



Animal Protection Index (API) 2020

Republic of Poland: ranking C

Executive summary

The Animal Protection Act (2017) is applicable to all vertebrates and provides more specific provisions for several categories of animals including companion animals, farm animals and zoo animals. Poland's animal protection legislation recognises that animals feel pain and can suffer both physically and mentally, and the legislation provides provisions aimed at preventing actions that could cause them. The Animal Protection Act (2017) also explicitly bans bestiality. Poland is to be commended on the Act on the Protection of Animals used for Scientific or Educational Purposes (2015). The Act not only provides anti-cruelty provisions for animals used in experiments but also enshrines the 3 Rs Principles – Replacement, Reduction, Refinement - in law. The Act also mandates that animals not killed in experiments should be rehomed or rehabilitated for release.

However, hunting is allowed in Poland, both as a population management tool and as a recreational activity. The prohibitions regarding hunting activities, while banning some cruel hunting methods, do not cover some cruel methods such as hunting with dogs. While those undertaking hunting activities are required to undertake a test to gain a hunting permit, the test is created and arranged by the Polish National Hunting Association rather than a government ministry. Similarly, permission to hunt is given by the leaseholder or owner of hunting grounds rather than a government ministry. While the Animal Protection Act (2017) provides protections for many animals, it does not enshrine the Five Freedoms in law. The Government of Poland is yet to ratify the European Convention on the Protection of Pet Animals (1987) and has not followed the example of other EU Member States in issuing national bans on fur farming or the use of wild animals in circuses.

Responsibility for animal welfare falls under the jurisdiction of multiple government ministries including the Ministry of Agriculture and the Ministry for the Environment. Government ministries with animal welfare responsibilities are named in legislation and are mandated to provide supplementary regulations to govern the care of animals.

Since the 2014 edition of the Animal Protection Index, the Government of Poland has amended many pieces of legislation impacting animal welfare, including the Animal Protection Act (2017) and the Nature Conservation Act (2018).

The Government of Poland is urged to create a multi-stakeholder committee to effectively engage all actors involved in maintaining the well-being of animals and to find solutions for welfare concerns. This committee would guide the country's policies and strategies on animal welfare, in line with international standards. This committee should include representatives of animal welfare organisations. The Government of Poland is encouraged to enshrine and promote the Five Freedoms for all animals. Furthermore, The Government of Poland is strongly encouraged to promote humane stray animal population management, which relies on promoting responsible ownership, mass vaccinations and reproduction control programmes. Culling has been scientifically proven to be ineffective and should



therefore be banned. Further legal and policy recommendations are associated with each Animal Protection Index (API) indicator and contained in the relevant sections of this report.



Animal Protection Index Indicators

Goal 1: Recognition of animal sentience and prohibition of animal suffering

1. Animal sentience is formally recognised in legislation

Analysis of the legislation	
Ranking	C
<p>At the European Union (EU) level, Article 13 of the Treaty on the Functioning of the European Union recognises animal sentience and requires that Member States pay regard to animals' welfare requirements in formulating and implementing European Union policies.</p> <p>At the European Union (EU) level, based on the 1997 Treaty of Amsterdam, Article 13 forms part of the Lisbon Treaty, signed in 2007, which subsequently became the Treaty on the Functioning of the European Union (TFEU).¹ Article 13 of the TFEU explicitly recognises animal sentience and requires that Member States 'pay full regard to the welfare requirements of animals' in formulating and implementing European Union policies on agriculture, fisheries, transport, research and technological development.</p> <p>The Government of Poland has taken steps to recognise some of the components of animal sentience in the Animal Protection Act (1997 - last amended 2017)², as most of the norms fall under the premise of animals' capacity to suffer. Article 1(1) of the Animal Protection Act (2017) states that 'The animal as a living creature, capable of suffering, is not a thing.' The Act is applicable to all vertebrates.</p> <p>Under Article 4, the Animal Protection Act (2017) acknowledges that animals can suffer both physically and mentally.</p> <p><u>Analysis</u></p> <p><i>The recognition of animals' ability to suffer is the starting point for animal protection legislation in Poland. This is a strong basis that can be extended to include other elements of sentience.</i></p> <p><i>The existing recognition of the capacity of animals to suffer as the basis of animal protection legislation, together with the acknowledgment that animals are not mere "things", suggests that there are very low barriers to improvement in this area to reach a formal recognition of animal sentience. Article 13 of the TFEU is a fundamentally important principle, providing a legal recognition of sentience and requirement for member states to pay full regard to the welfare requirements of animals when formulating and implementing European policy. However, it is important to note that whilst Article 13 represents a minimum standard to which any government must commit, its' scope and impact for animals is limited.</i></p>	

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

² <https://www.animallaw.info/statute/poland-cruelty-polish-animal-protection-act>

Whilst positive that Article 13 explicitly acknowledges animal sentience, the requirement that member states pay ‘full regard’ to animal welfare is vague and does not create a precise and enforceable duty.

Article 13 does not cover every type of new law, and applies only to ‘agriculture, fisheries, transport, internal market, research and technological development and space policies.’

Additionally, there is currently a derogation in Article 13 for ‘cultural practices.’ However, no evidence could be found of Poland utilising the cultural derogation. This clause does allow other countries such as Spain and France to continue unacceptable practices of bullfighting and foie production, under the protection of Article 13.

Enforcement mechanisms

There are enforcement mechanisms (including fines and imprisonment) relating to the legislation that is based on the recognition of animals’ ability to suffer.

Key recommendations

Given the extensive body of scientific evidence proving that animals are sentient, the Government of Poland is urged to recognise that all animals for whom there is scientific evidence – at a minimum, all vertebrates, cephalopods and decapods crustaceans – are sentient beings and to enshrine this principle into legislation. Recognising animals as sentient will underpin further animal welfare considerations.

2. There are animal protection laws that prohibit causing animal suffering either by a deliberate act of cruelty or by a failure to act

Analysis of the legislation

Ranking

B

The Animal Protection Act (2017) describes the humane way of dealing with animals as ‘allowing for their needs and providing care and protection to them.’

Article 4 defines cruel methods as ‘human activity or default which leads to pathological changes in the organism of an animal (somatic and psychological), especially in the form of consequences from severe pain, submission by hunger, thirst or electrical current’ and the force-feeding and watering of animals. It states cruel treatment as animal abuse and includes other definitions for overburdening, gross negligence and inhumane slaughter.

Article 5 states that ‘every animal requires humane treatment.’



Cruelty to animals is prohibited by Article 6 of the Animal Protection Act (2017). The Article prohibits many acts including the deliberate infliction, or permitting the infliction of, pain or suffering. The Article also prohibits intentional mutilation such as marking by burning or freezing and cosmetic changes particularly ear trimming and tail docking of dogs; using ill animals or those that are too young or old for performance or work purposes; beating animals; overburdening animals; transporting in a way that causes unnecessary suffering and stress; restraining in an unnatural position causing unnecessary pain; illegal surgery; malignant irritation; keeping animals in inadequate conditions; abandonment; cruel methods in farming; bestiality, exposure of a pet or farm animals to adverse weather that threatens health or life and keeping an animal without adequate food or water; organising animal fights.

This legislation therefore includes prohibiting causing suffering through failure to act, for example by keeping animals in inadequate conditions.

School Curricula are allowed to include humane education and schools are encouraged to create organisations for animal lovers.

Analysis

The scope of the current legislation is far-reaching and detailed.

The Animal Protection Act 2017 promotes animal welfare by providing for implementation to be carried out not only by competent bodies of state administration and local government but also by veterinary bodies and public organisations that have animal protection as their statutory objective of activity. Articles 39 and 40 specifically provide for the Society for the Prevention of Cruelty in Poland and other animal protection public organisations to act as ancillary prosecutor alongside state and local authorities in disclosure and prosecution of cruelty offences.

Animal protection organisations report that there is a low level of general concern for animal welfare in society that presents a barrier to enforcement of the law.

Enforcement mechanisms

Commission of a cruelty offence under Article 6 of the Animal Protection Act (2017) is punishable by a fine or imprisonment of up to two years, increased to three years in cases of particular cruelty, and with confiscation of the animal if the offender is the owner. The court is also able to prohibit the offender from owning animals from one to ten years, to ban them from working with animals, and to award a fine of PLN 25 to 2,500 for the benefit of animal protection (for example, for the benefit of the Society for the Prevention of Cruelty to Animals in Poland) (Article 35).

