

COUNCIL DIRECTIVE 98/58/EC
of 20 July 1998
concerning the protection of animals kept for farming purposes

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas all Member States have ratified the European Convention for the Protection of Animals Kept for Farming Purposes (hereinafter called 'the Convention'); whereas the Community has also approved this Convention by Decision 78/923/EEC ⁽⁴⁾ and has deposited its instrument of approval;

Whereas the Community, as a contracting party, must give effect to the principles laid down in the Convention;

Whereas those principles include the provision of housing, food, water and care appropriate to the physiological and ethological needs of the animals, in accordance with established experience and scientific knowledge;

Whereas it is also necessary for the Community to make further provision for the uniform application of the Convention and its recommendations and for specific rules concerning the application of this Directive;

Whereas the European Parliament, in its resolution of 20 February 1987 on animal welfare policy ⁽⁵⁾ called on the Commission to make proposals for Community rules covering general aspects of the rearing of livestock;

Whereas Declaration No 24 annexed to the Final Act of the Treaty on European Union calls on the European institutions and the Member States, when drafting and implementing Community legislation, in particular on the common agricultural policy, to pay full regard to the welfare requirements of animals;

Whereas differences which may distort conditions of competition interfere with the smooth running of the organisation of the market in animals;

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 organisation of the market in animals; whereas to that end it is appropriate to take account of animal welfare provisions already laid down in Community rules;

Whereas a comparative examination of animal welfare provisions applicable in the Community and in certain non-member countries together with an appraisal thereof should be undertaken with a view to determining the nature of future Community initiatives aimed at eliminating distortions of competition,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive lays down minimum standards for the protection of animals bred or kept for farming purposes.
2. It shall not apply to:
 - (a) animals living in the wild;
 - (b) animals intended for use in competitions, shows, cultural or sporting events or activities;
 - (c) experimental or laboratory animals;
 - (d) any invertebrate animal.
3. This Directive shall apply without prejudice to specific Community rules laid down elsewhere, and in particular to Directives 88/166/EEC ⁽⁶⁾, 91/629/EEC ⁽⁷⁾ and 91/630/EEC ⁽⁸⁾, which shall continue to apply.

Article 2

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

1. 'animal': any animal (including fish, reptiles or amphibians) bred or kept for the production of food, wool, skin or fur or for other farming purposes;

⁽⁶⁾ Council Directive 88/166/EEC of 7 March 1988 complying with the judgment of the Court of Justice in Case 131-86, (annulment of Council Directive 86/113/EEC of 25 March 1986 laying down minimum standards for the protection of laying hens kept in battery cages) (OJ L 74 19. 3. 1988, p. 83).

⁽⁷⁾ Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves (OJ L 340, 11. 12. 1991, p. 28). Directive as last amended by Directive 97/2/EC (OJ L 25, 28. 1. 1997, p. 24).

⁽⁸⁾ Council Directive 91/630/EEC of 19 November 1991 laying down minimum standards for the protection of pigs (OJ L 340, 11. 12. 1991, p. 33).

⁽¹⁾ OJ C 156, 23. 6. 1992, p. 11.

⁽²⁾ OJ C 337, 21. 12. 1992, p. 225.

⁽³⁾ OJ C 332, 16. 12. 1992, p. 22.

⁽⁴⁾ OJ L 323, 17. 11. 1978, p. 12.

⁽⁵⁾ OJ C 76, 23. 3. 1987, p. 185.

2. 'owner' or 'keeper': any natural or legal person or persons responsible for or in charge of animals whether on a permanent or temporary basis;
3. 'competent authority': the competent authority within the meaning of Article 2(6) of Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market⁽¹⁾.

Article 3

Member States shall make provision to ensure that the owners or keepers take all reasonable steps to ensure the welfare of animals under their care and to ensure that those animals are not caused any unnecessary pain, suffering or injury.

Article 4

Member States shall ensure that the conditions under which animals (other than fish, reptiles or amphibians) are bred or kept, having regard to their species and to their degree of development, adaptation and domestication, and to their physiological and ethological needs in accordance with established experience and scientific knowledge, comply with the provisions set out in the Annex.

