

The Court of the European Union examines the competence of the European Union with regard to cruelty to animals and the protection of Europe's street animals.

Luxembourg. The protests that have lasted for decades against the ethically unacceptable treatment of free living dogs and cats, above all in the states of Southern and Eastern Europe, and also against the unchecked abuse of animals all over the European Union, are now the subject of court proceedings at the EU Court: after pending for two years, on 27 September 2016 a hearing took place preceding the court's decision about on whether or not this issue falls within the EU's competence.

We hope to achieve definitive legal certainty on this question of EU competence because our application for registration of an European Citizens' Initiative (ECI) was rejected by the European Commission. Successful court action to have this rejection declared null and void will mean that these areas are no longer the exclusive responsibilities of the EU's member states. This is a means of enabling every citizen to have a rejection legally reviewed if he/she thinks that politicians are using this "outside our competence" argument to evade the issue.

With the name of the European Citizens' Initiative "**Ethics for Animals and Kids**" the petitioners intend to raise awareness of the high importance that ought to be bestowed on the psychological interactions between humans and animals. The counter-arguments of the European Commission against our complaint state that the scope of our initiative was not presented clearly enough, resulting in the Commission assuming that it was limited to the **better** protection of animals only and thus outside the EU Commission's competence.

This case has been preceded by the European Commission's consistently negative attitude since approximately 2010 to all matters of animal welfare, whereas persistent protests from all over Europe obviously demonstrate the feelings of the majority of people, a fact of which the Commission had been well aware according to the animal welfare plan published then. The plaintiffs, a group of citizens from seven European states, expect this court case to result on the one hand in the reinstatement of our ECI and on the other hand in the clarification of fundamental questions of animal welfare in general and of issues of surplus dogs and cats in particular. Furthermore we hope this case will enshrine and enhance the significance of the psychological interaction between animals and humans in jurisdiction.

At the time of the application the Commission had already rejected several initiatives for the protection of free roaming dogs and cats due to lack of competence. In all cases the Commission cited a lack of competence in animal welfare issues irrespective of the animals' species or their legal status. However, like other experts, the renowned Austrian psychiatrist and forensic scientist, Dr Adelheid Kastner, in her expert opinion written for this case, clearly describes the influence of animal cruelty on the healthy development of children and on their later tendency to become violent. This requires society to respond appropriately. Furthermore the huge divergences in the ethical standards of different EU member states will lead to a split in society and hamper European integration. This is how Dr Kastner summarises the current state of science in this field.

The plaintiffs further claim that tourism suffers from the brutal measures taken against dogs and cats, as illustrated by Europe's most stringent law on dog ownership in Denmark: the compulsory killing of

animals because of their breed leads to a decline in tourism, and "festivals" like the mass-slaughtering of whales and the wanton killing of zoo animals make it difficult for EU citizens to make use of their right to free movement. In Romania the so-called "euthanasia law" in practice turned out to give carte blanche to municipalities to abuse animals with impunity. Whereas the wording of the law appears on paper to be humane and reasonable, in practice it resulted in the most brutal atrocities against man's best friend – often with lucrative income for local politicians from taxpayers' funds.

The European Citizens' Initiative ECI advocates the management of dog and cat numbers through neutering, a policy which has been proven to reduce the number of unwanted animals without killing or imprisonment. Experience has shown that this policy of "Neuter & Return" (to the place where the animal usually lives), is cheaper than "Catch & Kill" and is the only sustainable solution. Member States would benefit economically from applying that solution to the surplus dog and cat problem and would enhance both their own and their citizens' reputations within the European Community and abroad.

Not least this ECI strives to establish in EU Law practical ethics - since the ability of animals to suffer has long been established by scientists - as ideals, as a basis for integration and finally as a guarantee for peace. And to make such ethics for common welfare clear and binding for the European Union and its member states. This is the vision of the initiator of the ECI, Lawyer Mag. Brigitte Swoboda. In her view no other outcome is objectively acceptable. Indeed in most countries there are Animal Protection Laws, as wanted by the democratic majority of people, but these laws are rarely acted upon.

Yet, according to the EU Commission, all these issues evidenced in experts' reports, are "outside the EU's competence" or alternatively were not presented "comprehensibly". However, the plaintiffs, Brigitte Swoboda (AT), Achim Richter (DE), Robert Smith (GB), Carmen Arsene (RO), Magdalena Kuropatwinska (PL), Nathalie Klinge (NL) and Christos Yiapanis (CY), aim to expose to public debate the distinction between the areas of competence of the EU Commission on paper and the absence of political will in practice to deal with these issues. The EU Commission's refusal to address these problems frustrates citizens and brings the European Union as a whole into disrepute.

The court's verdict is expected in a few weeks.

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