Authorities are authorised to remove animals who have been neglected or for whom there is a threat to life from owners, with immediate effect.

Breach of the prohibition in Article 38 of the Act on Experiments with Animals 2005 is punishable with fines and imprisonment for up to a year.

Key recommendations

- The Government of Poland is encouraged to enshrine in law and promote the Five Freedoms for all animals.
- Poland has implemented legislation prohibiting deliberate acts of animal abuse, as well as a failure to act in case of animal cruelty. Poland should act as an example for other European countries in terms of having detailed anti-cruelty legislations.

Goal 2: Presence of animal welfare legislation

3. There are laws that apply to animals used in farming including rearing, transport and slaughter

Analysis of legislation

Ranking

C

The general anti-cruelty provisions of Article 6 of the Animal Protection Act (2017) apply to this category of animals, including to fish. Particularly relevant are the prohibitions on branding and freeze-marking, keeping animals in inadequate living conditions including in rooms or cages that prevent them adopting natural positions and exposing them to adverse weather conditions.

Chapter 3 of the Animal Protection Act (2017) deals specifically with the protection of livestock and places a duty of care on owners.

Article 12 requires that keepers of livestock must provide care and proper living conditions and also bans the fattening of ducks and geese for fatty liver.

The Act envisages the production of detailed regulations by the Minister responsible for agriculture on various specified issues including minimum conditions and standards for specific species of farmed animals. However, the law also mandates that farm animals must not be kept in conditions that contravene protection standards laid down in EU legislation.

An example of such secondary legislation is the Regulation of the Minister of Agriculture and Rural Development, 9 September 2004, on the qualifications of persons entitled to a professional slaughter and the conditions and methods of slaughter and killing animals. This Regulation provides that during transport, handling and slaughter, animals shall be protected from stress, pain or suffering, and that slaughterhouses should be constructed in a way that protects the animals from unnecessary anxiety as well as pain and suffering.

Rearing

At the EU level, the 1976 European Convention for the Protection of Animals kept for Farming Purposes³ lays out general conditions for all the species of animals kept for the production of food, wool, skin, fur or for other farming purposes. Article 3 mandates that 'animals shall be housed and provided with food, water and care [...] appropriate to their physiological and ethological needs'. Article 4 protects the freedom of movement of animals and Article 5 regulates the lighting, temperature, humidity, air circulation, ventilation and other environmental conditions.

Based on this European Convention, Council Directive 98/58/EC⁴ gives general rules for the protection of animals of all species kept for the production of food, wool, skin or fur or for other farming purposes, including fish, reptiles or amphibians. Article 2 mandates that all animals whose welfare depends on frequent human attention shall be inspected at least once a day. Article 7 protects the animals' freedom of movement, and Article 10 requires that breeding procedures (natural or artificial) likely to cause suffering or injury must not be practised, though there are exceptions to this. Article 21 further states that no animal shall be kept for farming purposes unless it can reasonably be expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effect on its health or welfare.

Rearing - pigs

At the EU level, welfare provisions for pigs are laid out in Council Directive 2008/120/EC.⁵ Among animal welfare provisions, Article 3 prohibits the tethering of sows or gilt (female pig after puberty and before farrowing). The ban of individual sow stalls was decided in 2001, and a phase-out period of 12 years was allowed to adapt to the new systems. Since 1 January 2013, sows must be kept in groups rather than in individual stalls. However, stalls may still be used for the first 28 days of gestation, and one week before the expected time of birth (Article 3.4).

Article 8 mandates inspections of pigs' rearing conditions and Article 12 provides that Member States may apply, within their territories, stricter provisions for the protection of pigs than the ones laid down in this Directive.

Chapter I of the Annex of the Directive provides that 'all procedures intended as an intervention carried out for other than therapeutic or diagnostic purposes or for the identification of the pigs in accordance with relevant legislation and resulting in damage to or the loss of a sensitive part of the body, or the alteration of bone structure, shall be prohibited'. However, there are exemptions to the general prohibitions for:

- teeth grinding or clipping (before 7 days old)
- tail-docking
- castration of male pigs by other means than tearing of tissues
- nose-ripping only when the animals are kept in outdoor husbandry systems and in compliance with national legislation.

³ https://ec.europa.eu/food/sites/food/files/animals/docs/aw_european_convention_protection_animals_en.pdf

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31998L0058&from=EN>

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0120&from=EN>

Tail-docking and teeth grinding/clipping must not be carried out routinely 'but only where there is evidence that injuries to sows' teats or to other pigs' ears or tails have occurred'. There is no requirement to use anaesthetic for castration, except if the procedure is carried out after the 7th day of life.

Chapter II mandates that no piglets shall be weaned from the sow at less than 28 days of age, though piglets may be weaned up to seven days earlier if they are moved into 'specialised housings.'

No policy or legislation related specifically to the rearing of pigs was found at the time of writing.

Rearing – broiler chickens

At the EU level, welfare provisions for broiler chickens are laid out in Council Directive 2007/43/EC.⁶ Notably, Article 3.2 requires that the maximum stocking density is 33kg/m². However, Article 3.3 allows for derogation to this general rule: a derogation to allow an increase above 33kg/m² up to 39kg/m² can be given when additional documented details for each house are kept and the house achieves certain climatic parameters. In addition, the documentation accompanying the flock at the slaughterhouse shall include the daily mortality rate and the cumulative daily mortality rate. A further increase above 39kg/m² up to 42kg/m² is allowed where, in addition to the conditions mentioned in the previous point being met, monitoring by the authorities confirms records of low mortality rates and good management practices.

Article 4.2 requires that the training courses for people dealing with chickens focus on 'welfare aspects.' Article 7 requires inspections to be carried out.

Annex I to this Directive provides detailed conditions with regards to the drinkers, feeding, litter, ventilation, heating, noise and light requirements. Annex I also mandates that inspections shall be carried out twice a day. Similar to the wording of the Council Directive 2008/120/EC for pigs, all surgical interventions 'carried out for reasons other than therapeutic or diagnostic purposes which result in damage to or the loss of a sensitive part of the body or the alteration of bone structure shall be prohibited'. However, two exemptions exist to this prohibition:

- beak trimming, which may be carried out when other measures to prevent feather pecking and cannibalism are exhausted. Beak trimming shall be carried out by qualified staff on chickens that are less than 10-days-old
- castration of chickens, which shall only be carried out under veterinary supervision by personnel who have received a specific training.

The Animal Protection Act (2017) provides additional protections for broiler chickens. The Act mandates that those responsible for the husbandry of broiler chickens – both owners and staff- are required to have undergone training for their care. The Act also requires the Chief Veterinary Officer to submit an annual report to the EU Commission on inspections of broiler chicken farms and actions taken to improve the welfare of such chickens. However, farms with fewer than 500 broiler chickens

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007L0043>

or breeding flocks, farms that act as poultry hatching plants, and farms that care for their broiler chickens in either free-ranging or organic environments are not included in the report.

No further policy or legislation related specifically to rearing broiler chickens was found at the time of writing.

Rearing - egg-laying hens

At the EU level, welfare provisions for egg-laying hens are laid out in Council Directive 1999/74/EC.⁷ Non-enriched cage systems have been prohibited since 1st January 2012 (Article 5.2). Two cage systems are now in use:

- enriched cages where laying hens have at least 750 cm² of cage area per hen
- alternative systems where the stocking density does not exceed nine egg-laying hens per m² usable area, with at least one nest for every seven hens and adequate perches.

In both systems, all hens must have a nest, perching space, litter to allow pecking and scratching and unrestricted access to a feed trough.

Article 8 mandates inspections of the systems of rearing for egg-laying hens.

The Annex to the Directive specifies that all hens must be inspected by the owner or the person responsible for the hens at least once a day (Article 1). Sound level must be minimised (Article 2) and light levels shall allow hens to show 'normal levels of activity'. Article 8 prohibits all mutilations except beak trimming, provided it is carried out on egg-laying hens less than 10 days old.

No policy or legislation relating specifically to the rearing of egg-laying hens was found at the time of writing.

Rearing - dairy cattle and calves

There is no EU legislation dedicated to dairy cattle.

