of the Committee of Ministers, intergovernmental activities are carried out by committees comprising delegations of State Members. The Convention- based committees comprise of representatives of contracting parties. The political and technical value of the legal instruments adopted in the framework of these activities is based on a close collaboration with non-governmental organisations representing the different sectors concerned (veterinarians, animal protection associations, animal behaviour specialists, farmers, scientists, etc.). Furthermore, for these activities, a very close collaboration has developed with the European Union.

The main concern is now to improve and harmonise, at international level, the conditions for the use of animals in the different fields concerned (in particular, agriculture and scientific research), taking into account new scientific evidence and practical experience acquired, by:

- facilitating the implementation of the Conventions,
- adapting existing legal instruments to scientific and technical developments, such as biotechnology, and
- Elaborating relevant legal instruments based on the principles of these Conventions.

The Conventions related to use of animals which have been produced by specialist expert committees are adopted by the Committee of Ministers which decides when to open them for signature. They are binding on States that ratify them. Recommendations are made within Conventions as agreed “common policy”. These are not binding by Member Governments but they are asked to inform the Committee of Ministers of action taken on the recommendations. These Conventions were a reference in the European countries for the elaboration of relevant national legislations, and were used as a basis for relevant EU legislation.

The Convention on farmed animals empowered the Standing Committee 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. The Committee of Ministers 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. Examples of such bodies whose work has been consulted by the Committee are the various national welfare advisory councils such as the Farm Animal Welfare Council of the United Kingdom and the Scientific Veterinary committees of the European Union including the European Food Standards Agency.

The Conventions and Recommendations on animal welfare have also played a role in promoting animal welfare through setting voluntary standards including quality assurance schemes in some countries.

The Convention on pets provides for Multilateral Consultations of the Parties at least every five years, to examine the application of the Convention and the advisability of revising it or extending any of its provisions. The Multilateral Consultations are prepared by a working party and three resolutions were elaborated in 1995 on the keeping of wild animals as pet animals; the breeding of pet animals and surgical operations in pet animals. Since then there has been no activity on this Convention.

Handling of conflict between science technical advice and practical implementation

In the main the animals’ needs for good welfare go hand in hand with the requirements for efficient, economic production, high quality of meat and other animal products, protection of animal and human health and the requirements of animal use for research or as pets. The Convention Committees have frequently recognised the conflict, sometimes real and sometimes perceived, between the use of animals by man for economic, social, cultural and religious reasons and practices which are not ideal for their protection.

The Convention for farmed animals obliges the Standing Committee to give 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. Each recommendation contains a description of the biological characteristics of the species which includes its origin and domestication, behaviours in nature including social behaviour and communication, and any special cognitive and physiological aspects including breeding and also summarises salient features of farming systems. 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.

The work of the Standing Committee is managed by a Bureau comprising of representatives of the Parties. A feature of the elaboration of recommendation for the protection of farmed animals has been the active involvement of stakeholders in the work of the drafting committees to lay down standards of care appropriate to their physiological and ethological needs in accordance with established experience and scientific knowledge. The animal industries have played a major role in these committees often providing such experience. On some occasions radical changes to existing systems which do not fulfil animal's essential needs have been required and the industry has played major role in indicating how such changes can be implemented. Frequently changes have been made incrementally or where requiring major investment have a suitable lead in time to allow business to adapt to new requirements.

Given that the Multilateral Consultations and the Standing Committee agree new instruments and revisions by unanimity, lengthy negotiations with in-depth study of scientific results and practical experience are necessary. On occasion the Standing committee has made on the spot visits to see new systems of husbandry. A variety of working practices have been used by multilateral consultations and the T-AP Committee to resolve such conflicts:

- Transparency – all adopted Conventions and recommendations, protocols and Codes of Conduct are available publicly on the website www.coe.int/animalwelfare ; all documents under revision and comments of parties and observers along with evidence of scientific and practical experience presented is available to all the parties and observers on a dedicated website. Contracting parties frequently liaise with their stakeholders to comment on new proposal which includes the procedures of the European Union to agree a common position of its Member State which now will include impact assessment.
- Reference of the issue to an ad hoc expert working group with involvement of major stakeholders to examine the issue in detail and present compromise proposals. In the case of the T-AP this has sometimes taken the form of extended bureau.
- Request to parties to seek advice from their welfare advisory groups e.g. husbandry systems for keeping rabbits was referred to the Scientific Committee of the European Food Standards Agency by the European Union , a party to the Convention,
- The use of explanatory report to point the way forward e.g.
 - Although the Convention for international transports ETS (65) noted that” the requirements of the international transport of animals are not incompatible with the welfare of the animals” it recognised the problem with large scale international movement of animals for slaughter in the receiving country. In such cases the Conventions have pointed to the ideal in the explanatory report which accompanies the Convention which is used to indicate the direction which the Industry needs to travel in order to improve animal welfare. The explanatory report “Parties to Convention ETS 65 at a Multilateral Consultation ...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.”
- Limiting the use of specific procedures and placing additional obligations for training or handling e.g. ritual slaughter
- The specification of welfare outcomes in terms of levels of behaviour , disease or injury which a husbandry system must achieve and allowing the industry flexibility in how it achieves the outcome
- The specification of key environmental parameters essential of the welfare of an animal e.g. for fish general requirements we laid out in the recommendation and annexes are being prepared for each species or group of fish requiring similar care by key environmental parameters such water quality .
- In the absence of appropriate scientific information and practical experience to resolve an issue the recommendation indicates to parties areas requiring further research e.g.

- A Recommendation concerning turkeys was adopted by the Standing Committee in 2001 .The recommendation recognises that some methods of husbandry at present in commercial use fail to meet the biological needs and hence result in poor welfare. Therefore all Contracting Parties shall encourage research on the development of new husbandry systems and methods of breeding and management in line with the Convention so that the needs of the animals can be met. The environment and management practices must fulfil the animal's biological needs rather than trying to adapt the animals to the environment by procedures such as mutilation.
- When agreement on an issue cannot be agreed then the recommendation may contain a requirement to review the issue in the light of new evidence at a fixed date in the future.
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Future of Council of Europe work an Animal Protection

Since 1988, the work carried out at the Council of Europe, has focused on the monitoring of the implementation of the different Conventions as well as the elaboration of new recommendations and revisions to the Conventions. There has been no recent activity on the Conventions for pets or slaughter. The Convention on transport is in the process of taking forward the technical protocols and the Codes of conduct. The Convention for laboratory animals has in 2006 adopted new standards for the care of laboratory animals. The Standing Committee for farmed animals continues to work on new recommendations such as that on fish and rabbits and is also currently revising the cattle recommendation. It will be continuing to work on standards for particular species of farmed fish and is considering the development of recommendation on horses as their care is are not covered in detail by other Conventions.

Compliance with the Conventions is monitored through multilateral consultations and in the case of farmed animals by the Standing Committee by regular reports by each contracting party. Such reports include activities by the parties to implement the Convention by legislation, codes of practice, educational and training initiatives including awareness raising, and results of research relevant to the recommendations.

A continuing feature is the increasing ratification of Conventions and amending Protocols by Parties acceding to the European Union and the continued support of those countries which the EU works closely such as Switzerland and Norway. The interest in animal welfare shown by Parties to the Council of Europe from of Eastern Europe at this conference may lead to greater awareness and perhaps take up of these Conventions. We also welcome the interest shown by observer countries including Australia, New Zealand, United States of America and Thailand; The Conventions do allow the Committee of Ministers to enable such countries to be a party to the Conventions for animal protection...

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