

Ética Animal

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New rules to ensure the protection of animals in Spain

Spanish Animal Welfare Act. 32/2007.

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➤ Abstract

Law 32/2007, on 7th November for the care of animals in their exploitation, transport, experimentation and sacrifice. The law is composed of an Preamble and structured in three titles, completed by an additional provision and six final provisions. This Act provides, in compliance with the Community mandate, a set of principles on the Animal care and schedule of offenses and penalties that gives legal effect to the obligations under current regulations. The Act also provides the foundation for the system of penalties. This is accomplished by establishing a common denominator policy in which the autonomous communities exercise their powers. That common denominator guarantees the consistency necessary for the operation of the applicable rules and ensures a minimum proportionality in the sanctions.

➤ Text Summary

The PRELIMINARY TITLE (Articles 1-3) refers to the object of the law, which is to lay the groundwork for a system of animal welfare and the offenses and penalties to ensure compliance with the rules on the protection of animals on the farm, transportation, testing and sacrifice. It regulates also the power to impose penalties the General Administration of the State in which concerning the protection of animals exported or imported even from non-members of the European Union and procedures with animals in Laboratory within its remit. In the same title defines those terms, men-

tioned in the articles¹, which require a determination and realizing their characters and scope, excluding hunting² and fishing³, wildlife⁴, bullfighting shows⁵, competition sports regulated and pets⁶, except as provided in the first additional provision, because they have their own regulations.

TITLE I. (General Provisions; Articles: 4-9) cover key aspects on the exploitation, transportation of animals, slaughter or his killing. It identifies also activities subject to official authorization or notice the competent Authority. The forecast contained in the previous titles would be ineffective without the existence of a regime of inspections and checks, as well as offenses and penalties recent issues addressed by the title II.

TITLE II. (Inspections and Sanctions) is divided into two chapters. Chapter I (Inspections; Articles: 10-12) provides general rules on the plans and inspection program and control regime staff inspector and the obligations of the inspection. Chapter II (Infringements; Articles: 13-22) is intended to violations and sanctions. With core are configured infringements very serious, serious and minor infringements of the rules on the matter. Regarding sanctions, depending of its basic nature provides its contents penalty minimum and maximum

TITLE III. The Act finally contents two additional provisions and six final dispositions. The first additional provision concerns the norms to apply also to domestic and company animals. The second additional provision establish the fees for

1. Act 32/2007 on November 7, Art. 3. A) Animal production; B) Animals used for experimental and other scientific purposes; C) Procedure; D) Experimentation and other scientific purposes; E) Competent authority; F) Exploitation.

2. Hunting Act EDL 1970/1170, and its Regulations EDL 1973/1123.

3. Fisheries Act maritime state 3/2001 on March 26; Law 7/1995 of 21 April, the wildlife, hunting and fishing river.

4. Including those in Zoos that are regulated by Law 31/2003, on October 27, conservation of wildlife in Zoos, except as provided in article 14,1,f) of this Act. Also Royal Decree 1333/2006 on November 21 about wildlife and confiscates species protected in their commerce.

5. The bullfighting spectacles under Articles 2 and 10 of Law 10/1991 on April 4, on powers Administrative regarding bullfighting spectacles, and regulated sports competitions including the proceedings precise for the doping control of animals.

6. Order APA/880/2002 on April 17, connected with the Royal Decree 558/2001 on May 25 about dog breeders; Royal Decree 287/2002 on March 22 developing the Act 50/1999 on December 23 about legal tenure potentially dangerous animals.

the provision service and management of permits and licenses in the Convention on International Trade Endangered Species of Wild Fauna and Flora (CITES).

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The Cortes Generales (=Spanish Parliament) has recently approved this Act on the protection of animals in production and those used for experimental and other scientific purposes, whose goal is to achieve a balance between the use of animals for economic purposes or scientists and respect for proper maintenance conditions⁷, allowing treatment appropriate to their status as living sensitive beings⁸, as recognized by the Treaty of Amsterdam since 1999⁹. A critical remark could be the use of the term "care" (=cuidado) to refer the protection of animal welfare¹⁰. It is known that "care" is a word without juridical content. Even more "care" is a word maybe too wary to regulate the life, transport and sacrifice of a sentient beings.

This Act supplements the existing national legislation on the matter¹¹, the legal system incorporates some aspects of EU legislation on animal welfare and adding to and including the criminali-

zation of violations and penalties. It includes within its scope both holdings (including facilities where animals are housed), as transport and slaughter.

In this connection is established for the owners and breeders of animals on farms an obligation to ensure their protection¹², observing the rules on the conditions that breed

and maintain, and according to their kind and degree of development, adaptation and domestication.

It also sets requirements regarding the conditions and means of transport, and on aspects relating to transport undertakings¹³, such as licensing and registration and the training of personnel in the field of animal welfare¹⁴. It is to observe that the Law don't provide a educational system for the personal working with the production animals, but this article 5.3 provides the possibility to found in the future a new branch of secondary school or professional formation.