Council Directive 2009/119/EC⁸ lays down the minimum standards for the protection of calves. Article 3 prohibits the use of confined individual pens after the age of eight weeks, except if required by a veterinarian. Individual pens must have perforated walls, allowing the calves to have direct visual and tactile contact. Article 3 further sets out minimum dimensions for individual pens and for calves kept in group. Inspections of facilities should be carried out (Article 7). Annex I of the Directive lays down specific conditions for the rearing of calves. Notably, calves must not be kept permanently in darkness with Member States making provisions for 'appropriate natural or artificial lighting'. Moreover, all housed calves must be inspected by the owner or the person responsible for the animals at least twice daily and calves kept outside must be inspected at least once daily. The accommodation for calves must allow them to lie down, rest, stand up and groom for themselves without difficulty.

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31999L0074&from=EN>

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0119&from=EN>

Importantly, calves must not be tethered, except for group-housed calves which may be tethered for periods of not more than one hour at the time for feeding milk or milk substitutes.

The Animal Protection Act (2017) provides some protections for calves. Under the Act, it is forbidden to keep calves under 8 weeks of age in individual boxes and to keep them tethered except during feeding.

No further policy or legislation relating specifically to the rearing of dairy cattle and calves was found at the time of writing.

Transport

At the EU level, welfare provisions for animal transport are laid out in Council Directive EC 1/2005.⁹ This Directive defines the responsibilities of all actors involved in the transport chain of live animals entering or leaving the EU. Article 3 (General Conditions) provides that 'no person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them'. Article 7 forbids long journeys (i.e. exceeding 8 hours) unless the means of transport has been inspected and approved under Article 18(1).

The Regulation on Specific Conditions and Methods of Transporting Animals (2003)¹⁰ provides further provisions beyond the prohibitions on animal transport in the Animal Protection Act (2017). The Regulation requires that the means of transport provides a suitable surface to allow an animal to stand or lie down, allow for sufficient air intake and an insulated roof and walls to protect animals from the weather. It is also forbidden to use electrical devices to move animals except where necessary to ensure the safety of people or animals. The Regulation also includes species-specific minimum standards for transportation areas required by different types of vehicle.

Slaughter

At the EU level, welfare provisions for animals at the time of slaughter are laid out in Council Directive EC No 1099/2009.¹¹ Article 3 states that animals shall be spared any 'avoidable pain, distress or suffering during their killing and related operations'. Article 4 mandates that animals must be stunned prior to being slaughtered, and the loss of consciousness and sensibility shall be maintained until the death of the animal. Article 5 specifies that workers should check whether animals do not present any signs of consciousness in the period between the end of the stunning process and death. Annex I to this Directive lists all the stunning methods possible. Annex II sets out the requirements regarding the layout, construction and equipment of slaughterhouses.

In 2018, following a favourable opinion of the European Food Safety Authority on low atmospheric pressure system for the stunning of broiler chickens, Annexes I and II to Council Regulation (EC) No

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>

¹⁰ <http://www.fao.org/faolex/results/details/en/c/LEXFAOC060127>

¹¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1099&from=EN>

1099/2009 have been amended by Commission Implementing Regulation (EU) 2018/723¹² to approve the stunning of broiler chickens through asphyxia due to low atmospheric pressure.¹³

The Animal Protection Act (2017), mandates that the killing of animals may only take place in a humane manner, consisting of inflicting minimum physical and mental suffering. The Act requires that animals be rendered unconscious before slaughter and that separate spaces be provided for keeping animals, stunning animals and for their slaughter. It is prohibited to eviscerate, burn, skin, smoke or separate parts of warm-blooded animals before breathing and muscle reflexes cease.

Regulation on the Qualification of persons entitled to professional slaughtering and the Conditions and Methods of Slaughtering and Killing Animals (2004)¹⁴, further regulates the slaughter of farm animals. Slaughter of farm animals is only allowed to be undertaken by persons who have completed training. Operators of slaughterhouses are required to minimise stress to animals at all times while they are at the facility.

Analysis

The Minister responsible for agriculture has powers to set detailed rules for the conditions under which farm animals should be kept (Chapter 3, Animal Protection Act 2017). These rules have been made, but this tends to have been done in order to comply with European Union requirements, and there is generally a low level of implementation and enforcement across the country. For example, in February 2013 the European Commission issued a letter of formal notice to the country for its failure to comply with the European Union's ban on the use of sow farrowing stalls.¹⁵

A 2010 European Union evaluation of the implementation of its farm animal welfare legislation noted that Poland had been given a long period of time to bring its legislation into line with European Union requirements.¹⁶ Opinion polling commissioned by the European Commission demonstrated widespread support for farm animal welfare amongst Polish people, although the level of concern was much lower than in most other European Union Member States.¹⁷

It is positive that the government has introduced detailed legislation to protect the welfare of farmed animals. However, the fact that the driver has been the need to move towards compliance with European Union requirements, and the apparently low level of implementation and enforcement across the country, suggest that this is not a priority for government work and that there are still structural barriers to improving the welfare of this category of animals.

It is also noted that the European Commission called on Poland via letters of formal notice in 2012 and 2013 to require the government to take action to implement the requirements of European Union

¹² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R0723&from=EN>

¹³ <https://www.efsa.europa.eu/en/efsajournal/pub/5056>

¹⁴ <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC066654>

¹⁵ http://europa.eu/rapid/press-release_IP-13-135_en.htm

¹⁶ https://ec.europa.eu/food/sites/food/files/animals/docs/aw_arch_122010_full_ev_report_en.pdf

¹⁷ http://ec.europa.eu/food/animal/welfare/survey/sp_barometer_aw_en.pdf



Directives in relation to banning barren battery cages for laying hens (Directive 1999/74)¹⁸ and housing for pregnant sows (Directive 2008/120).¹⁹

The wording of Council Directive 98/58/EC is quite general and does not consider species-specific needs, by comparison to the other Directives.

With regards to pigs, it is positive that the ban on sow stalls has entered into force since 2013. However, this ban is limited as stalls are still allowed to be used for the first 28 days of gestations, and shortly before giving birth.

The many exemptions provided in Chapter I of the Annex of Council Directive 2008/120/EC allows for piglet mutilations to be performed without anaesthetics. The use of anaesthetic is only mandated for castration, occurring on a piglet at least 7-days-old. Piglet mutilations are extremely cruel, and these exemptions represent a legal loophole allowing for the inhumane treatment of farm animals.

Castration is practiced to prevent the development of undesirable sexual or aggressive behaviour, and to avoid the development of 'boar taint, which gives pork meat a distinctive taste and odour. The European Commission acknowledges on its website that castration has become 'a significant animal welfare concern in recent years', inflicting pain 'even on very young pigs'.²⁰ A working group, made of representatives of European farmers, meat industry, retailers, scientists, veterinarians and animal welfare NGOs, met in 2010 and developed the European Declaration on Alternatives to Surgical Castration of Pigs.²¹ Two key decisions were taken through this Declaration: the surgical castration of pigs, if carried out, shall be performed with prolonged analgesia and/or anaesthesia with methods mutually recognised. Secondly, the surgical castration of pigs should be abandoned by 1 January 2018. Over 30 stakeholders (animal welfare NGOs, industry practitioners etc.) signed this voluntary agreement.

With regards to broiler chickens, Council Directive 2007/43/EC represents the first legal instrument in which 'welfare indicators' were included as a means of scientific assessment. It is positive that the Directive goes into details about the environment of rearing of chickens (i.e. drinkers, feeding, litter, ventilation and heating, noise, light requirements). The Directive also provides a maximum stocking density; however, by allowing derogations to be made, the Directive enables large-scale, industrial farming practices to be developed in the EU. In such crowded conditions, the Five Freedoms of broiler chickens cannot be fulfilled. In addition, the exemptions for beak trimming and chicken castration enables this practice to be carried out without anaesthetics.

With regards to egg-laying hens, the 2012 ban on the use of battery cage systems was an important step to improve the welfare of egg-laying hens. By comparison to battery cages, enriched cages provide 20% more space to each hen (the equivalent of an A4 paper with a postcard). Enriched cages have nest boxes, litter, perch space and some scratching materials, and house up to 10 hens.

¹⁸ http://europa.eu/rapid/press-release_IP-12-47_en.htm

¹⁹ http://europa.eu/rapid/press-release_IP-13-135_en.htm

²⁰ https://ec.europa.eu/food/animals/welfare/practice/farm/pigs/castration_alternatives_en

²¹ https://ec.europa.eu/food/sites/food/files/animals/docs/aw_prac_farm_pigs_cast-alt_declaration_en.pdf



Though the current two systems in use (enriched cages and alternative systems) represent incremental improvements to the life of hens, the EU still allows for hens to be raised in cages. When reared in cages, the Five Freedoms of egg-laying hens are necessarily compromised.

