

# **DECISION OF THE CONSTITUTIONAL COURT AND CONSTITUTIONAL COMPLAINT**

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## **My note:**

**The Constitutional Court of the Czech Republic decided** without the presence of the participants on 23 July 2020 in the matter of my constitutional complaint **File no. III. ÚS 1793/20 to reject this constitutional complaint and the related proposal to repeal the provisions of the Veterinary Act.**

Most important, however, is the following opinion of the constitutional court, which has the nature of a **binding precedent, which in my opinion is a crime against humanity, because it de facto legitimizes contemporary murders of tens of millions of farm animals for each month also in the territory of the Czech Republic.** According to this decision of the Constitutional Court „in addition, it is for the lessor to determine what goods are to be offered at the market and to determine the conditions for their sale. **The rejection of the complainant's application for the lease of a market place justified on the grounds that his intended sale of carrion meat (even fresh and perhaps also with a veterinary certificate) is in conflict with veterinary regulations, compliance with which is required by the Market rules, represents“ allegedly „a completely legitimate procedure on the part of the town of Hustopeče.“**

The Constitutional Court states that it is allegedly not another intervention of a public authority, **although the issue of the Market rules of the municipality is regulated by public Section 18 of Act No. 455/1991 of Collection the Trade Licensing Act.** According to this decision of the Constitutional Court „**concluding of the contract for the lease of a market place in the market operated by the municipality is“ (so allegedly) „a purely private matter** (in the case of the municipality it is done independently) and none of the potential contracting parties can be forced to enter into a contractual relationship.“

According to my constitutional complaint, the above-mentioned refusal of the town of Hustopeče to lease me a market place for the sale of my

above-mentioned assortment was a lasting intervention of a public authority other than an administrative decision, because it was partly independent and on the contrary partly delegated (i.e. administrative, i.e. public) competence of the town of Hustopeče and of the administrator of the market, because it exceeds the scope of delegated competence according to the public Section 18 of Act No. 455/1991 of Collection the Trade Licensing Act (hereinafter also "Trade Licensing Act") regulating the issuance of Market rules in municipal regulation, virtually its implementing Operating rules of town market on Dukelské square in Hustopeče (see its paragraph 1). Therefore, my lease of marketplace on this market involved the unconstitutional performance of the public service only partially within the independent, i.e. private competence of the town of Hustopeče and of the market administrator. Although the town of Hustopeče and the market administrator are entitled to determine the conditions of sale on their market in the Market and Operating rules, but they are then obliged to comply with these legal Acts and they must perform this public service in a non-discriminatory way neither in a purely administrative or private discretion according to below mentioned Article 2 paragraph 3 of the Constitution of the Czech Republic without unconstitutional discrimination in relation to all persons in this market during the sale agency of, among other things, fresh, chilled or frozen meat, which is allowed here according to the Operating rules and happens here in my personal experience. In addition, my assortment was not excluded from sale at this market as unsuitable (see paragraph 1 of Operating rules) but for violation of the veterinary act (see paragraph 9 of Operating rules). Rejection of my assortment by the town of Hustopeče and by market administrator for violation of the public veterinary act (see paragraph 9 of Operating rules) in this matter is according to my constitutional complaint the unconstitutional performance of public service and performance of measure or other intervention of a public authority within Section 72 paragraph 5 of the Act no 182/1993 of Collection on the constitutional court (hereinafter also "act on the constitutional court"). **Therefore, this unconstitutional lasting intervention of a public authority is not a purely private law relationship, and therefore the jurisdiction of the Constitutional Court is also given.**

Because I want to pay my living costs from this sale of my relatively expensive assortment and to exercise it as my main profession, this unconstitutional lasting intervention of a public authority is a refusal of an administrative permission in connection with the requirements for the exercise of my profession\*, thus among other things a dispute over civil rights and obligations and the substantial harm according to the Article 6 Right to a fair trial in conjunction with Article 35 paragraph 3) letter b) of the **European CONVENTION ON THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**, as amended by Protocols No 11 and No 14.

