

Follow up to the European Parliament resolution on the establishment of an EU legal framework for the protection of pets and stray animals, adopted by the Commission on 26 September 2012

- 1. Resolution tabled pursuant to Rule 202(2) of the European Parliament's Rules of procedure by the Committee on Petitions (PETI)**
- 2. EP reference number:** B7-0341/2012 / P7_TA-PROV(2012)0291
- 3. Date of adoption of the resolution:** 4 July 2012
- 4. Subject:** Establishment of an EU legal framework for the protection of pets and stray animals
- 5. Brief analysis/assessment of the resolution and requests made in it:**

The resolution claims that many citizens call for an "EU legal framework for the protection of pets and stray animals" and reiterates, amongst others, Article 13 of the Treaty on the Functioning of the European Union (TFEU) and the European Convention for the Protection of Pet Animals.

Hence it calls on the Commission to propose legislation establishing such a framework. The proposal should, according to the resolution, include:

- rules for the identification and registration of animals,
- stray animal management strategies, including vaccination and sterilisation programmes,
- measures to promote responsible ownership,
- the prohibition of unlicensed kennels and shelters,
- the prohibition of the killing of stray animals without medical indication,
- information and educational programmes in schools on animal welfare,
- severe sanctions to be imposed on any Member State which fails to comply with the rules.

6. Response to requests and overview of action taken, or intended to be taken, by the Commission:

Identification and registration of dogs

Regarding the identification of animals concerned the Commission draws the attention of the European Parliament to Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 *on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC*¹. Article 3 of this Regulation defines ‘*pet animals*’ as animals of the species listed in Annex I (i.e. in particular cats, dogs and ferrets) "*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*". Only if these animals accompany their owners on a trip into a Member State either from another Member State or from a third country must they be identified by an implanted transponder or a legible tattoo applied before 3 July 2010, accompanied by a passport issued by a veterinarian authorised by the competent authority in their Member State of origin which documents a valid anti-rabies vaccination and, where applicable, a test for antibodies against the rabies virus and additional health measures. This legislation is based on Article 43 (agriculture) and 168 TFEU (public health) and justified by concerns related to the spread of zoonotic diseases such as rabies.

In relation to dogs, cats and ferrets that are not classified as pets, Council Directive 92/65/EEC lays down rules on trade in and imports from third countries of such animals that entail veterinary checks to ensure compliance with the animal health and welfare rules set up for such movements.

Animal welfare standards adopted in the framework of international organizations

The European Convention for the Protection of Pet Animals is not part of the body of EU legislation and it remains up to each Member State to decide whether they want to ratify and implement this Convention prepared under the aegis of the Council of Europe, i.e. outside the EU institutional framework.

The Commission has consistently supported the work performed by the World Organisation for Animal Health (OIE) to develop guidelines for the control of stray dog populations, highlighting the importance of owned-dog registration and identification, along with birth control, as fundamental parts of responsible dog ownership. These standards – adopted in 2009 – also indicate the bodies responsible for developing and implementing appropriate legislation and training to regulate dog capture, transport, killing as well as minimum housing and care criteria. However it is up to each Member State, as full members of the OIE, to consider how they might most appropriately use these international guidelines in their national context.

The Commission intends to continue its support for future work of the OIE in this area.

Future legal framework

The Commission is unable to propose the adoption in EU law of the remainder of the desired legal framework because Union competences are governed by the principle of conferral

¹ OJ L 146, 13.6.2003, p. 1.

(Article 5 of the Treaty on European Union – TEU). Thus competences not conferred upon the Union by the Treaties remain within the Member States (Article 4 TEU).

The Treaties do not provide a legal basis for the requested rules which all relate to animal welfare protection falling within the competence of the Member States. Article 13 TFEU is not a legal basis, nor does it describe an objective of the Treaties that could justify the use of the "flexibility clause" (Article 352 TFEU).

Only a change in the Treaties making the protection of the welfare of animals an objective of the Treaties can provide the necessary legal base for the desired legal framework. There is currently no unanimity of the Member States to engage in such a treaty reform with this aim in mind.

Non-legislative actions

In relation to any other non-legislative initiative concerning the points raised, the Commission would like to refer to the comments provided in the follow up fiche related to the European Parliament Resolution on the "*European Union Strategy for the Protection and Welfare of Animals 2012-2015* (2012/2043 INI)"².

² P7_TA-PROV(2012)0290, 4 July 2012.