In September 2018, a European Citizen Initiative (ECI) entitled 'End the Cage Age' was launched, supported by a coalition of animal welfare NGOs, among which World Animal Protection. The ECI invites the European Commission to propose legislation to prohibit the use of:

- cages for laying hens, rabbits, pullets, broiler breeders, layer breeders, quail, ducks and geese;
- farrowing crates for sows;
- sow stalls, where not already prohibited
- individual calf pens, where not already prohibited

As of September 2019, since over 1 million verified signatures have been collected from EU citizens, the European Commission will be requested to propose the above-mentioned legislation.²²

With regards to dairy cattle and calves, it is regrettable that there is no EU legislation protecting the welfare-specific needs of dairy cattle. It is positive that calves must not be tethered, though this should be a full ban. Moreover, EU legislation allows for the isolation of calves under eight weeks old. The isolation of calves is detrimental to their welfare and the provision that calves in isolation need to be able to see other calves is not sufficient to satisfy their need for social interactions.

With regards to animal transport, it is positive that the Council Directive EC 1/2005 recognises in its preamble that, 'for reasons of animal welfare the transport of animals over long journeys, including animals for slaughter, should be limited as far as possible'. However, the exception of Article 7, allowing the transport of animals for over 8 hours, is detrimental to animal welfare. In fact, long live animal transport is known to cause stress. Moreover, many breaches of Council Directive EC 1/2005 have been reported, including the transport of unfit animals, exceeding stocking densities, requirements on feed, water and rest not respected, insufficient headroom and bedding, too high temperature.²³

In 2015, the European Commission launched a three-year Pilot Project aiming at improving animal welfare during transport by developing and disseminating Guides to Good and Best Practice for the transport of the main livestock species.²⁴ In September 2017, the contractor of the project published five extensive guides to good practices, as well as 17 technical fact sheets on good animal transport practices.²⁵ This is a positive development, however, a total ban on long live animal transport would grant stronger protection to animals.

²² <https://eci.endthecageage.eu/>

²³ <https://www.ciwf.org.uk/media/7434627/report-on-implementation-of-eu-regulation-on-welfare-of-animals-during-transport-compassion-in-world-farming-october-2018.pdf>

²⁴ https://ec.europa.eu/food/sites/food/files/animals/docs/aw_prac_transport_pilotreport.pdf

²⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>



With regards to slaughter, it is positive that the Council Directive EC No 1099/2009 mandates stunning prior to slaughter, however, numerous EU countries have exemptions to this requirement, notably due to religious reasons. In 2018, the European Commission has also developed a series of fact sheets outlining how various species should be stunned.²⁶ This appears to show that the EU Commission is willing to disseminate knowledge and improve animal welfare.

Enforcement mechanisms

The 1976 European Convention for the Protection of Animals kept for Farming Purposes does not contain any enforcement mechanism. At the EU level, a Directive requires Member States to achieve a particular result, but it does not devise laws on how to reach these goals. As such, Member States have some leeway to decide on their own legislations which will achieve the intended results. By contrast, a Regulation is a binding legislative act, directly applicable to the entirety of the EU.

Commission of a cruelty offence is punishable by a fine or imprisonment, and with confiscation, with the possibility of a ban on owning or working with animals and/or paying a fine to an animal protection organisation (Article 35 Animal Protection Act 2017). The same enforcement mechanisms exist for breach of the provisions relating to farm animals under Chapter 3 (Article 35).

Key recommendations

- **While the Animal Welfare Act (2017) has come protections for some species of farm animals, the Government of Poland is urged to enact legislation detailing specific welfare requirements for the rearing of farm animals during the phases of rearing, transport and slaughter. Such requirements should be legally binding and species-specific. Regular inspections onto farms and slaughter establishments should be carried out with a special focus on animal welfare.**
- **Due to the significant animal welfare concerns associated with long distance transport, the Government of Poland is strongly urged to ban the export of live animals for long distances (i.e. over eight hours) and replace it with a meat only trade. Long distance transport is inherently cruel as it involves chronic stress for all animals and for some species and modes of transport it may involve overpopulation, exhaustion, excess heat or cold, inadequate ventilation and/or access to food and water, leading to disease, pain, injury or death.**
- **The Government of Poland is encouraged to ban the cruellest methods of slaughter such as drowning.**

²⁶ https://ec.europa.eu/food/animals/welfare/practice/slaughter/2018-factsheets_en

4. There are laws that apply to animals in captivity

Analysis of the legislation	
Ranking	C
<p><u>Zoos</u></p> <p>The general anti-cruelty provisions of Article 6 of the Animal Protection Act (2017) apply to this category of animals. Particularly relevant is the prohibition on keeping animals in inadequate conditions.</p> <p>At the EU level, welfare provisions for wild animals kept in zoos are laid out in Council Directive 1999/22/EC.²⁷ 'Zoos' are defined as 'all permanent establishments where animals of wild species are kept for exhibition to the public for 7 or more days a year', with the exceptions of circuses, pet shops and any other establishments that Member States deem not to host sufficient animals. Article 3 provides that zoos shall implement conservation measures. Among them, one measure is welfare-oriented since zoos have to accommodate their animals 'under conditions which aim to satisfy the biological and conservation requirements of the individual species, inter alia, by providing species specific enrichment of the enclosures; and maintaining a high standard of animal husbandry with a developed programme of preventive and curative veterinary care and nutrition.' Article 4 mandates the licencing and inspections of existing and new zoos. Article 8 lays out that Member States shall determine penalties for a breach of this Directive, and such penalties shall be effective, proportionate and dissuasive.</p> <p>The EU Zoos Directive Good Practices (2015),²⁸ while not legally binding, are aimed at supporting practitioners and Member States in implementing the spirit and requirements of the Council Directive 1999/22/EC. The Directive includes recommendations regarding key aspects of animal health and welfare within the zoo environment such as temperature, enclosure size and furnishings and noise.</p> <p>Council Regulation (EC) 1/2005²⁹ on the transport of animals is also applicable to wild animals, both those living in captivity as well as wild animals living in the wild but susceptible of being transported (e.g. for rehabilitation or reintroduction purposes). Article 3 (General Conditions) provides that 'no person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them'. Chapter II, Article 1.3 provides that a notice shall be given explaining that the animals are wild, timid and dangerous and containing written instructions about feeding, watering and any special care required. Furthermore, Chapter III Article 1.1 mandates that wild animals shall become acclimatised to the mode of transport prior to the proposed journeys.</p> <p>Chapter 3 of the Nature Conservation Act (2018)³⁰ regulates the operation of zoos. However, the Act does not apply to zoos that have fewer than 15 species and fewer than 50 individual animals on</p>	

²⁷ <https://www.eaza.net/assets/Uploads/Governingdocuments/EU-Zoo-Directive-1999.pdf>

²⁸ https://ec.europa.eu/environment/nature/pdf/EU_Zoos_Directive_Good_Practices.pdf

²⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>

³⁰ https://www.ecolex.org/details/legislation/nature-conservation-actlex-faoc129607/?q=Nature+Protection+Act+Poland&type=legislation&xdate_min=&xdate_max=



display to the public. Zoos are required to be licenced (Article 67) and can only keep species of animals whose biological needs can be met. Article 70 of that Act envisages that the Minister responsible for the environment will make detailed regulations including necessary rooms and equipment, minimum spatial conditions for breeding and keeping of animals on a species-specific basis

The 2004 Regulation on conditions for husbandry and keeping of respective groups of species in zoological gardens (RZ12/2004) makes detailed provisions; the Annex to the Regulation provides species-specific minimum standards. However, the regulations were not found at the time of writing.

Private keeping of wild animals

Under the Animal Protection Act (2017), it is prohibited to keep and breed predator or poisonous animals outside of zoos, scientific research facilities and circuses.

Under the Nature Conservation Act (2018), holders of live animals of species listed in Annexes A and B of Council Regulations No. 338/97 of 1996³¹ are obliged to register those animals including import and origin data including the legality of the animal's origin.

Regulations exist on the raising or breeding of wild animals however a translation was not found at the time of writing.³²

Fur farming

At the EU level, a ban on cat and dog fur was introduced by Regulation No 1523/2007,³³ and has entered into force on 31st December 2008. The Regulation bans the placing on the market and the import to or export from the Union of cat and dog fur and products containing such fur.

