Opinion of the Economic and Social Committee on the 'Proposal for a Council Recommendation relating to the keeping of wild animals in zoos'

(96/C 204/17)

On 2 February 1996, the Council decided to consult the Economic and Social Committee, under Article 130s of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 2 April 1996. The Rapporteur was Mrs Cassina.

At its 335th Plenary Session (meeting of 24 April 1996), the Economic and Social Committee adopted the following Opinion by 108 votes to seven and six abstentions.

1. Background

1.1. On 31 July 1991, the Commission adopted a draft Directive laying down minimum standards for the keeping of animals in zoos.

On 27 November 1991, the Economic and Social Committee issued an Opinion endorsing the draft Directive (Rapporteur: Mr Vidal; Co-Rapporteurs: Mr Douvis and Mr Masucci) [1].

1.2. On 12 December 1995, the Commission decided to withdraw the draft Directive and replace it with a draft Recommendation.

2. The content of the Recommendation

2.1. In the very brief communication to the Council which accompanies the draft Recommendation, the Commission gives the principle of subsidiarity as its reason for withdrawing the 1991 Directive.

In the next sentence, however, the communication states that the European Parliament, the zoo profession, animal welfare organizations and the general public attach great importance to the establishment of European standards concerning the condition of animals in zoos.

2.2. The communication states that the Recommendation and the guidelines contained in the Annex are largely based on the standards agreed within the sectoral association EAZA (European Association of Zoos and Aquaria). These standards are a condition for membership of the EAZA.

2.3. The communication adds that the only way to achieve a drastic improvement in the overall situation in zoos is for Member States to adopt legislation providing for the licensing of zoos on the basis of their meeting a set of minimum requirements.

2.4. The legal basis of the Recommendation is Article 130s(1) of the EC Treaty; Regulations 3626/82 and 2727/95 and Directives 79/409, 94/24 and 92/43 [2] form the framework of precedents on which the Commission proposal is based.

2.5. The Recommendation urges the Member States to adopt provisions on:

— the licensing and inspection of zoos;

— licensing based on the submission of detailed applications to a competent authority;

— review of every licence every five years, and measures to be taken if minimum standards are not met;

— ensuring proper inspections by requiring them to be undertaken by at least one member of the competent authority and two experts not involved in the establishment to be inspected;

— the possibility of closing the zoo to the public if the legislative requirements are not met, with the option of issuing a provisional 12-month licence to allow the zoo to take the necessary measures or create the conditions for full compliance with the standards; should conditions remain unsatisfactory after 12 months, national laws should provide for withdrawal of the licence and closure of the zoo;

— measures regulating the transfer or humane destruction of the animals in cases of zoo closure;

— the list of the minimum provisions (on which the reader is referred to a detailed Annex) to guarantee: suitable living conditions for the animals, a high standard of animal husbandry and veterinary care,

[1] OJ No C 40, 17. 2. 1992.

[2] See OJ No L 384, 31. 12. 1982 (ESC Opinion in OJ No C 138, 9. 6. 1981); OJ No L 284, 28. 11. 1995; OJ No L 103, 25. 4. 1979 (OJ No C 152, 29. 6. 1977); OJ No L 164, 30. 6. 1994 (OJ No C 191, 22. 7. 1991); OJ No L 206, 22. 4. 1992 (OJ No C 31, 6. 2. 1991).

health and safety of animals and visitors, the keeping of records including the qualitative and quantitative data on the animals kept, information to be displayed to the public, training of staff, access for inspectors at any time, and promoting conservation of species through research, captive breeding and education of the public.

3. General comments

3.1. It should always be borne in mind that wild animals in a zoo are living away from their natural environment. This applies even to perfectly equipped zoos where animals are professionally cared for, receive every necessary attention and are not forced to modify their behaviour substantially.

3.2. This observation, however, is not the whole story. Zoos often perform an important educational function, by enabling town dwellers and above all children and young people to gain direct knowledge of species which, but for zoos, they would never come across throughout their lives. In addition, zoos often provide the chance to conduct research and scientific experiments, and even to help save species threatened with extinction.

3.3. Sensitivity to conditions of captivity should therefore be directed towards defining minimum but definite standards which provide proper protection for the animals' life-cycle, ensure professional care and allow use of their presence by the public and researchers subject to adequate safety measures.

3.4. In the light of the above, the Committee believes that a Directive laying down the basic objectives, to be transposed into national standards and regulations taking account of the cultural, climatic, health and sociological conditions of the individual Member States, would have been the only effective course to take.

