COMMISSION OF THE EUROPEAN COMMUNITIES

COM(92) 192 final

Brussels, 15 May 1992

Proposal for a

COUNCIL DIRECTIVE

concerning the protection of animals kept for farming purposes

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(presented by the Commission)

EXPLANATORY MEMORANDUM

The European Convention for the Protection of Animals kept for Farming Purposes was approved on behalf of the Community by Council Decision 78/923/EEC[1]. In 1988, after all Member States had ratified the Convention, the Community became a contracting party. The Standing Committee established by the Convention, on which the Community votes for the Member States, makes Recommendations on the farming of various types of animals. Contracting parties must implement these Recommendations by law or administrative act.

The aim of the attached proposal is to implement the requirements of the Convention by adopting harmonized rules for the housing, treatment and care of farm animals, and providing a legal basis for adoption of the Council of Europe Recommendations by a Commission procedure.

Chapter I of the proposal sets out the scope, which is the same as as the Convention, and gives definitions.

Chapter II lays down welfare principles concerning the responsibilities of owners or persons in charge, the planning, construction and operation of accomodation and facilities, and the treatment, feeding, and breeding of animals.

Chapter III includes the responsibilities of Member States concerning inspection and enforcement, and the possibility for the Commission to make on-the-spot inspections. An advisory Committee procedure is proposed for the adoption of obligatory Recommendations of the Standing Committee of the European Convention and for adaptation of the Directive to technical progress.

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1 OJ No L 323, 17.11.1978, p. 12.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament[1],

Having regard to the opinion of the Economic and Social Committee[2],

Whereas all Member States have ratified the European Convention for the Protection of Animals kept for Farming Purposes; whereas the Community has also approved this Convention by Decision 78/923/EEC[3] and has deposited its instrument of approval;

Whereas it is necessary for the Community, as a contracting party to the European Convention for the Protection of Animals kept for Farming Purposes, to implement Recommendations of the Standing Committee established by the Convention; whereas it is desirable to make provision for those parts of the Recommendations which are obligatory to be adopted by a Commission procedure in collaboration with the Member States;

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3 OJ No L 323, 17.11.1978, p. 12.

Whereas the European Parliament, in its Resolution of 20 February 1987 on animal welfare policy[4], called on the Commission to make proposals for Community rules covering general aspects of the rearing of farm livestock;

Whereas animals are included in the list of products set out in Annex II to the Treaty;

Whereas the keeping of animals for farming purposes is an integral part of agriculture; whereas it constitutes a source of revenue for part of the agricultural population;

Whereas differences which may distort conditions of competition interfere with the smooth running of the organization of the common market in animals and animal products;

Whereas there is therefore a need to establish common minimum standards for the protection of animals kept for farming purposes in order to ensure rational development of production and to facilitate the completion of the internal market in animals and animal products; whereas it is necessary to take account of animal welfare provisions already laid down in Community rules,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

General Provisions

Article 1

1. This Directive lays down minimum standards for the protection of animals bred or kept for farming purposes.

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4 OJ No C 76, 23.3.1987, p. 185.

2. It shall apply without prejudice to Community rules laid down elsewhere for the protection of certain types of animals.

Article 2

For the purpose of this Directive the following definitions shall apply:

1. animal: an animal bred or kept for the production of food, wool, skin or fur or for other farming purposes, including animals produced as a result of genetic modifications or novel genetic combinations;

2. owner or keeper: any person or persons, either natural or legal, having ownership of the animals, or charged with keeping the said animals, whether or not for financial reward;

3. intensive farming system: a method of husbandry in which animals are kept in such numbers or density, or in such conditions, or at such production levels, that their welfare depends upon frequent human attention.

CHAPTER II

The welfare of animals

Article 3

Member States shall ensure that animals are not caused unnecessary pain, suffering or distress.

Article 4

Member States shall ensure that:

1. the owner or keeper of an animal shall be responsible for and shall take reasonable steps to ensure its welfare;

2. animals shall be cared for by a sufficient number of personnel with adequate theoretical and practical knowledge of the animals and of the husbandry system used.

Article 5

Member States shall ensure that animals shall be housed and provided with food, water and care in a manner which, having regard to their species and to their degree of development, adaptation and domestication, is appropriate to their physiological and ethological needs in accordance with established experience and scientific knowledge.

Article 6

Member States shall ensure that natural or artificial breeding or breeding procedures which cause, or are likely to cause, suffering or injury to any of the animals involved are not practised; no animal shall be kept for farming purposes unless it can be reasonably expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effects on its health or welfare.

Article 7

Member States shall ensure that:

1. the freedom of movement appropriate to an animal, having regard to its species and in accordance with established experience and scientific knowledge, shall not be restricted in such a manner as to cause it unnecessary suffering or injury;

2. where an animal is continuously or regularly tethered or confined, it shall be given the space appropriate to its physiological and ethological needs in accordance with established experience and scientific knowledge.

Article 8

Member States shall ensure that the lighting, temperature, humidity, air circulation, ventilation, and other environmental conditions such as gas concentration or noise intensity in the place in which an animal is housed shall, having regard to its species and to its degree of development, adaptation and domestication, conform to its physiological and ethological needs in accordance with established experience and scientific knowledge.

Article 9

Member States shall ensure that no animal shall be provided with food or liquid in a manner, nor shall such food or liquid contain any substance, which may cause unnecessary suffering or injury.

No other substance with the exception of those given for therapeutic or prophylactic purposes shall be administered to an animal unless it has been demonstrated by scientific studies of animal welfare or established experience that the effect of the substance is not detrimental to the health or welfare of the animal.

Article 10

Member States shall ensure that the condition and state of health and welfare of animals shall be thoroughly inspected at intervals sufficient to avoid unnecessary suffering and in the case of animals kept in intensive stock-farming systems at least once a day.

Article 11

Member States shall ensure that when an animal is to be killed on the farm, this shall be done competently and in any case without causing unnecessary pain or distress to the animal or to other animals.

Article 12

Member States shall ensure that technical equipment used in intensive farming systems is thoroughly inspected at least once daily, and that any defect discovered is remedied with the least possible delay. When a defect cannot be remedied forthwith, all temporary measures necessary to safeguard the welfare of the animals shall be taken immediately.

CHAPTER III

Final provisions

Article 13

Measures necessary for the application of obligatory Recommendations of the Standing Committee of the European Convention for the Protection of Animals kept for Farming Purposes, and any specific rules necessary for the application of this Directive, shall be adopted in accordance with the procedure laid down in Article 17.

Article 14

Member States shall arrange for inspections to be made by the competent authority to ensure compliance with this Directive.

Such inspections, which may be carried out on the occasion of checks made for other purposes, shall cover a statistically-representative sample of the farming systems in each Member State each year.

Article 15

Commission veterinary experts may, to the extent necessary for uniform application of this Directive, carry out on-the-spot inspections in collaboration with the competent authorities of the Member States. The Commission shall inform the Member States of the outcome of such inspections.

The Member State on whose territory the inspections are carried out shall provide the experts with all the assistance required for the accomplishment of their task.

Article 16

The Commission shall be assisted by the Standing Veterinary Committee set up by Council Decision 68/361/EEC[5] hereinafter referred to as "the Committee".

Article 17

Where the procedure laid down in this Article is to be used, the following rules shall apply:

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes. In addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 18

Member States shall take the appropriate specific measures to penalize infringements of this Directive.

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5 OJ No L 255, 18.10.1968, p. 23.

Article 19

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 1 January 1993. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

Article 20

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

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DOCUMENTS

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