Fur farming is allowed under law in Poland. The slaughter of such animals is governed by Regulation on the Qualification of persons entitled to professional slaughtering and the Conditions and Methods of Slaughtering and Killing Animals (2004).

However, recent reports suggest dogs have been found at one fur farm in Poland and that welfare conditions are often poor.³⁴

Analysis

Although there is detailed regulation in this area, it appears that there is a low level of implementation and enforcement across the country, suggesting that the existing legislation needs further policy implementation in order to make the welfare of this category of animals a mainstream concern of

³¹ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31997R0338>

³² <http://www.fao.org/faolex/results/details/en/c/LEXFAOC073936>

³³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1523&from=EN>

³⁴ <https://www.independent.co.uk/news/world/europe/puppy-farm-dog-fur-poland-pets-foxes-cage-a9104956.html>



society. For example, the European Union Zoo Inquiry 2011 reported a low standard of animal care in many zoos and observed many cases where an animal's welfare was compromised.³⁵

The exclusion of small zoological collections from the regulation of Chapter 3 of the Nature Protection Act (2018) may also increase the potential for poor welfare in such facilities. This exclusion also limits the protections provided under the law to wild animals kept by private individuals.

The European Union Zoo Inquiry 2011 found that over half of the animal enclosures inspected failed to meet the minimum standards required by the Regulation on the "conditions for husbandry and keeping respective groups of species in zoological gardens".³⁶ The licensing requirements are also unclear and the need for inspections prior to licensing is not stated in the legislation. Therefore, it appears that, despite the existence of legislation on this subject, there remain significant barriers to improvement in this area.

Council Directive 1999/22/EC provides general provisions for animals kept in zoos. Following the wording of Article 3, zoos are primarily intended to achieve conservation efforts, taking into account animal welfare. It is positive that zoos have to be licenced to operate, and that such a licence can only be obtained if criteria of Article 3 are met, which includes welfare provisions relating to enrichment, husbandry, veterinary care and nutrition. Enrichment must be species-specific, but there is no mention of the psychological distress that is induced by constraining animals to enclosures. This Directive could be improved by focusing on the mental wellbeing of animals, rather than on satisfying their basic needs (e.g. nutrition requirements). In particular, a provision could be made to ensure that the size of enclosure is large enough to enable individuals to express normal behaviours, as well as allowing social interactions. Moreover, the frequency of inspections is not mandated in this Directive.

It is positive that Council Directive (EC) 1/2005 is not limited to livestock, but also covers the transport of wild animals. However, the welfare provisions in this Directive are quite general. For instance, Chapter III, Article 1.1 does not specify how wild animals shall become 'acclimatised' to the mode of transport of the proposed journey.

Any ban on fur farming is a positive step for animals, since the fur farming industry is inherently cruel, and fur cannot be produced without causing large amount of pain, distress and suffering to animals. It is thus positive that the EU has implemented a ban on fur farming, though this ban appears very much limited since it covers only two species. The most common species farmed for their fur in Europe – rabbits, minks, foxes – are not included in this ban. Furthermore, there is no legislation at the EU level mandating humane slaughter for animals farmed for their fur.

While it appears that due their inclusion under the Polish regulations regarding slaughter should increase welfare for animals farmed for fur, reports suggest this is not occurring. Fur farming is inherently cruel.

Enforcement mechanisms

³⁵ <https://www.bornfree.org.uk/publications/eu-zoo-poland>

³⁶ <https://www.bornfree.org.uk/publications/eu-zoo-poland>

Commission of a cruelty offence is punishable by a fine or imprisonment, and with confiscation, with the possibility of a ban on owning or working with animals and/or paying a fine to an animal protection organisation (Article 35 Animal Protection Act 2017).

Under the Nature Conservation Act (2018), running a zoo without a permit is punishable by either imprisonment or a fine. The Regional Director for Environmental Protection is required to conduct inspections of zoos at least once every three years.

Key recommendations

- The Government of Poland is urged to produce detailed legislation specifying the conditions under which wild animals may be kept in captivity. Such regulations shall include requirements with regards to housing, feeding, handling and husbandry and should promote the Five Freedoms of all individual animals. In particular, the Freedom to express normal patterns of behaviours should be respected.
- The Government of Poland is strongly urged to allocate human and financial resources to create an inspection unit in charge of verifying that welfare standards are respected where animals live in captive settings. Facilities where animals are kept should be regularly inspected, and the results of such inspections should be made public.
- The Government is encouraged to develop a Positive List of species, specifying which animals can be kept as companion animals, based on clear criteria including animal welfare and other relevant concerns.
- The Government is strongly urged to fully ban fur farming. Fur farming is inherently cruel and causes pain, distress and suffering to animals.

5. There are laws that apply to companion animals

Analysis of the legislation	
Ranking	B
<p><u>Care of companion animals</u></p> <p>The general anti-cruelty provisions of Article 6 of the Animal Protection Act (2017) apply to all vertebrates in this category of animals. Particularly relevant are the prohibitions on intentional mutilation, keeping animals in inadequate conditions, and abandonment.</p>	



The European Convention for the Protection of Pet Animals³⁷ is a treaty of the Council of Europe to companion animals and ensure minimum protection standards. Signed in 1987, the treaty entered into force in 1992 and is now open to countries outside members from the Council of Europe. As of March 2019, the Convention has been ratified by 24 countries, however, Poland is yet to ratify the Convention.

Article 1 prohibits anyone from causing unnecessary pain, suffering or distress, or to abandon a companion animal. Article 2 creates a duty of care onto animal owners, responsible for their health and welfare. Article 10 forbids surgical procedures for the purpose of modifying the appearance of a companion animal, or for other non-curative purposes. In particular, the docking of tails, the cropping of ears, devocalisation, declawing and defanging are prohibited. Exceptions exist if a veterinarian considers non-curative procedures necessary or to prevent the reproduction of animals. Article 11 specifies that the killing of companion animals shall be done with the minimum of physical and mental suffering appropriate to the circumstances.

Chapter III contains Supplementary Measures for Stray Animals. Article 12 mandates that the capture of stray animals must be done with the least amount of suffering possible. Once captured, animals may be kept or killed 'in accordance with the principles laid down in this Convention'.

Chapter 2 of the Animal Protection Act (2017) makes specific provisions to protect pets. Pet keepers are obliged to provide pets with protection from cold, heat and rain, access to daylight, room to move, adequate food and constant access to water (Article 9(1)). Keeping an animal tethered for up to 12 hours a day is allowed according to Article 9(2), if a certain freedom of movement if possible, and injuries are avoided. Anyone who finds an abandoned dog or cat is required to notify an animal shelter, fire authority or police (Article 9a). Article 10a (2) prohibits commercial breeding of cats and dogs and the selling of pets from marketplaces, fairs or stock exchanges.

Stray animals

Stray population control is the responsibility of individual municipalities under the Animal Protection Act (2017). Provisions for the capture of stray animals lay down the legal framework for this. Municipal councils are required by Article 11a to produce an annual program to care for stray animals and to take prevention measures against stray populations. Municipal Councils are required to catch and care for homeless animals as well as seek owners for them. They are also responsible for the care and feeding of free-living cats.

Regulation concerning provisions and Conditions of Catching of Homeless Animals (1998)³⁸ establishes provisions for animals including stray cats and dogs where the owner cannot be found. However, a translation was not found at the time of writing.

Analysis

Although there are laws in place regarding companion animals Poland has a large population of

³⁷ <https://www.coe.int/en/web/conventions/fulllist/-/conventions/treaty/125>

³⁸ <http://www.fao.org/faolex/results/details/en/c/LEXFAOC060124>



stray and sheltered dogs, demonstrating the need for awareness-raising regarding responsible pet ownership.³⁹

It appears that current attitudes towards animals may present a barrier to progress. Additionally, there appear to be structural and resource issues acting as barriers, for example, local authorities are reported to struggle with funding shelters.⁴⁰

At the EU level, the European Convention for the Protection of Pet Animals lays down important principles for the welfare of companion animals, notably by creating a positive duty of care onto animal owners and through prohibiting the abandonment of companion animals. It is also positive that the Convention prohibits surgical procedures on companion animals for appearance purposes.

However, the Convention does not provide as strong protections for the welfare of stray animals. In fact, the Convention authorises the killing of stray animals, instead of mandating their rehoming or placing them in a non-kill shelter.

Enforcement mechanisms

The European Convention for the Protection of Pet Animals does not contain any enforcement mechanisms.