Article 5

1. The Commission shall submit to the Council any proposals which may be necessary for the uniform application of the European Convention for the Protection of Animals Kept for Farming Purposes and, on the basis of a scientific evaluation, any recommendations made under this Convention and any other appropriate specific rules.

2. In addition, every five years and for the first time five years after the date of entry into force of this Directive, the Commission, on the basis of experience acquired since the implementation of this Directive, in particular concerning the measures referred to in paragraph 1 and technical and scientific developments, shall submit to the Council a report, accompanied by any appropriate proposals taking into account the report's conclusions.

3. The Council shall act by qualified majority on these proposals.

Article 6

1. Member States shall ensure that inspections are carried out by the competent authority to check compliance with the provisions of this Directive. Such inspections may be carried out at the same time as checks for other purposes.

2. From a date to be determined in accordance with the procedure laid down in paragraph 3, Member States shall submit to the Commission reports on the inspections required under paragraph 1. The Commission shall submit summaries of those reports to the Standing Veterinary Committee.

3. The Commission shall before 1 July 1999, in accordance with the procedure laid down in Article 9 submit proposals with a view to harmonising:

- (a) the inspections required under paragraph 1;
- (b) the format, content and frequency of submission of the reports referred to in paragraph 2.

Article 7

1. Whenever uniform application of the requirements of this Directive renders it necessary, veterinary experts from the Commission may, in conjunction with the competent authorities;

- (a) verify that the Member States are complying with the said requirements;
- (b) make on-the-spot checks to ensure that the checks are carried out in accordance with this Directive.

2. A Member State in whose territory an inspection is made shall provide the veterinary experts from the Commission with any assistance they may require in the performance of their tasks. The outcome of the checks made must be discussed with the competent authority of the Member State concerned before a final report is drawn up and circulated.

3. The competent authority of the Member State concerned shall take any measures which may be necessary to take account of the results of the check.

4. Detailed rules for the application of this Article shall be adopted, where necessary, in accordance with the procedure laid down in Article 9.

Article 8

1. Before 30 June 1999 the Commission shall submit to the Council a report on:

- the comparison between animal welfare provisions in the Community and in non-member countries which supply the Community,
- the scope for obtaining wider international acceptance of the welfare principles laid down in this Directive, and
- the extent to which Community objectives in relation to animal welfare may be liable to be undermined as a result of competition from non-member countries which do not apply equivalent standards.

2. The report referred to in paragraph 1 shall be accompanied by any necessary proposals with the aim of eliminating distortions of competition.

⁽¹⁾ OJ L 224, 18. 8. 1990, p. 29. Directive as last amended by Directive 92/118/EEC (OJ L 62, 15. 3. 1993, p. 49).

Article 9

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred without delay to the Standing Veterinary Committee set up by Directive 68/361/EEC⁽¹⁾, hereinafter referred to as 'the Committee', by its chairman acting either on his own initiative or at the request of a Member State.

2. 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. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

(b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the Commission shall adopt the proposed measures and implement them immediately, save where the Council has decided against the said measures by a simple majority.

Article 10

1. Member States shall bring into force the laws, regulations and administrative provisions, including any sanctions, necessary to comply with this Directive not later than 31 December 1999, subject to any different decision

taken by the Council in the light of the report referred to in Article 8. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. However, after 31 December 1999, Member States may, in compliance with the general rules of the Treaty, maintain or apply within their territories stricter provisions for the protection of animals kept for farming purposes than those laid down in this Directive. They shall inform the Commission of any such measures.

3. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

Article 11

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 12

This Directive is addressed to the Member States.

Done at Brussels, 20 July 1998.

For the Council

The President

W. MOLTERER

⁽¹⁾ OJ L 255, 18. 10. 1968, p. 23.

ANNEX

Staffing

1. Animals shall be cared for by a sufficient number of staff who possess the appropriate ability, knowledge and professional competence.

