

Judgement of the Hellenic Council of the State Δ1751/2021

Abstract of the Judgement of the Hellenic Council of the State (ΣΤΕ) Δ1751/2021: Failure of the statutory legislator while enacting provisions related to the slaughter of animals in the context of religious rites.

Judgement of the Hellenic Council of the State Δ 1751/2021: Failure of the statutory legislator while enacting provisions related to the slaughter of animals in the context of religious rites, to weigh its obligation to protect animals and its obligation to respect the religious freedom of Muslims and Jews living in Greece

Chairing Judge: E. Antonopoulos

Mover: Ch. Sitara

The above-mentioned Judgement ruled that the joint Ministerial Decision No 951/44337/21.4.2017 of the Minister of Rural Development and Food and the Deputy Minister of Development is unlawful, which had defined the necessary supplementary measures for the application of Regulation (EC) 1009/2009, in relation to the slaughter of animals in slaughterhouses in the context of religious rites.

More specifically, the following was accepted: Regulation (EC) 1099/2009, taking into consideration that the proper treatment of animals is a Community value, establishes as its principal objective the protection of animals. To that end, it sets out in principle in article 3, the general requirement that animals shall be spared any avoidable pain etc. during slaughtering and related operations and further on, in other provisions of the said Regulation, a set of particular requirements, with the prevailing one being the requirement of article 4, par. 1, that animals shall only be killed after stunning. However, taking into account that the Muslim and Jewish religions entail a specific rite for the slaughter of animals, whose main characteristic is the killing of animals without prior stunning so that they will not be dead during slaughtering and their blood will have completely drained, it allows in par. 4 of article 4 thereof, the slaughtering of animals without the stunning requirement under certain conditions and mainly provided that the slaughter takes place in a slaughterhouse. Furthermore, in article 26, the Regulation allows Member-States on one hand to maintain any national rules aimed at ensuring more extensive protection of animals at the time of killing and on the other, to enact new national rules aiming at the same result which, according to par. 2(a)(c) may relate to the slaughtering of animals with religious rites.

Furthermore, according to everything ruled in the Judgements of the ECJ and the ECHR, it was ascertained that (a) the Regulation (EC) 1099/2009 does not implement the necessary compromise between the welfare of animals and the freedom of people to express their religion, but simply establishes the framework for the compromise of these two principles with which the Member-States must proceed, acknowledging a wide assessment framework for the States which must be combined with supervision from the European

Community, (b) according to the interpretation of the Charter of Fundamental Rights of the European Union, the development of values and perceptions among the citizens of the Member-States must be taken into account; consequently, the welfare of animals may be primarily taken into account in the context of slaughtering for religious rites and in parallel, contribute to the justification of the proportionality of a specific legal provision, (c) Member-States may *inter alia*, enforce the stunning requirement before the killing of animals, which also applies in the context of a slaughter performed on the basis of religious rites, provided however that the fundamental rights consolidated by the Charter will be respected and (d) unlawful intervention against religious freedom is present. when basically the prohibition to perform religious slaughters results to the inability of believers residing in a country to be supplied meat that derives from animals slaughtered in accordance with the commands of their religion.

Based on the above facts, it was ruled that via the issuance of the Act appealed against, which permits in article 2 thereof, slaughtering of animals in the context of religious rites without stunning and without furthermore, according to article 3 of the said Act, providing for substantially stricter national rules for slaughter in the context of religious rites, the Greek statutory legislator failed to weigh its obligation to protect animals pursuant to article 13 of the TFEU and its obligation to respect, pursuant to article 13 of the Greek Constitution and article 10 of the Charter of Fundamental Rights of the European Union, the religious freedom of Muslims and Jews living in Greece. More specifically, according to what was ruled, the statutory legislator erroneously perceived that it was bound by article 4, par. 4 of the said Regulation, to permit slaughter in the context of religious rites without stunning of animals, despite that the provision of article 2, par. 2 of Law 1197/1981 which echoes the contemporary beliefs which are in compliance with the EC Law for the treatment of animals during slaughtering, already prohibits the killing of mammals in slaughterhouses without stunning.

With the above rationale, it was ruled that the Act appealed against has been issued in violation of article 2 par. 2 of Law 1197/1981 which is interpreted in accordance with the letter of the Regulation (EC) 1099/2002 and the principles of animals welfare, as these are founded on article 13 of the TFEU (Treaty on the Functioning of the European Union) and on Protocol No 33 and to that end, the petition in question was granted and the Ministerial Decision appealed against was annulled, so that the Administration would regulate animals slaughter in the context of religious rites in a manner so as to ensure both the protection of animal against any distress during slaughtering and the religious freedom of Muslims and Jews living in Greece, thus utilising the potential provided by the above provisions of article 26 of the Regulation (EC) 1099/2009.