In relation to the experimental animals, establishes minimum conditions for breeding, maintenance and use¹⁵, as well as the use of certain types of animals and stray dogs and cats¹⁶. The scope of this norms is to avoid the animal escite-

7. The Ministry of Agriculture, Fisheries and Food (=MAP), has a Directorate General for Animal Welfare, where optic development of the regulations, naturally has to do with animal product. (<http://www.mapa.es/es/ganaderia/pags/bienestar/granja.htm>; <http://www.mapa.es/es/ganaderia/pags/bienestar/laboratorio.htm>). Among others are located on the "pig meat industry", "Birds of making sector", "poultry meat industry", "sheep and beef sectors / goat", "beekeeping sector", "rabbit industry", but also "gas emissions in livestock", "national plan of research waste," or "animal health rules for the introduction of domestic animals in Spain."

8. The EU itself was born as a union of economic base, nevertheless acknowledged in the articles of the Constitution, for now rejected in some countries, the range of animals as beings who are part of our environment. However, the European directives on animal welfare issue tendencialmente applied by the Ministries of Agriculture, where the animal is often viewed as a "product".

9. The Eurobarometer November 2005 identified animal welfare as one of the 5 priorities for a large majority of European citizens. In January 2006 and November 2006, the EU Comisión with the Animal Welfare Action Plan (23.1.2006) and the Council of Europe and the World Organization for Animal Health (24.11.2006), acknowledged that priority and agreed to monitor an the plan aimed to introduce European legal systems, measures to treat animal as significant. The society appears to be going on this issue ahead of the laws.

10. The original name of the Act is : Ley 32/2007 de 7 de Noviembre para el cuidado de los animales en su explotación, transporte, experimentación y sacrificio (BOE= Boletín Oficial del Estado [oficial Gazette], on 8 November 2007).

11. The Spanish legislation, although it is abundant at the autonomous level, it lacked a general rule on animal welfare. The Comunidades Autónomas (=CCAA, Autonomous Communitys) have their own competences in the matter of animal welfare. Full information on: <http://www.mapa.es/ganaderia/pags/bienestar/pdf/normativa.pdf>.

12. Act 32/2007 on November 7, Art. 4: "The Government will take measures to ensure that, in farms, the animals are not suffering from pain, injury or torts useless. To do so, it will take into account its kind and degree of development, adaptation and domestication, and their physiological and ethological needs of agreement of scientific knowledge and the Community and national implementation in each case".

13. Act 32/2007 on November 7, Art. 5.1-2: "1. The Government will take the measures to allow only transporting of animals in a position to travel to transportation takes place without causing injury or suffering needless, to the minimization of the possible travel times and the needs of the animals during the same. 2. The means of transport and facilities loading and unloading will be designed, built, maintained and used properly so as to avoid injury and unnecessary suffering to animals and ensuring their security".

14. Act 32/2007 on November 7, Art.5.3: "The personnel handling animals will be conveniently formed or trained to perform this and its mission without resorting to violence or methods wich cause fear the animals, injury or suffering unnecessary".

15. Act 32/2007 on November 7, Art. 6.1-2.

ment, pain or suffering.

When the slaughter of animals is done according to the rites of Churches themselves or Confessions Communities Religious entered in the Register of Entities Religious¹⁷, the practices do not exceed the limits referred in the Law¹⁸. In any case according to the sacrifice of religious rite and conducted under the supervision and in accordance with the official veterinarian.

Pets

While the scope of the Act refers to animals kept for economic purposes, the ban on activities considered more serious, such as abuse, neglect or the use of animals in fights, can be extended to animals company. Similarly, it applies with respect to transportation, provided it is done in a collective manner¹⁹.

In order to verify compliance with the regulations, governing inspections and sets out the powers inspectors, which it is determined that the various public authorities are responsible for carrying out the necessary checks to ensure compliance with the rules approved today, and

the provisions of the autonomous communities in this area. Conform to the State General Administration inspections on aspects of animal welfare in terms of import and export of animals²⁰.

It also provides for the possibility to adopt interim measures as a precaution in case of serious risk to the lives of animals²¹.

Sanctions

In addition, they are categorized different types of offenses and are classified as mild, serious or very serious, depending on the criteria of risk or harm to animals and the degree of intentionality²². It establishes penalties that may apply, which could be a warning or fines with figures of between 600 and 100,000 euros²³.

Also, amending the Law on Animal Health to anticipate²⁴, in the imposition of penalties for infringements, the possibility of a more proportional graduation²⁵. It will take into account cases in which there is a qualified decrease the guilt of the accused²⁶.