Commission of a cruelty offence is punishable by a fine or imprisonment, and with confiscation, with the possibility of a ban on owning or working with animals and/or paying a fine to an animal protection organisation (Article 35 Animal Protection Act 2017). The same enforcement mechanisms exist for breach of the provisions relating to companion animals under Chapter 2 (Article 35).

Key recommendations

- **The Government of Poland is encouraged to engage with the International Companion Animal Management (ICAM) coalition to learn about and implement their dog population management methodology. This methodology consists of a full cycle of action, addressing the root causes of conflict between roaming dog and communities. The document is helpful to governments to manage dogs humanely as well as to help communities to live in harmony with dogs.**
- **The Government of Poland is strongly encouraged to promote humane stray animal population management, which relies on promoting responsible ownership, mass vaccinations and reproduction control programmes. Culling has been scientifically proven to be ineffective and should therefore be banned.**

³⁹ <http://www.esdaw.eu/society-and-animal-welfare-poland.html>

⁴⁰ <http://www.esdaw.eu/society-and-animal-welfare-poland.html>

6. There are laws that apply to animals used for draught or recreational purposes

Analysis of the legislation	
Ranking	E
<p><u>Animals used for entertainment</u></p> <p>The general anti-cruelty provisions of Article 6 of the Animal Protection Act (2017) apply to this category of animals. Particularly relevant are the prohibitions on freeze or brand marking warm blooded animals; using ill, young or old animals for performance; beating; overworking; restraining in an unnatural position causing unnecessary pain; keeping animals in inadequate conditions; organising animal fights; and withholding food or water for a time beyond the minimum necessary.</p> <p>Chapter 4 of the Animal Protection Act (2017) relates to animals used for entertainment purposes, including shows, sports and movies.</p> <p>Article 15 provides that training and performance methods must not endanger animals' lives or health or cause suffering and the use of pharmacological and mechanical methods for doping animals is prohibited. Animals used for entertainment are to be provided with rest and relaxation following transport.</p> <p>Under Article 16 of the Animal Protection Act (2017), it is prohibited to use animals in shows or sports that bear signs of cruelty. Animal fights involving bulls, dogs and cocks are specifically mentioned.</p> <p>Under Article 17, animals used for shows and entertainment must be born and bred in captivity and provided with living conditions appropriate to their species and cannot be forced to perform acts contrary to their nature, including training animals for the purpose of increasing their aggressiveness. Travelling menageries are prohibited.</p> <p>The Minister responsible for the environment, in consultation with the Minister responsible for culture, is given the power to set detailed regulations giving minimum conditions of care for different species used in entertainment (Article 17(8)), which can be found in the Regulation of the Minister of Environment of 20 January 2004 on minimum conditions for the continuation of the individual species of animals used for entertainment, shows, film and sports.</p> <p><u>Draught animals</u></p> <p>In relation to draught animals, Article 14 of the Animal Protection Act (2017) provides that methods and conditions of using animals for work cannot create unjustified threat to their life or health or inflict suffering on them. Specific examples are given including overloading, using equipment such as harnesses that result in injury or death because they are poorly made or in disrepair, and failing to provide species-appropriate rest periods.</p> <p><u>Analysis</u></p>	



The Animal Protection Act (2017) does establish some good protection to the welfare of animals used for recreational and draught purposes. However, although there is a ban on the use of wild-born animals in entertainment, legislation does not cover captive bred animals. Similarly, while the Animal Protection Act (2018) specifically mentions animal fights involving dogs, bulls and cocks, it is unclear what other activities are prohibited under Article 16. Circuses in operation in Poland currently hold wild animals such as tigers⁴¹, whereas several other countries around the world have prohibited the use of wild animals by circuses on animal welfare grounds. Some cities in Poland including Warsaw have banned the use of trained animals in travelling circuses suggesting that there is some political will in the country for a full ban.^{42,43}

Enforcement mechanisms

Commission of a cruelty offence is punishable by a fine or imprisonment, and with confiscation, with the possibility of a ban on owning or working with animals and/or paying a fine to an animal protection organisation (Article 35 Animal Protection Act 2017). The same enforcement mechanisms exist for breach of the provisions relating to companion animals under Chapter 4 (Article 35).

Key recommendations

- **The Government of Poland is urged to forbid the organisation of and attendance to entertainment events causing animal suffering. Such a prohibition should cover circuses, rodeos, animal fights, animal races, rides on wild animals and all other forms of entertainment. Notably, the Government is strongly encouraged to ban the use of all animals in circuses. Phasing out of animals for entertainment purposes could start with a ban on the use of wild animals for such performances.**
- **The Government of Poland is strongly encouraged to adopt specific legislation to address the welfare of working animals, including working equids, following the requirements of the OIE's animal welfare standards (Chapter 7.12). Working animals must be treated with consideration and must be given adequate shelter, exercise, care, food and water appropriate to their physiological and behavioural needs. Any condition that may impair their welfare must be treated promptly and, affected animals must not be worked again until they are fit. They must not be overworked or overloaded, nor must they be forced to work through ill-treatment.**

7. There are laws that apply to animals used for scientific research

Analysis of the legislation

⁴¹ Eurogroup for Animals Report "Wild Animals in Eu Circuses" 2015.

⁴² <https://vegnews.com/2016/1/warsaw-poland-bans-animal-circuses>

⁴³ <https://www.news24.com/Green/News/warsaw-bans-circus-animals-20160119>



Ranking	A
<p>At the EU level, welfare provisions for animals used in scientific research are laid out in Directive 2010/63/EU,⁴⁴ which updated and replaced the 1986 Directive 86/609/EEC⁴⁵ on the protection of animals used for scientific purposes. This new Directive applies to live vertebrates and live cephalopods (Article 1.4). Article 4 enshrines the Three Rs principles in legislation – Replacement, Reduction, Refinement. Article 6 mandates that animals are killed with minimum ‘pain, suffering, distress’. Articles 7 and 8 provides exemptions for the use of endangered species and non-human primates in experiments, respectively. It is forbidden to take animals from the wild to carry out experiments, except when the procedure cannot be achieved using an animal who has been bred for use in procedures. It is furthermore prohibited to use stray and feral animals of domestic species in experiments. (Article 11). Article 14 ensures that ‘Member States shall ensure that, unless it is inappropriate, procedures are carried out under general or local anaesthesia, and that analgesia or another appropriate method is used to ensure that pain, suffering and distress are kept to a minimum’.</p> <p>With regards to animal testing for cosmetic products, Chapter V, Article 18 of Regulations EC No 1223/2009⁴⁶ of the European Parliament and of the Council of 2009 on cosmetic products prohibits to test finished cosmetic products and cosmetic ingredients on animals (testing ban). The same article also prohibits the marketing of finished cosmetic products and ingredients in the EU that were tested on animals (marketing ban). The testing ban on finished cosmetic products applies since 11th September 2004, while the testing ban on ingredients or combination of ingredients applies since 11th March 2009.</p> <p>With regards to animal testing on cosmetics, Poland falls under the EU commitment and has banned the testing on animals of finished cosmetic products, as well as their ingredients.</p> <p>Animals used in experiments are covered by the Act on the Protection of Animals used for Scientific or Educational Purposes (2015)⁴⁷.</p> <p>The Act on the Protection of Animals used for Scientific or Educational Purposes (2015) defines laboratory animals as specific species including Syrian hamster, domestic cat, zebrafish and leopard frog. Experiments on animals are only allowed if the Three Rs Principles – Replacement, Reduction and Refinement – have been taken into account. It is illegal to carry out procedures that involve severe pain, suffering or distress or to carry out procedures in order to obtain data that has previously been obtained by another EU country.</p> <p>Under the Act, scientists are required to gain permission from local ethics committee established under previous legislation to conduct experiments on animals. Experiments are only permitted on non-human primates or endangered species if the purpose of the procedure cannot be achieved with an alternative species. However, experiments are not allowed to be conducted on apes, wild animals or homeless animals.</p>	

⁴⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0063&from=EN>

⁴⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31986L0609&from=EN>

⁴⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1223&from=EN>

⁴⁷ <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC151961>



Reuse of animals in a mild or moderate procedure is allowed provided that they have recovered fully both physically and mentally. Conducting a procedure without the use of anaesthesia is only allowed with special permission from the local ethics committee. Facilities are required to care for animals left alive after experiments or to rehome them. Animals euthanised following experiments are required to be killed in a way that minimises pain, suffering or distress.