\*Bentham v. The Netherlands, No. 8848/80, October 23, 1985, Series A No. 97, § 36

I confirm that I have used all available and effective remedies in the given State (Czech Republic), namely a letter with the data message of the town of Hustopeče and the market administrator: Organizational unit of the town of Hustopeče Administration and maintenance of buildings dated 25 June 2020 reference number: MUH/37082/20/433, file reference: MPO/7131/20/433. To the exhaustion of all domestic remedies against this unconstitutional lasting intervention of the town of Hustopeče, I state the following. This lasting intervention of a public authority goes beyond the independent, i.e. private competence of the town of Hustopeče due to the regulation of the issued Market and Operating rules of its market within the public Section 18 of the Trade Licensing Act and so it is unconstitutional performance of public service only partially within the public (i.e. administrative competence). Due to the partially independent, i.e. private competence of the town of Hustopeče in this matter, it is not possible to proceed here according to Act No. 500/2004 of the Collection on the Administrative Procedure Code and Act No. 150/2002 of the Collection on the Administrative Procedure Court Code. **Therefore, it is the execution of measure, virtually other intervention of a public authority within the meaning of Section 72, Paragraph 5) of the Act on the Constitutional Court, against which there were no other remedies than the above-mentioned constitutional complaint and against which this constitutional complaint was not inadmissible.**

**CZECH REPUBLIC**

**RESOLUTION**

**Of the Constitutional Court**

The Constitutional Court ruled in a senate composed of the President Jiří Zemánek ( Judge-Rapporteur) and Judges Radovan Suchánek and Vojtěch Šimíček on the constitutional complaint of **JUDr. Dalibor Grůza , Ph.D.** , apartment Mírová 1098/4, Hustopeče, represented by JUDr. Miroslav Moltas , LL.M., lawyer, registered office Střední 933/10, Hustopeče, against another intervention of a public authority, connected with a proposal to repeal § 3 par. d), § 5 par. 1 let. h), § 18, § 21 par. 1, § 27a par. 1 let. b) and par. 3, § 39 par. 2 and par. 3, § 39a to § 41 and § 42 par. 2 and par. 3 of Act No. 166/1999 Coll., on veterinary care and on the amendment of some related acts ( Veterinary Act), as amended, as follows:

**The constitutional complaint and the related proposal are rejected.**

Justification:

1. By a submission received by the Constitutional Court on 27 June 2020 and supplemented by a submission dated 30 June 2020, the applicant objected to the communication from the Town of Hustopeče dated 24 June 2020 File no. MUH / 37082/20/433, which did not

grant his request for the lease of a market place in the market operated by the town of Hustopeče for the purpose of "sale unprocessed after veterinary autopsy of fresh meat of poultry carrions (hens) from own breeding for human consumption" due to discrepancy of this application with legal regulations [specifically with Act No. 166/1999 Coll., on Veterinary Care and on the Amendment of Certain Related Acts (Veterinary Act), as amended later regulations]. It demands that the Constitutional Court prohibit the town of Hustopeče and the market administrator (Administration and maintenance of the buildings of the town of Hustopeče, organizational unit) from preventing it from selling such meat. In the submission, he also proposed the repeal of the provisions of the Veterinary Act listed in the title.

2. In the conduct of the Town of Hustopeče, which refused to conclude a contract with it for the lease of a market place, the complainant sees another intervention of a public authority against which there is no procedural means of protection. The admissibility of a constitutional complaint is derived from § 75 para. a) of the Act

### III. ÚS 1793/20

No. 182/1993 Coll., on the Constitutional Court, as amended (hereinafter the "Act on the Constitutional Court"), as its significance substantially exceeds the applicant's own interests and was filed within one year.

3. Before the Constitutional Court proceeds to the factual assessment of the constitutional complaint, it is obliged to examine whether it meets all the requirements required by law and whether the conditions

for its hearing set by Act No. 182/1993 Coll., On the Constitutional Court, as amended, are given, below only the "Constitutional Court Act"). He did not reach such a conclusion in the present case.