Likewise, amending the General Law on Ad-

16. Act 32/2007 on November 7, Art. 14.1, l).

17. Act 32/2007 on November 7, Art. 6.3.

18. Organic Law 7/1980 of July 5, Liberty Religious, Art. 3.

19. Act 32/2007 on November 7, First additional provision. Protecting animals company and domestics: "1. It shall apply to pets and domestic article 5 while transportation perform collectively and for economic purposes. NºBOE 268 Thursday November 8, 2007 45919. 2. They will be equally applicable to animals Company or Domestic offenses and penalties typified in articles 14.1, paragraphs a), b), c), d), e), h), i), j); 14.2, paragraphs a), c), d), and e), 14.3 and 16.1.

20. Title II. Inspections and sanctions, Articles 10-12.

21. Act 32/2007 on November 7, Art. 20: "In cases of serious risk to the animal's life, interim measures may be taken to halt the risk to the animal, prior to the initiation of penalizing procedures. Among others, may be adopted: a) the seizure of animals; b) the non-issuance by the competent authority of the documents legally required for the movement of animals; c) suspension or cessation of the activities, facilities or transportation and closures and premises, do not have permits or registrations mandatory".

22. Act 32/2007 on November 7, Art. 14.1: "Very serious offenses. A) the slaughter or death of animals in entertainment audiences outside of the cases expressly provided, the rules applicable in each case or explicit previously approved by the competent authority. B) Failure to comply with the obligations required by the standards of animal welfare in terms of care and handling of animals, upon the intention cause of death or torture them. C) Using animals in fight; D) Using animals in film productions, television, artistic or advertising, even with permission the competent authority, as it happens the death of the same. E) the breach of the duty of bewilderment prior if not attend the event set in article 6.3; F) The completion on a procedure without permission prior to the competent authority, when used animals included in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); G) Causing, facilitating or permitting the removal of the animals experimental scientists or other purposes center or establishment, without written approval from the responsible for the same, when leading to the death of animal or create a serious risk to public health; H) Providing false documents to the inspectors or administration; I) Using dogs or cats vagrants in procedures; J) Liberation unreported and voluntary of animals from a holding."

23. Act 32/2007 on November 7, Art.16, 1-3.

24. Act 8/ 2003 on April 24 about Animal Health.

25. Act 32/2007 on November 7, Art.14.2: "These are serious offenses: A) the mutilation is not allowed to animals; B) Reuse animals in a procedure where the regulatory scheme does not allow or kept alive an animal used in proceeding where the rules applicable are forbidden; C) Perform any of the regulated activities in this Act without the Government authorization or registration payable in accordance with the standards of animal protection applicable; D) Failure to comply with the obligations required by animal protection standards in terms of care and handling of animals, when this produce permanent injuries, serious defects or deformities of the same; E) The opposition, obstruction or lack of cooperation inspector with the performance and control of government public when it prevent or restricts its realization.

vertising, in a manner consistent with the Project, to prohibit advertising of animal abuse²⁷. The Act provides also a list of minor infractions, inspired in the accomplishment of the minimum standards of animal protection²⁸. Is interesting to note the correspondence of this dispositions with the new modifications of the Penal Code in 2004 concerning the abandoning of an animal or permanent injuries caused an animal²⁹.

It also provides for the establishment by the Ministry of Education and Science, an exceptional procedure for the accreditation of training and experience of researchers working with experimental animals³¹.

Finally, the Act creates a fee to offset the cost of compliance by Spain of the International Endangered Species of Wild Fauna and Flora (CITES)³².

26. Act 32/2007 on November 7, Final disposition first, Two: "It adds a new paragraph to article 89.1 of Act 8/2003 on April 24 about Animal Health.

27. Act 32/2007 on November 7, Art.14.1.D). Vid. supra, n.22

28. Act 32/2007 on November 7, Art. 14.3 Minor infractions, A), B), C), D).

29. Act 32/2007 on November 7, Art. 14.3. "Minor infractions, C) Abandoning an animal, resulting in the lack of control over himself or his actual possession"

30. Law Orgánica15/2003 of November 23, which introduces a new wording of Art. 337 and 632.2 Penal Code. Art. 337: ""Those who maltreat with cruelty pets and unjustifiably causing death or injuries that occur causing a serious physical impairment, will be punished with imprisonment of three months to one year and disqualification special one to three years for the exercise of profession , trade or commerce which has a connection with animals. ". Art 632.2: "Those who maltrataren cruelly pets or any other entertainment unauthorized legally without incurring those covered by Article 337 will be punishable by a fine of twenty to sixty days or work for the benefit of the community of twenty to thirty days. ". Art. 631.2: "Those who leave a pet in conditions that might endanger his life or integrity will be punished with a fine of ten to thirty days".

31. Act 32/2007 on November 7, Final disposition fourth: "Recognition of training the researchers from centers that use animals for experimental and other scientific purposes. The Ministry of Education and Science established in the within two months after the entry into force of this Act, an exceptional procedure to prove that researchers have adequate training and experience for animal testing. The application this procedure will be extended up to one year after the entry into force of the Law."

32. Act 32/2007 on November 7, Second additional provision." Fee for the provision Service and management of permits and licenses in the Convention on International Trade Endangered Species of Wild Fauna and Flora (CITES).