Facilities housing animals to be used in experiments are required to provide environments for the animals in their care that meet their physiological and ethological needs. The minimum standards for care will be determined in supplementary regulations by the Minister for Agriculture. However, these minimum standards were not found at the time of writing.

Facilities are required to appoint an appropriate person to oversee the care and welfare of the animals and organise the training of staff involved in animal handling. The overseer is responsible for finding new homes for animals no longer to be used in experiments and for rehabilitating wild animals before restoring them to their natural habitat.

The Act on the Protection of Animals used for Scientific or Educational Purposes (2015) mandates procedures for the National Ethics Committee for Animal Experiments and the local equivalents. The Committee is required to include representatives of the humanities or social scientists; in the field of philosophy, ethics or law; and representatives from social organisations whose purpose is animal protection. The participation of social scientists and representatives of animal protection organisations is also required for local ethic committees. Both the local and national committees have the power to revoke permissions for animal testing in the event of a facility failing to adhere to the conditions under the law including animal welfare standards. Committees are also responsible for carrying out annual inspections on all animal testing facilities; one third of which must be unannounced. Inspections are required for breeders, suppliers and users of animals. The National Committee is required to periodically report to the EU Commission on the use of animals in experiments in Poland.

Analysis

The Act on the Protection of Animals used for Scientific or Educational Purposes (2015) provides clear protections for animals used in experiments and extends to cover not only facilities performing procedures but also breeders and suppliers of animals. The Act enshrines the 3 Rs Principles and mandates the National Ethics Committee to promote them. It is positive that infringement of the animal protections in the Act are punishable beyond the revoking of permissions to perform procedures on animals for users, breeders and suppliers as well as the mandatory inclusion of experts in animal welfare as well as ethics or other social scientists on both national and local ethics committees.

The Act should also be commended for its promotion and push for animals used in experiments to be rehomed or returned to the wild/natural environments wherever possible. It should also be praised for banning experiments on animals when the data has already been produced in other EU countries.

At the EU level, it is positive that Directive 2010/63/EU enshrines the Three Rs principles in legislation. These respectively aim at replacing animals with non-animal methods as much as possible, reducing the number of animals used in experiments to the lowest level, and refining experimentation methods in order to cause the least amount of suffering possible. Numerous references are made throughout



the Directive to the duty for Member States to reduce animal suffering as much as possible. However, a loophole appears in Article 14, since the use of anaesthetics or analgesia is mandated 'unless it is inappropriate'. Thus, it is still possible in the EU to carry out experiments on live animals without them being rendered unconscious or insensitive to the pain.

With regards to animal testing for cosmetic products, it is positive that the EU has banned testing on finished cosmetic products and their ingredients through Regulations EC No 1223/2009. However, the testing and marketing bans remain limited. Notably, these bans only apply to cosmetic products and ingredients that are only used in cosmetics. Furthermore, the bans only apply to tests specifically aimed at consumer safety, but do not apply to worker safety tests. The bans also do not apply if the testing is intended to determine whether the product poses a risk to the environment.

Enforcement mechanisms

Under the Act on the Protection of Animals used for Scientific or Educational Purposes (2015) anyone who exposes animals to unnecessary pain, suffering, distress or permanent changes to the body or used animals in procedures without the consent of the local ethics committee is subject to a fine and/or imprisonment for two years. Anyone who causes the death of an animal following procedures through unnecessary pain, suffering, distress or permanent changes or without permission of the local ethic committee is subject to imprisonment for up to three years.

Persons who deny the local ethics committee the ability to operate as described under the law are subject to a fine or imprisonment of up to a year.

There is a fine for breeders or suppliers who do not keep animals under the specified conditions of the Act.

Key recommendations

- **The Government of Poland is encouraged to continue engaging with animal welfare organisations to promote alternatives to animal experiments.**
- **The Government of Poland is also encouraged to allocate funding to the development of alternatives to animal use in research.**

8. There are laws that apply to wild animals

Analysis of the legislation

Ranking	E
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At the EU level, wild animals are protected by various Directives and Regulations.



Council Directive 92/43/EEC⁴⁸ on the conservation of natural habitats and of wild fauna and flora, known as the Habitats Directive, prohibits all capture, killing, deliberate disturbance, destruction or taking of the eggs, deterioration or destruction of breeding sites or resting places of wild vertebrates listed in Annex IV(a) (Article 12). Furthermore, the keeping, transport, sale and exchange of these same species is also prohibited. Annex IV(a) lists over 400 species (Article 8). For over 90 species listed in Annex V, Member States must ensure that their exploitation and taking in the wild is compatible with maintaining them in a favourable conservation status (Article 14).

Council Directive 2009/147/EC⁴⁹ of the European Parliament and of the Council on the conservation of wild birds, known as the Birds Directive, provides various regimes for different bird species. 82 species listed in Annex II can be hunted, however, the hunting periods are limited and hunting is forbidden when birds are at their most vulnerable (i.e. during their return migration to nesting areas, reproduction and the raising of their chicks) (Article 7). Overall, this Directive prohibits activities that directly threaten birds, such as their deliberate killing, capture or trade, or the destruction of their nests. With certain restrictions, Member States can allow some of these activities for 26 species listed in Annex III (Article 6). Member States must outlaw all forms of non-selective and large scale killing of birds, especially the methods listed in Annex IV (Article 8).

Council Regulation (EC) No 338/97⁵⁰ on the protection of species of wild fauna and flora by regulating trade therein also applies to wild animals. Article 4.1(c) provides that when an endangered species is introduced in the EU, the competent scientific authority must be satisfied that the intended accommodation for a live specimen at the place of destination is adequately equipped to conserve and care for it properly. In the same vein, Article 4.2(b) mandates that there must be a written proof that the intended accommodation for a live specimen is 'adequately equipped to conserve and care for it properly'. Article 4.6.(c) provides that the introduction of species in the EU may be restricted if species have a high mortality rate during shipment or for which it has been established that they are unlikely to survive in captivity.

Council Regulation (EC) 1/2005⁵¹ on the transport of animals is also applicable to wild animals, both those living in captivity as well as wild animals living in the wild but susceptible of being transported (e.g. for rehabilitation or reintroduction purposes). Article 3 (General Conditions) provides that 'no person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them'. Chapter II, Article 1.3 provides that a notice shall be given explaining that the animals are wild, timid and dangerous and containing written instructions about feeding, watering and any special care required. Furthermore, Chapter III Article 1.1 mandates that wild animals shall become acclimatised to the mode of transport prior to the proposed journeys.

The general anti-cruelty provisions of the Animal Protection Act (2017) is applicable to this category of animals. Chapter 6 of the Act deals specifically with wild animals; Article 21 states that wild animals

⁴⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31992L0043&from=EN>

⁴⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0147&from=EN>

⁵⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31997R0338&from=en>

⁵¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>



are a 'national good and should be provided with conditions for development and free existence', with exceptions listed in Article 33a(1) for population control and hunting permits.

Protection of wild animals is also dealt with in the separate Nature Conservation Act (2018). Article 52 of this Act prohibits capture, killing and disturbing wild animals in national parks and buffer zones, nature reserves and landscape parks. The Act prohibits hunting except in designated areas or in conservation plans. For protected species, it is prohibited to deliberately kill, wilful mutilate, deliberately destroy eggs or juveniles, capture, rear or breed, sell, and destroy or prevent access to shelters and nests.

Protected species are named by regulation of the Minister for the Environment in consultation with the Minister for Agriculture. Protections range from animals under strict protection requiring active protection from humans to those under partial protection that can be obtained and the methods of obtaining them. However, these regulations were not found at the time of writing.

The Nature Conservation Act (2018) provides some exceptions regarding protected species of wild animals in which they can be disturbed including for the prevention of serious damage to crops, livestock, forests, fish stocks, water and other types of property. However, the capture or killing of protected species is not allowed to be carried out using many devices including: blinded or mutilated animals as decoys; electrical devices that can stun or skill; explosives; non-selective traps; crossbows; poisons; automatic or semi-automatic weapons; aircraft or other moving vehicles.

