

THE EUROPEAN CONVENTION

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COVER NOTE

from Secretariat

to The Convention

Subject : Contribution from Ms Hanja Maij-Weggen, member of the Convention
- “Animal protection in the European Constitution”

The Secretary-General of the Convention has received the contribution annexed hereto from Ms Hanja Maij-Weggen, member of the Convention.

"Animal Protection in the European Constitution"

Contribution of Hanja Maij-Weggen - Member of the European Parliament, EPP-ED representative to the Convention

I. INTRODUCTION

Animal welfare: an accepted concern of EU citizens

Over the years EU citizens have shown a growing concern about the way animals are treated whether they are kept in captivity, on farms, in laboratories or in their natural habitat. This public concern is reflected in the large number of letters on animal issues received by the Commission and Members of the European Parliament and by the many debates in the EU institutions.

Legal protection of animals in EU Treaty

Animal welfare has not had a high priority in EU policy-making, as it is not expressly referred to as an objective in the EC Treaty. At present animals are still categorised as “agriculture products” (Annex I – Article 2, of the Treaty). Community rules dealing with animal welfare have been generated by the need for common trade rules to ensure the proper functioning of the internal market.

Amsterdam Treaty: Protocol on the Protection and welfare of animals (N°33)

After a long European-wide campaign, Member States agreed in 1997 to include a Protocol on Animal Welfare to the Amsterdam Treaty.

The Treaty of Amsterdam, in force since 1st May 1999, lays out new ground rules for the actions of the European Union (EU) on animal welfare. With this Protocol the Member States wished to ensure improved protection of animals and recognition of animals as sentient beings. It also requires that “*In formulating and implementing the Community’s policies on agriculture, transport, the internal market and research, the Community and the Member States shall pay full regard to the welfare of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.*”

This Protocol is an important first step in imposing an obligation on Community institutions and Member States to take account of animal welfare considerations. Nevertheless, it cannot be regarded as a sufficient or permanent solution to the need to establish the protection of animals as a legitimate subject for Community law or to prevent destructive effects on animal welfare resulting from other measures.

As there does not seem to be system to assess whether the provisions of the Protocol are respected the correct application of the Protocol remains uncertain. A clear example was the Commission proposal and the Council adoption of Directive 2001/88/EC laying down minimum standards for the protection of pigs. Whereas it included a ban on the use of individual stalls for pregnant sows, it included no improvement in the stocking densities for fattening pigs although this was recommended by the Commission Scientific Veterinary Committee in its 1997 report.

Directive 86/609/EEC on the protection of animals used for scientific purposes only covers animals used in the development and testing of products. There is no legal basis in the Treaty to allow the scope of the Directive to include animals used for basic medical research.

The problem of the legal basis for animal welfare was already discussed in the Forum of the Convention. Here it was demanded that the concept of animal welfare should be taken up in the Treaty. Furthermore individual members have mentioned this demand in several debates.

The link between food safety and animal welfare should also be taken into account. Now that food safety has become an ever more important policy field and an EU authority that deals with matters of food safety has been set up, animal welfare has to become a priority to help guarantee food safety. It is the first link in the chain of food production: animal welfare clearly benefits the food safety. As the attention to food safety has increased recently, the Convention cannot stay behind and has to look at animal welfare as the start of safe food production.

Seen in the light of legal security it clear that any proposal of the Convention should not be weaker than the current Treaties. This means that whatever is already realised should at least be taken over, and preferably also improved. In this way the European Union will also be able to set the example in third countries where the health and welfare of animals are so weakly protected.

It is clear that animal protection should be given a higher priority in Community legislation and policy making. To provide for a proper legal basis, animal protection should be included as an objective of the EU and integrated in all relevant policy areas.

II. THE CONVENTION AND THE DRAFT CONSTITUTION

If the EU wants to maintain the integration of animal welfare in policies and programmes as laid down under the Protocol it is essential that there needs to be a clear reference to animal protection in the objectives and a coherent integration in the policy areas of which the implementation may affect the welfare of animals such as agriculture, environment, consumer protection and research.

There is much confusion in the citizens' mind about which areas of animal welfare the EU can regulate. Therefore apart from the reference to animal protection in Article 3, and adding animal protection to the list of shared competences in Article 12, animal protection provisions should be clearly described in the policy areas.

III. PROPOSED AMENDMENTS

Part I - Art 3: The Union's objectives

2. The Union shall work for a Europe of sustainable development based on balanced economic growth and social justice, with a free single market, and economic and monetary union, aiming at full employment and generating high levels of competitiveness and living standards. It shall promote economic and social cohesion, equality between men and women, ***animal and*** environmental protection, and social protection, and shall develop scientific and technological advance including the discovery of space. It shall encourage solidarity between generations and between States, and equal opportunities for all.

Part I - Art 12: Shared Competences

Animal protection to be explicitly listed as a shared competence in connection with environment

Part II - CONV 618/03 Preliminary draft Constitutional Treaty

Internal Market

II. Free Movement of goods

2. Prohibition of quantitative restrictions (pg. 25)

Clause 42 (ex Article 30)

Article 28 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, ***the welfare and health of animals, and the health and life of plants***, the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

Harmonisation - Approximation of laws

Clause 53 (ex Article 95) (pg. 30)

(4) If, after the adoption by European Parliament and the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to {in Article 30}, or relating to the protection of the environment, ***the protection of animals*** or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

(5) Moreover, without prejudice to paragraph 4, if, after the adoption by the European Parliament and the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment, ***the protection of animals*** or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reason for them

Agriculture Policy

Clause 85 (Article 33) (pg. 48)

2. In working out the common agriculture policy and the special methods for its application account shall be taken of

New (d) requirements relating to the quality of products and the welfare of animals