II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 25 March 1986

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

(86/113/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 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 eggs are covered by a common organization of the market; whereas the rules on the conditions under which egg production takes place, in particular with regard to the keeping of hens, are of major importance as far as the operation of the market organization is concerned; whereas differences between the rules applied by Member States may lead to distortion of competition which may interfere with the smooth running of the market organization concerned;

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 the fact that this means of housing may, in certain cases, lead to unnecessary and excessive suffering on the part of the animals has led Member States to introduce differing rules with regard to certain aspects of the type of production concerned, in particular the size of the cages;

Whereas there is therefore a need to establish priority parameters and to define common minimum requirements applicable in order to overcome existing problems and enable the market organization to operate more satisfactorily, in particular with regard to Article 39 of the Treaty, while bearing in mind the need to protect animals;

Whereas provision should be made for introducing Community control measures in order to ensure that the provisions of this Directive are effective;

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.

Article 3

1. Member States shall ensure that from 1 January 1988 :

— all newly-built cages for use within the Community,

— all cages brought into use for the first time,

comply at least with the following requirements :

(a) At least 450 cm^2 of cage area, measured in a horizontal plane, which may be used without restriction, in particular not including non-waste deflection plates liable to restrict the area available, shall be provided for each laying hen ;

(b) A feed trough which may be used without restriction shall be provided. Its length shall be at least 10 cm multiplied by the number of animals in the cage ;

(c) Unless nipple drinkers or drinking cups are provided, each battery cage shall have a continuous drinking channel of the same length as the feed trough mentioned in point (b). Where drinking points are plumbed in, at least two nipple drinkers or two drinking cups shall be within reach of each cage ;

(d) Battery cages shall be at least 40 cm high over 65 % of the cage area and not less than 35 cm at any point ;

(e) Floors of battery cages must be constructed so as to support adequately each of the forward facing claws of each foot. Floor slope shall not exceed 14 % or 8 degrees. In the case of floors using other than rectangular wire mesh, Member States may permit steeper slopes.

2. Moreover, Member States shall ensure that from 1 January 1995 the minimum requirements laid down in points (a) to (e) of paragraph 1 apply to all battery cages.

Article 4

Member States shall ensure that conditions for laying hens kept in battery cages are in accordance with the general requirements laid down in the Annex.

Article 5

The provisions of the Annex may be amended in accordance with the procedure laid down in Article 8 in order to take account of scientific developments.

Article 6

Member States shall arrange for inspections to be made by the competent authority to ensure that this Directive, including the Annex, is complied with.

Article 7

1. Furthermore, in order to ensure that this Directive is complied with and that it is uniformly applied by the Member States, the Commission shall check on its application on the spot regularly and in an appropriate manner, in conjunction with the relevant national departments.

2. To that end, Commission experts shall carry out inspection operations jointly with national departments under inspection programmes adopted in cooperation with the competent authorities of the Member State concerned.

Where it is established that this Directive is not being complied with the Commission will inform the relevant national authorities.

The Commission will prepare periodical general reports on the results of the inspections carried out. Those reports shall be communicated to the Member States.

3. The Community shall in an appropriate manner bear the cost of participation by the Commission in the checks provided for in paragraph 1.

4. The general provisions for implementing this Article shall be determined in accordance with the procedure laid down in Article 8. In accordance with the same procedure, a code may be established containing the rules to be followed for the purpose of the checks provided for in paragraph 1 of this Article.

Article 8

1. Where the procedure laid down in this Article is referred to, matters shall without delay be referred by the chairman, either on his own initiative or at the request of a Member State, to the Standing Veterinary Committee (hereinafter called 'Committee').

2. Within the Committee the votes of Member States shall be weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission representative shall submit a draft of the measures to be adopted. The Committee shall deliver its opinion on such measures within two days. Opinions shall be delivered by a qualified majority as provided in Article 148 (2) of the Treaty.

4. The Commission shall adopt the measures and apply them immediately where they are in accordance with the opinion of the Committee. If they 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 concerning the measures to be adopted.

The Council shall adopt the measures by a qualified majority.

If, within three months of the date on which the proposal was submitted to it, the Council has not adopted any measures, the Commission shall adopt the proposed measures and apply them immediately save where the Council has decided by a simple majority against those measures.