The Hunting Act (1995 – last amended 2018)⁵² permits the hunting of animals with the purpose of managing wild populations. Article 5 of the Hunting Act 1995 requires the Minister responsible for the environment to establish detailed rules including a list of species which may be hunted, and the Regulation of the Minister of Environment of 12 October 2011 on fauna species protection establishes species of predators which may be caught in live traps, conditions, seasons and places of catching, and types of live traps and conditions to be met to ensure selective catching of predators. Article 44a permits the use of traps. The Hunting Act (2018) requires hunters (both foreign and domestic) to undergo a year's internship at a hunting club or game farm, undergo training conducted by the Polish Hunting Association or successfully pass an examination from the Polish Hunting Association. Additional permission is also required from the appropriate leaseholder or manager of a hunting district. Hunting with Greyhounds or their hybrids is prohibited under the Act. There are quotas for game species that are not protected and hunting beyond quotas mandated by the Ministry for the Environment is prohibited. Other cruel hunting methods such as using explosives, poisons and snares are prohibited under the Act.

Analysis

It is positive that wild animals are covered by the basic anti-cruelty legislation; however, in practice the exemption for hunting may create the possibility of poor welfare for targeted wild animals.

The Polish Hunting Association is the basic authority established by the Hunting Act 1995 (Article 32) that supervises hunting management to implement the law, principles of ethics, hunting customs and traditions. There are clear stipulations on the weapons used as well as the ammunition and scope and

⁵² <http://www.fao.org/faolex/results/details/en/c/LEXFAOC129643>

Polish organisers are obliged to report any violations to police. Although the legislation does have conservation and population management considerations as stated aims, it allows hunting to take place of a large number of species of animals and with different hunting methods including traps. Culling and hunting licenses are given with provisos that the species will not be affected, rather than by reference to consideration for the individual animal's welfare. The legislation states that the appropriate traps for specific species should be used, but this does not mean that other animals will not be caught in them and suffer injury.

The primary focus of legislation appears to be related to management of species either for conservation or for hunting. Wild animals are valued as game and hunting in Poland is advertised to attract international hunters to the country.⁵³ The failure to fully recognise animal welfare issues relating to wild animals is a significant barrier to progress.

The Directives and Regulations applicable to wild animals at the EU level focus primarily on the conservation of wild species, rather than on protecting the welfare of individual animals. In particular, it would be beneficial for animal protection legislation to forbid the use of the cruellest forms of hunting (i.e. dog hunting, live baiting, poisoning, trapping, falconry, bow hunting).

It is positive that Council Directive (EC) 1/2005 is not limited to livestock, but also covers the transport of wild animals. However, the welfare provisions in this Directive are quite general. For instance, Chapter III, Article 1.1 does not specify how wild animals shall become 'acclimatised' to the mode of transport of the proposed journey.

Enforcement mechanisms

Commission of a cruelty offence is punishable by a fine or imprisonment, and with confiscation, with the possibility of a ban on owning or working with animals and/or paying a fine to an animal protection organisation (Article 35 Animal Protection Act 2017). The same enforcement mechanisms exist for breach of the provisions relating to companion animals under Chapter 4 (Article 35).

Under the Nature Conservation Act (2018) anyone who violates prohibitions in a national park, nature reserve, or landscape park including capturing or killing a wild animal is punishable by detention or fine. Any person found in possession of protected animal specimens is liable for imprisonment of up to five years.

The Polish Hunting Association has disciplinary powers under Chapter 6a of the Hunting Act 2018 for breaches of the Act and of the Association's rules, including fines and suspension of membership. There do not appear to be any criminal offences created by the Hunting Act 2018.

Key recommendations

- **The Government of Poland is encouraged to ban any form of hunting that does not directly support subsistence i.e. for feeding oneself and one's family and not for commercial gain. Subsistence hunting operations must employ the least cruel methods of hunting and slaughter,**

⁵³ <https://www.bookyourhunt.com/hunting-in-poland>

and all possible efforts should be made to reduce the time to death of animals killed in these hunts. At the very least, the Government is strongly encouraged to forbid the use of the cruelest hunting methods such as trapping, baiting and dog hunting.

- The Government of Poland would benefit from implementing a standardised hunting permit license, which would be delivered after successful completion of a test by which applicants would be required to show their knowledge of hunting methods where animal suffering can be minimised. Hunters’ knowledge of species should also be assessed, so that their activities do not undermine conservation efforts. The test and the hunting license should be issued by the Government rather than the national hunting association.

Goal 3: Establishment of supportive government bodies

9. The Government has assigned responsibility and accountability for improving animal protection at a high government level and has provided resources

Analysis of the legislation	
Ranking	D
<p>Responsibility for developing regulations for different categories of animals is divided among several government agencies including the Ministry of Agriculture and the Ministry for the Environment with some delegation to local governments. There is no single government ministry mandated with the protection of all animals.</p> <p><u>Analysis</u></p> <p>Although there are responsibilities within the government regarding aspects of animal protection, the government has not put into place an overall supervisory body or strategy for improving animal welfare.</p> <p>The existing legislation identifies specific government bodies responsible for implementation and mechanisms for the production of secondary legislation. The structure could benefit from the establishment of an overall body responsible for animal welfare in all areas, but it is clear that the Government is prepared to allocate resources to improving animal welfare.</p>	
Enforcement mechanisms	
<p>The responsibilities of relevant government bodies are set out in legislation. In places these extend only to powers to make secondary regulations on specified issues but in many instances there is an obligation to do so (generally where required in order to comply with European Union legislative requirements; for example under Article 12(7) of the Animal Protection Act 2017).</p>	

Key recommendations

- The responsibility for different categories of animals currently falls under multiple Ministries and Departments. The Government of Poland is encouraged to align all animal welfare under one Ministry, with appropriate resources for research, implementation and enforcement.
- The Government of Poland is urged to create a multi-stakeholder committee to effectively engage all actors involved in maintaining the wellbeing of animals and to find solutions for welfare concerns. This committee would guide the country's policies and strategies on animal welfare, in line with international standards. This committee should include representatives of animal welfare organisations.

Goal 4: Support for international animal welfare standards

10. The Government has incorporated the OIE's guiding principles for animal welfare and its animal welfare standards into policy and legislation

Analysis of the legislation

Ranking	D
<p>The OIE Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle, pigs), stray dog population control, the use of animals in research and education, and working equids.⁵⁴</p> <p>The existing legislation does contain the basic mandates of the OIE standards, including those on farmed animals, transport and slaughter and the use of animals in scientific research. However, there is no development of initiatives to cover standards found in the Aquatic Animal Health Code, stray population control, or killing of animals for disease control purposes.</p> <p>Analysis</p> <p><i>The legislation in place is effective across most categories of animals. Consistency with international animal welfare standards and explicit incorporation of all OIE's guiding principles and standards would help with implementation in the country.</i></p> <p><i>There is no evidence of resource constraints, either human or financial, to improve animal welfare in the country through incorporating the OIE's guiding principles and standards into legislation. However, in the recent past the Polish government has shown some lack of commitment to implementing and enforcing European Union Directives and Regulations related to some of the OIE's animal welfare standards. This lack of commitment suggests that there is a barrier to improvement in this area.</i></p>	

⁵⁴ <http://www.oie.int/infographic/StandardsAW/index.html>



Enforcement mechanisms

The OIE standards covered in existing legislation have enforcement mechanisms including fines and imprisonment.

Key recommendations

- At present, OIE animal welfare standards are partially implemented in the Poland's legislation. In particular, working equids and stray animal population management are not effectively covered by Poland's animal protection legislation or in supplementary regulations. Therefore, the Government of Poland is encouraged to enact mandatory guidelines for these species, in accordance with the OIE animal welfare standards.

11. The Government has pledged in principle support for the Universal Declaration on Animal Welfare (UDAW)

Analysis of the legislation

In 2009 the 27 Agriculture Ministers of the European Council, including from Poland, unanimously approved a statement on the UDAW encouraging the European Commission to support and initiate further international initiatives to raise awareness and create a greater consensus on animal welfare, and inviting the Member States and the Commission to support the UDAW initiative.⁵⁵

Note: The UDAW is a proposed formal international acknowledgement of a set of principles giving animal welfare due recognition among governments and the international community. An expression of support for the UDAW demonstrates a government's commitment to working with the international community to improve animal welfare.

Analysis

The UDAW is currently the only international instrument that creates a soft law commitment for countries to acknowledge and respect animal sentience and to work towards ending cruelty and protecting the needs of animals. The Government has expressed full formal support for the UDAW, thus helping to incorporate animal welfare into policy discussions.

Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

Key recommendations

⁵⁵ http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/agricult/106877.pdf



- Poland has provided government support to UDAW, through a joint EU declaration in 2009. Poland should act as an example for other countries by pledging continued support in principle to UDAW.

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