3.4.1. The Committee deplores the fact that the Commission instead followed the Council's majority view by withdrawing the draft Directive and proposing a Recommendation. This ran counter to the Committee's 1991 Opinion and the explicit position taken by the European Parliament which, at the beginning of 1995, called for adoption of the Directive.

3.4.2. It is unlikely that a Recommendation will achieve practical results, and there is therefore a risk of allowing the situation in some European zoos to deteriorate further, resulting in suffering for animals and risks for the public which would only strengthen that strand of public opinion which already wants to see all zoos closed.

3.5. Moreover, the reason given for withdrawing the Directive, namely respect for the subsidiarity principle, is not convincing:

— if the aim is compliance with Treaty Article 130r (applied through the legal basis, Article 130s), and

— if the Community authorities' intention is to contribute to 'preserving, protecting and improving the quality of the environment' and to the 'prudent and rational utilization of natural resources',

then animals in captivity are part of the environmental heritage and natural resources in the European Union and as such should be safeguarded by the direct use of Community rules.

3.5.1. Declaration No 24 annexed to the Treaty on European Union calls upon the Community authorities to pay full regard to the 'welfare requirements of animals' in their legislative work in various sectors (CAP, transport, the internal market, research); one comes up against another contradiction — while the welfare of animals must be taken into account by some common policies, the Community authorities by virtue of a restrictive interpretation of the subsidiarity principle regard animal welfare as such as a matter to be dealt with on a voluntary, national basis.

3.6. A Recommendation, precisely because of its non-binding nature, must set out a clear, convincing strategy which can be used by national social and political players to mobilize public opinion and thereby encourage the Member States' authorities to regulate the matter in the most appropriate way.

3.6.1. Apart from the weakness of the Recommendation as a regulatory instrument, it ends up going into details which do not help to clarify the objectives to be achieved. In particular, the Annex and Appendix are muddled, and if applied in their entirety would lead not so much to animal welfare but above all to a bureaucratization of zoo management.

3.6.2. It seems that circuses are not covered by the Recommendation. It would be desirable to draw up a flexible, but binding instrument which also covers circuses as these frequently operate on a cross-frontier basis, travelling from one Member State to another.

4. **Specific comments**

4.1. *Text of the Recommendation*

4.2. The educational and scientific objectives of zoos should be clearly stated and explained in Point 1, together with the objectives listed in Points 8.1 to 8.8, so as to constitute the explicit aim of the part of the Recommendation covering the issue of licences.

4.3. *Point 7*

A clause should be added to cover the placement of staff in the event of closure.

4.4. *Annex*

4.4.1. Point 2.1.2

(Does not apply to the English-language version.)

Delete the word 'anormalmente' from the Italian version: an animal found to be stressed must be immediately examined and treated.

4.4.2. Point 2.2.6

The expression '(including eggs)' referring to 'animals with young' may be poetic, but should be replaced with the simple wording 'pregnant animals and those which are brooding or have young'.

4.4.3. Point 2.7.4

Measures should also be laid down, where necessary, for isolating the infected animal.

4.4.4. Point 2.7.10

Ambiguity with regard to handicapped persons must be avoided: suitable staff are selected in accordance with national labour standards. The risk inherent in the proposed provision is that any handicapped person may be regarded as 'unsuitable'. In fact, handicapped — especially mentally handicapped — people are often very well-fitted to look after animals and therefore only need to be helped with training. Consequently, it should be made clear that the reference is solely to those types of handicap which could pose a threat to the work and/or the member of staff and/or the animals in question.

4.4.5. Point 4.3

A typical example of an irrational detailed provision: does it apply to all animals, even large ones such as elephants?

4.4.6. Point 5.3.2

The following amendment is proposed since this provision is difficult to understand:

> 'The perimeter should not be surrounded by an electric fence which can be reached by the public.'

4.4.7. Point 5.5.3

Delete the second sentence: it is difficult to interpret and even more difficult to put into practice.

4.4.8. Point 5.6.1

The second sentence, describing the purpose of the provision, should be amended to leave closer assessment to the national authorities.

4.4.9. Point 7.1

It would be enough to state that surplus animals must be transferred or sold only to those who can guarantee appropriate treatment, subject to checks by the relevant authorities.

4.4.10. Point 9.1

In addition to information and education programmes, the zoo should have at its disposal (even if only periodically) specialized staff who can present such programmes.

4.5. *Appendix*

It is proposed that the Appendix be deleted. The description of dangerous animals gives the impression that animals not included on the list are not dangerous. Most animals can be dangerous if they are not handled properly.

Done at Brussels, 24 April 1996.

The President

of the Economic and Social Committee

Carlos FERRER