Inspection

2. All animals kept in husbandry systems in which their welfare depends on frequent human attention shall be inspected at least once a day. Animals in other systems shall be inspected at intervals sufficient to avoid any suffering.
3. Adequate lighting (fixed or portable) shall be available to enable the animals to be thoroughly inspected at any time.
4. Any animal which appears to be ill or injured must be cared for appropriately without delay and, where an animal does not respond to such care, veterinary advice must be obtained as soon as possible. Where necessary sick or injured animals shall be isolated in suitable accommodation with, where appropriate, dry comfortable bedding.

Record keeping

5. The owner or keeper of the animals shall maintain a record of any medicinal treatment given and of the number of mortalities found to each inspection.

Where equivalent information is required to be kept for other purposes, this shall also suffice for the purposes of this Directive.

6. These records shall be retained for a period of at least three years and shall be made available to the competent authority when carrying out an inspection or when otherwise requested.

Freedom of movement

7. The freedom of movement of an animal, having regard to its species and in accordance with established experience and scientific knowledge, must not be restricted in such a way as to cause it unnecessary suffering or injury.

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

Buildings and accommodation

8. Materials to be used for the construction of accommodation, and in particular for the construction of pens and equipment with which the animals may come into contact, must not be harmful to the animals and must be capable of being thoroughly cleaned and disinfected.
9. Accommodation and fittings for securing animals shall be constructed and maintained so that there are no sharp edges or protrusions likely to cause injury to the animals.
10. Air circulation, dust levels, temperature, relative air humidity and gas concentrations must be kept within limits which are not harmful to the animals.
11. Animals kept in buildings must not be kept either in permanent darkness or without an appropriate period of rest from artificial lighting. Where the natural light available is insufficient to meet the physiological and ethological needs of the animals, appropriate artificial lighting must be provided.

Animals not kept in buildings

12. Animals not kept in buildings shall where necessary and possible be given protection from adverse weather conditions, predators and risks to their health.

Automatic or mechanical equipment

13. All automated or mechanical equipment essential for the health and well-being of the animals must be inspected at least once daily. Where defects are discovered, these must be rectified immediately, or if this is impossible, appropriate steps must be taken to safeguard the health and well-being of the animals.

Where the health and well-being of the animals is dependent on an artificial ventilation system, provision must be made for an appropriate backup system to guarantee sufficient air renewal to preserve the health and well-being of the animals in the event of failure of the system, and an alarm system must be provided to give warning of breakdown. The alarm system must be tested regularly.

Feed, water and other substances

14. Animals must be fed a wholesome diet which is appropriate to their age and species and which is fed to them in sufficient quantity to maintain them in good health and satisfy their nutritional needs. 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.
15. All animals must have access to feed at intervals appropriate to their physiological needs.
16. All animals must have access to a suitable water supply or be able to satisfy their fluid intake needs by other means.
17. Feeding and watering equipment must be designed, constructed and placed so that contamination of food and water and the harmful effects of competition between the animals are minimised.
18. No other substance, with the exception of those given for therapeutic, or prophylactic purposes or for the purposes of zootechnical treatment as defined in Article 1(2)(c) of Directive 96/22/EEC⁽¹⁾, must be administered to an animal unless it has been demonstrated by scientific studies of animal welfare or established experience that the effect of that substance is not detrimental to the health or welfare of the animal.

Mutilations

19. Pending the adoption of specific provisions concerning mutilations in accordance with the procedure laid down in Article 5, and without prejudice to Directive 91/630/EEC, relevant national provisions shall apply in accordance with the general rules of the Treaty.

Breeding procedures

20. Natural or artificial breeding or breeding procedures which cause or are likely to cause suffering or injury to any of the animals concerned must not be practised.

This provision shall not preclude the use of certain procedures likely to cause minimal or momentary suffering or injury, or which might necessitate interventions which would not cause lasting injury, where these are allowed by national provisions.

21. No animal shall be kept for farming purposes unless it can reasonably be expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effect on its health or welfare.

⁽¹⁾ Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists (OJ L 125, 23. 5. 1996, p. 3).