II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

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)

(88/166/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Article 176 thereof,

Whereas, in its judgment of 23 February 1988 (1), the Court of Justice of the European Communities declared void Council Directive 86/113/EEC of 25 March 1986 laying down minimum standards for the protection of laying hens kept in battery cages owing to certain textual amendments made to the notified version of that act following its adoption;

Whereas, pursuant to Article 176 of the Treaty, the Institution whose act has been declared void is required to take the necessary measures to comply with the judgment of the Court of Justice; whereas it is sufficient for that purpose to confirm the text of the Directive declared void, as adopted by the Council,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The text of Directive 86/113/EEC laying down minimum standards for the protection of laying hens kept in battery cages shall be deemed adopted in the form given in the Annex hereto.

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 7 March 1988.

For the Council

The President

I. KIECHLE

(1) Judgment 131/86 not yet published

ANNEX

COUNCIL DIRECTIVE

laying down minimum standards for the protection of laying hens kept in battery cages

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

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

Whereas most Member States have ratified the European Convention for the Protection of Animals kept for Farming Purposes, whereas the Community has also approved this Convention by Decision 78/923/EEC (3); whereas the keeping of laying hens in battery cages is the most widely used means of egg production in the Community and makes a very large contribution to the high productivity of this sector; whereas, however, this means of housing may, in certain cases, lead to unnecessary and excessive suffering on the part of the animal;

Whereas, however, the national laws at present in force in the field of the protection of animals kept for farming purposes present differences which may distort conditions of competition and in consequence interfere with the smooth running of the organization of the common market in eggs and poultry;

Whereas there is therefore a need to establish priority parameters and to define common minimum requirements applicable in all intensive housing systems, in order to enable the market to operate satisfactorily in comparison, in particular, with Article 39 of the Treaty, while bearing in mind the need to protect animals; whereas it is necessary for this purpose, as a first step, to establish Community measures for laying hens in battery cages;

Whereas, to provide the basis for further Community measures, the studies on poultry protection must be continued, not only as regards the keeping of poultry in battery cages but also in possible alternative systems of housing;

Whereas, in certain Member States, the adjustment of existing structures to the standards laid down by this Directive will entail a reduction in production; whereas such adjustment should therefore be facilitated under the conditions laid down in this Directive without creating structural and market imbalances,

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive lays down the minimum standards for the protection of laying hens kept in battery cages.

Article 2

For the purpose of this Directive:

1. 'Laying hens' means adult hens of the species *Gallus gallus* which are kept for egg production.
2. 'Battery cage' means any enclosed space intended for laying hens in a battery system.
3. 'Battery system' means an arrangement of cages beside and/or on top of each other.

(1) OJ No C 125, 17. 5. 1982, p. 183.
(2) OJ No C 343, 31. 12. 1981, p. 48.
(3) OJ No L 323, 17. 11. 1978, p. 12.