COMMON POSITION (EC) No 23/2003
adopted by the Council on 17 March 2003

with a view to adopting a directive 2003/. . ./EC of the European Parliament and of the Council of
istrative provisions of the Member States regarding the protection of animals used for experi-
mental and other scientific purposes

(2003/C 113 E/04)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

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

Having regard to the opinion of the European Economic and Social Committee (2),

Acting in accordance with the procedure laid down in Article 251 of the Treaty (3),

Whereas:

(1) On 23 March 1998 the Council adopted Decision 1999/575/EC concerning the conclusion by the
Community of the European Convention for the protection of vertebrate animals used for experimental and other
scientific purposes (4) (hereinafter referred to as the Convention).

(2) Council Directive 86/609/EEC (5) is the implementing tool of the Convention incorporating the same objectives as the
Convention.

(3) Annex II to Directive 86/609/EEC containing guidelines for accommodation and care of animals takes over Appendix A
to the Convention. The provisions contained in Appendix A to the Convention and the Annexes to the said Directive are
of a technical nature.

(4) It is necessary to ensure the consistency of the Annexes to Directive 86/609/EEC with the latest scientific and technical
developments and results of research within the fields covered. Currently, changes to the Annexes can only be
adopted by the long-drawn-out co-decision procedure with the consequence that their content is lagging behind
the latest developments in the field.

(5) The measures necessary for the implementation of this Directive should be adopted in accordance with Council
Decision 1999/468/EC of 28 June 1999 laying down the

procedures for the exercise of implementing powers conferred on the Commission (6).

(6) Therefore Directive 86/609/EEC should be amended accordingly.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

In Directive 86/609/EEC the following Articles shall be inserted:

‘Article 24a

The measures necessary for the implementation of this Directive relating to the subject matters referred to
below shall be adopted in accordance with the regulatory procedure set out in Article 24b(2):

— Annexes to this Directive.

Article 24b

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having
regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.’

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this
Directive before . . . (*) . They shall forthwith inform the
Commission thereof.

(*) One year after the date of entry into force of this Directive.

(3) Opinion of the European Parliament of 2 July 2002 (not yet
published in the Official Journal). Council Common Position of
(not yet published in the Official Journal).
When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

**Article 3**

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

**Article 4**

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the European Parliament
The President
For the Council
The President
I. INTRODUCTION


2. The Economic and Social Committee submitted its opinion on 19 March 2002.

The European Parliament adopted its opinion at first reading on 19 June 2002.

3. On 17 March 2003, the Council adopted its common position in accordance with Article 251(2) of the Treaty.

II. OBJECTIVE

Directive 86/609/EEC (on the protection of animals used for experimental and other scientific purposes) is the implementing tool for Council of Europe Convention ETS 123 (on the protection of vertebrate animals used for experimental and other scientific purposes), of which the Community is a Party. Annex 2 of the Directive takes up Appendix A of the convention, containing guidelines for the housing and care of laboratory animals.

The Council of Europe has opened for signature and ratification a ‘Protocol of Amendment’ to the Convention. It provides for amending the Appendices by a simplified procedure rather than by the usual procedure that involves ratification by all parties. This would allow the Convention to keep up-to-date with the latest scientific knowledge and research on the welfare of the laboratory animals quicker and much more flexibly than today. The Commission has proposed a Council decision on the conclusion of that Protocol of Amendment on behalf of the European Community.

In order to have the implementing legislation in line with the Protocol of Amendment, the Commission has proposed the present Directive amending Council Directive 86/609/EEC. This amendment is aimed at providing for a regulatory committee procedure instead of the full co-decision process for a more flexible introduction of changes to the Annexes of Directive 86/609/EEC.

III. ANALYSIS OF THE COMMON POSITION

1. European Parliament amendments

As the European Parliament adopted the Commission proposal unchanged, there are no amendments to be taken into account.

2. Innovations introduced by the Council

— In Article 1, the Council has introduced the standard wording for the reference to the comitology procedure.

— In Article 2, the Council has specified the time limit for compliance with the Directive by setting it to one year following the publication of the Directive in the Official Journal of the European Union.

— Recitals 3 and 5 have been slightly rephrased without changing the substance.
IV. CONCLUSION

The Council welcomes and supports the Commission proposal as useful and appropriate.

However, in contrast to the European Parliament, the Council is not able to accept the Commission proposal unchanged, as it insists on the standard wording for the reference to the comitology procedure.