

Legislation & Regulation

The Swiss Animal Protection Law — Promise and Compromise

Hailed by some as a "standard work" and by others as a "farce," the Animal Protection Law of the Swiss Confederation entered into force on July 1, 1981. Coupled with it are Directives (Verordnungen) which provide guidelines for the implementation of the law. The law establishes the principles and guidelines that govern the ideal treatment of animals; however, the Directives consist of detailed provisions and prohibitions that cannot ensure the comprehensive protection of animals in all cases. After all, the text of the Directives represents a compromise achieved through 176 hearings by legislative bodies, with many interest groups represented — among others, there were spokesmen for small farmers, agribusiness concerns, veterinarians, and the humane movement.

While the basic tenets of the law — a so-called "skeleton law" — are kept quite general, especially in regard to farm and laboratory animals, it might have been expected that the provisions of the Directives would spell out, in more concrete terms, how the principles of the law were to be applied to actual conditions, which could then be subjected to controls. But the Directives do not always do this. In fact, they sometimes serve to "water down" the law, and already petitions are being submitted by the humane movement to have certain Articles of the Directives revised.

The formulation chosen in the Directives is often as vague and general as the principal statements in the law. Thus, when Article 3.1 of the law states that "Whoever keeps an animal and attends to it, must feed it adequately, care for it, and provide shelter as far as is necessary," the Directives in Article 1.1 merely reiterate the law by stating, in different words, that the "Animals are to be kept so that their physical functions

and their behavior are not disturbed and their adaptability is not being strained." This is hardly a practical guideline; nor can this requirement be subjected to control. This provision of the Directives should have been expressed more clearly in order to serve its intended purpose.

The same problem obtains for Article 3.2 of the law: "The freedom of movement required for an animal should not be permanently or unnecessarily restricted if the animal, thereby, incurs pain, suffering, or injury." In the chapters on the various animal species, the Directives are equally vague in the formulation of this basic requirement when they prescribe, for example, for cattle and pigs (which are, as a rule, tied down or kept in stalls) "that they should be able to move temporarily outside their stands" [emphasis added]. In newly constructed barns, sufficient area will still have to be provided for this kind of temporary exercise.

In some instances, the Directives even contradict the law. While the law prescribes that "nobody should inflict unjustified pain, suffering, or injury on an animal or arouse fear in it" (Article 2.3), the Directives still permit wire-mesh and slatted floors for food animals, although such flooring is apt to cause injuries. Other vague terminology abounds in the Directives, such as "sufficient place" or "suitable climate."

The keeping of laying hens in battery cages will be forbidden and these kinds of cages will be banned, but not until 1992. This 10-year phase-out period for battery cages is considered unduly long by the Swiss animal welfare movement. The Swiss Animal Protection League (Schweitzer Tierschutzverband) is already petitioning to have this period reduced to 6 years; in addition, they are requesting that the minimum floor area per animal measure 700 cm², instead of 500 cm², within 2 years.

Concerning animals in experiments, reduction in number of animals used and humaneness of procedures are covered in the Directives under the heading "Licencing obligations for animal experiments." In both instances, cantonal commissions have been designated as the authorities who will determine "whether a licence is required." The law requires licencing for all "animal experiments that cause pain to and grave fear in laboratory animals or seriously affect their general well-being." The law also stipulates that "animal experiments for which licencing is obligatory be kept to an indispensable minimum." The objections raised to these passages are specifically concerned with questions about the competence of the cantonal authorities. Rather, one should be able to call upon a *central* agency, which could hand down decisions within a short period of time. This function could be exercised by the Federal Office for Veterinary Affairs. Moreover, all data pertaining to animal experiments inside Switzerland (as well as from abroad) should be made available to users at a designated documentation center.

Another weak point in the Directives concerns the provisions of Article 20, which addresses slaughter and the preparatory stunning of food animals. A prohibition of carbon dioxide stunning was considered, but has not as yet been included in the Directives.

Once the criticisms of the humane movement have been given consideration and incorporated into an improved version of the Directives, the new Swiss Animal Protection Law will stand as a unique and exemplary standard for animal protective legislation, not only nationally but also internationally.

Copies of the Swiss Animal Protection Law and the Directives (available in German, French, or Italian) can be obtained by writing to Eidgenössisches Veterinäramt, Thunstrasse 17, CH-3005 Bern, Switzerland.

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Council of Europe

In January, 1971, the Council of Europe, a loose union of 21 of the Western European States, adopted Recommendation 621. This document instructed the Council's Committee of Ministers to establish an ad hoc expert committee to study the problems arising from animal experimentation, and to draft a Convention setting out the conditions under which animal experimentation would be allowed. The Recommendation also contained a strong endorsement for the concept of alternatives, including a proposal to establish a documentation center on the topic.

A Committee of Experts on the Protection of Animals was formed, but the Committee focused its attention on other topics first. The results of their labors include three Conventions covering the transport of animals, the raising of farm animals in intensive systems, and slaughter methods. They then took up the question of animal experimentation and have been struggling to develop some form of consensus for the past 3 years. The Committee (now known as the ad hoc Committee of Experts for the Protection of Animals—CAHPA) had achieved consensus on almost every point when they ran up against the issue of the "pain clause."

A report in *New Scientist* (93:495, 1982) notes that Britain's Home Office is fighting a lone battle, with the support of European animal welfare organizations, to keep a restrictive clause that would forbid the infliction of severe and enduring pain on an animal. However, the other participants in the debate, including the British Department of Health and Social Security, want to inspect the provision that would permit exemptions from the pain clause. The arguments in favor of the exemption provision include the fact that it would ease the burden of toxicity testing institutions, if they were exempt in law as well as in practice.

The draft convention includes the following basic elements:

1. The general principles section notes that the Convention applies to all

nonhuman vertebrates used, or intended for use, for a wide variety of scientific procedures.

2. Animals should be housed and fed under conditions appropriate for both their physiological and ethological needs.

3. There is a fairly detailed outline of procedural requirements, including the above-mentioned pain clause, a requirement that animals should not be used in a procedure if another satisfactory method is available (the alternatives issue will be discussed in an explanatory report), and general directives on how animals used should be disposed of.

4. Six articles deal with the registration of breeding establishments and recording requirements. Mice, rats, guinea pigs, rabbits, cats, and dogs must be obtained only from registered breeders.

5. User institutions must also be registered and must have adequate facilities. Only persons authorized as competent are to be allowed to conduct animal experiments.

6. Statistical information on laboratory animal use must be collected, including data on the number of animals used in toto, the number used in medical research, and the number used for toxicity testing.

7. Finally, the contracting parties must accept toxicity data generated in the territory of another contracting party, so as to avoid unnecessary repetition of procedures.