4. A constitutional complaint pursuant to Article 87 para. d) The Constitution of the Czech Republic ( hereinafter the " Constitution") constitutes a procedural means for the protection of the subjective fundamental rights and freedoms of the individual complainant, which are guaranteed by the constitutional order. According to the Act on the Constitutional Court, a natural or legal person is entitled to file a constitutional complaint against a final decision in proceedings in which he or she was a party, measure or other intervention of a public authority violating his or her fundamental right or freedom guaranteed by constitutional order.

5. The complainant sees another intervention of a public authority in the fact that the town of Hustopeče refused to conclude a contract with him for the lease of a market place. However, a public authority intervention (other than a final decision), which is usually interpreted as a one-off, illegal and at the same time unconstitutional attack by public authorities on constitutionally guaranteed fundamental rights and freedoms, it cannot be considered at all in this case. Concluding a contract for the lease of a market place in the market operated by the municipality is a purely private matter (in the case of the municipality it is done independently) and none of the potential contracting parties can be forced to enter into a contractual relationship. In addition, it is for the lessor to determine what goods are to be offered at the market and to lay down the conditions for their sale. The complainant's refusal to rent a market place is justified by the fact that his intended sale of carrion meat (albeit fresh and possibly also with a veterinary certificate) is contrary to veterinary rules. whose observance is also required in the Operating rules of the Market, represents a completely

legitimate procedure on the part of the town of Hustopeče.

6. If the Constitutional Court did not find another intervention of a public authority in the rejection of the applicant's application for the lease of a market place, then his constitutional complaint must be assessed in the light of this conclusion. According to § 43 par. 1 let. d) of the Act on the Constitutional Court, the Judge-Rapporteur outside the oral proceedings without the presence of the participants shall reject the motion by a resolution if it is a motion for the hearing of which the Constitutional Court does not have jurisdiction. Non-jurisdiction means a situation where the complainant demands something to which the Constitutional Court is not entitled, namely that he is not at all capable of conducting such proceedings. Therefore, if the complainant demands the issuance of a decision prohibiting the town of Hustopeče and the market administrator from preventing the complainant from selling meat (carrions), the Constitutional Court does not have jurisdiction to hear such a motion. By hearing such a proposal, the Constitutional Court would deviate from the limits of its competence arising from Article 2 para. 3 of the Constitution and Article 2 para. 2 of the Charter of Fundamental Rights and Freedoms.

7. With regard to the fact that the Constitutional Court is not at all competent to hear the complainant's petition, his arguments deriving the admissibility of the constitutional complaint from § 75 para. a) of the Act on the Constitutional Court are not also relevant.

8. For the above-mentioned reasons, outside the oral proceedings without the presence of the participants,

the Constitutional Court rejected the constitutional complaint by a resolution as a motion for the hearing of which the Constitutional Court does not have jurisdiction [§ 43 para. d) of the Act on the Constitutional Court].

9. Given that the accessory petition for annulment of the legal regulation [provisions of the Veterinary Act mentioned in the title] submitted on the basis of § 74 of the Act on the Constitutional Court shares the fate of the constitutional complaint, it had to be rejected, pursuant to § 43 para. b) of the Act on the Constitutional Court.

**Instruction: An appeal against a resolution of the Constitutional Court is not admissible.**

Done at Brno, 23 July 2020

Jiří Zemánek vr  
President of the  
Senate

For the correctness of the making:  
Monika Zbořilová

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LAWYER

**Constitutional Court of the Czech Republic**  
Joštova 8  
660 83 Brno

**Reference number of the Constitutional Court: III.ÚS 1793/20**

Of the Town of Hustopeče reference number : MUH/37082/20/433, file reference: MPO/7131/20/433

**Draftsman:**

JUDr. Dalibor Grůza Ph.D., born January 29, 1973, permanent address Mírová 1098/4, 693 01 Hustopeče, tel. 534008871, **delivery address** - data box ID: ztxswqɑ, Type of box: Natural person, Name: Dalibor GRŮZA (Authorized person)

**represented by:** JUDr. Miroslav Moltas, LL.M., lawyer with the registration number of the Czech Bar Association: 50103, ID: 16350715, address: Střední 933/10, 693 01 Hustopeče

