



18.7.2011

NOTICE TO MEMBERS

Subject: Petition 1613/2010 by Rosa Letamendia Perez de San Román (Spanish), on behalf of the "Sociedad Protectora de Animales y Plantas de Alava Vicky Moore", on the illegal export of stray dogs and cats from Spain

1. Summary of petition

The petitioner, who is President of the above association, refers to the large number of stray dogs and cats that are exported from Spain without any form of controls to other EU Member States, where an uncertain future awaits them. The petitioner points out that this is a serious infringement of the EU provisions on animal health requirements governing trade in and the transport of pet animals between Member States. The petitioner considers that the problem of stray pets in Spain and trade in these pets should be solved in an effective and animal friendly way, and therefore calls on the European Parliament to look into the matter.

2. Admissibility

Declared admissible on 4 April 2011. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 18 July 2011

The petition refers to the non commercial and commercial movement of animals belonging to species that under certain conditions are considered pet animals in accordance with Union law, notably dogs and cats.

It is alleged that the Spanish authorities are not enforcing Union law in relation to the export of stray dogs and cats from their territory and in relation to the protection of animals. Instead of punishing the abandoning of dogs and cats in their territory, the authorities are acting in connivance with animal protection organisations to either put those animals down or send them in considerable numbers for adoption in other Member States.

The petition highlights the illegal nature of the exports because:

- there is no control over the animals leaving their country of origin;
- European Union standards for the transport of dogs and cats are regularly infringed;
- the destination Member State is not informed of the movement of those animals.

The petition calls upon the Council, the European Parliament and the Commission to use their powers to take appropriate measures to address the perceived lack of measures taken by the Spanish authorities to prevent the situation described from recurring.

The petition calls upon the Parliament to refer this petition to the relevant Committees so that the necessary measures and initiatives can be taken.

The Commission's observations

a) Abandoning of dogs and cats and the control of stray dog populations

Although a considerable body of EU legislation for the protection of animals has been adopted, matters such as abandoning dogs and cats and stray dog population control as reported in the petition remain under the sole responsibility of the Member States which shall lay down the penalties foreseen in case of infringements of national legislation.

Therefore the alleged lack of enforcement of animal protection laws does not appear to be an infringement of Union law.

The Commission can only provide technical support to general initiatives to promote responsible ownership and proper population control. The World Organisation for Animal Health (OIE) guidelines for the control of stray dog populations¹ constitute a good guidance for the Member States to act in this field.

b) Exports of dogs and cats

Union legislation on the movement of species that may be considered pet animals under Union law is governed by two basic provisions:

Council Directive 92/65/EEC lays down the animal health requirements for trade in and imports into the European Union of animals and products of animal origin not covered in this respect by specific Union legislation (adopted e.g. for livestock). It lays down the animal health requirements applicable to trade in, amongst others, ferrets, cats and dogs.

Regulation (EC) No 998/2003 *on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC* harmonises the rules for the non-commercial movement of pet animals. Its scope is limited to the species listed in Annex I thereto. Article 3(a) defines pet animals as animals "*which are accompanying their owners or a natural person responsible for such animals on behalf of the owner during their movement and are not intended to be sold or transferred to another owner*".

As regards animal welfare, dogs and cats moved under the conditions laid down in Directive 92/65/EEC are subject to a pre-movement clinical examination, and their fitness to travel is to be certified. During transport, those animals are covered by Council Regulation (EC) No

¹ adopted by the 175 OIE Member Countries, including the 27 Member States of the EU, at the OIE General Session in May 2009

1/2005 on the protection of animals during transport and related operations¹. This Regulation does not apply to the non-commercial movement of dogs and cats.

In the case where a dog, cat or ferret is moved to another Member State for commercial purposes, Member States are required to carry out veterinary checks at the place of dispatch in accordance with Directive 90/425/EEC. Those checks shall ascertain that the consignments comply with the conditions laid down in Directive 92/65/EEC. To ensure traceability, the movement is notified by the official veterinarian to the competent authorities of destination through a computerized system (TRACES) on the day of certification in accordance with Article 4(2) of Directive 90/425/EEC.

Directive 90/425/EEC does not apply to the movements of pet animals which are not the subject of a commercial transaction. The veterinary checks on non-commercial movements between Member States of pet dogs and cats are to be carried out by law-enforcing bodies in the Member States in the framework of random or targeted non-discriminatory checks on pet animals, in line with general principles of the Treaty.

It would have to be considered on a case-by-case basis whether an animal transported from one Member State to another falls under Regulation (EC) No 998/2003. This appears conceivable e.g. if a pet animal is adopted in Spain by somebody in another Member State and the ownership is documented prior to dispatch in the passport accompanying that animal to the Member State of residence of the owner.

Some of the issues raised in the petition, i.e. abandon, dog population control through adoption or euthanasia, fall outside Union competence.

With regard to alleged systematic disregard of Union legislation governing the transport of pet animals across Member State borders whether for commercial purposes or otherwise, the Commission will be glad to raise this with the Spanish Competent Authorities should the petitioner provide prima facie evidence in support of these allegations.

For completeness it should also be noted that the petitioner has also sent a complaint on the matter to President Barroso on 30 December 2010. A reply has been sent to the complainant.

¹ OJ L 3, 5.1.2005, p. 1.