**Other participants:**

1. Town of Hustopeče, ID: 00283193, with its registered office at Dukelské square 2/2, 693 01 Hustopeče (*hereinafter also "Town of Hustopeče"*)
2. Market adm inistrator: Organizational unit of the town of Hustopeče Administration and maintenance of buildings, with its registered office at Dukelské square 2/2, 693 01 Hustopeče (*hereinafter also "market administrator"*)

**Supplement to the constitutional complaint together with the motion to  
repeal the provisions of the Act filed on 27 June 2020 without the legal  
representation of the petitioner by his lawyer**

Triplicate

**Evidence:** files of the Town of Hustopeče reference number: MUH/37082/20/433, file reference: MPO/7131/20/433

**Enclosures:**

- **My data message** to the Town of Hustopeče and the market administrator **from 17 May 2020** with a delivery **note** from 18 May 2020 (**message ID 785135987 - here as a forwarded attachment to my data message from 19 June 2020 below**) with attachments:

1. JUDr. Dalibor Grůza Ph.D., Summary of the Philosophy of Balance (4 pages), copyleft May 14, 2020, see [www.spvzt.cz](http://www.spvzt.cz)
2. My application for the lease of one market place at the market on Dukelské square in Hustopeče

- **My data message** to the Town of Hustopeče and the market administrator **from 19 June 2020** with a delivery **note** from 22 June 2020 (**message ID 795999584** ) with attachments:

3. Pre-litigation letter to comply with Section 142a of the Code of Civil Procedure
4. Preliminary wording of my constitutional complaint (reported to the Town of Hustopeče and the market administrator)

5. Old as amended on 22 May 2012 and new as of 4 June 2020 Operating rules of the market on Dukelské square in Hustopeče

6. **My supplementary data message** to the Town of Hustopeče and the market administrator **from 24 June 2020** with a delivery **note** from 24 June 2020 (**message ID 797332749** )

7. **Data message of the Town of Hustopeče and the market administrator of 25 June 2020** with a delivery **note** of 25 June 2020 (**message ID 797890842**) on the exclusion of my poultry carrions from sale at the market for the contested provisions of the Veterinary Act

## **Power of Attorney dated June 30, 2020**

### **Content of the complaint:**

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**On my express instruction, I wish that all of my lawyer's submissions and all of my submissions in this case and that my constitutional complaint be considered as a whole.**

### **I.**

#### **The facts of the complaint**

1. I am a small poultry breeder in my garden with a cellar on Habánská Street in Hustopeče and I **asked the Town of Hustopeče and the market administrator ( see Enclosure No. 5 ) to rent one market place** on the market with a data message dated 17 May 2020 delivered on 18 May 2020 on Dukelské square in Hustopeče **for sale** in small quantities unprocessed after veterinary autopsy of fresh (meat) **poultry carrions**, namely hens from my own small farm (breeding activities), especially to ethical vegetarians (people and by them represented /breded/ their animals that do not survive completely without eating meat and thus would consume a minimum amount of this contemporary most merciful meat (i.e carrions) which do not endanger their health (see Enclosure No. 2 ). If the listed public authority did not decide on my application within 30 days of its submission, I sent him a **pre-litigation letter pursuant to Section 142a of the Code of Civil Procedure** within at least 7 days before filing the motion to initiate this procedure with my data message from 19. June 2020 delivered to it on 22 June 2020 (see Enclosure No. 3 ). This authority responded to this letter with its data message of 25 June 2020 (see Enclosure No. 7 ) that it was forced not to rent me a market place (see Enclosure No. 5 ) for the above-mentioned assortment of poultry carrions due to the law and the Operating rules. According to provisions of the Veterinary Act contested by me as amended.

## II.

### Description of legal facts

2. According to the **rules of operation of the market** the market administrator should not exclude as unsuitable from sale after assessing of my above sale assortment the this sale assortment or its portion and **to prevent from sale ad I. of this constitutional complaint** through not concluding a contract for the lease with me (*or reservation according to the new Operating rules of the Market, my note*) of one market place in the market on Dukelské square in Hustopeče (see **Enclosure No. 5**) despite my fruitless pre-litigation letter ad I. of this constitutional complaint, for the following reasons and for reasons of constitutionality (see below) . This is a **permanent other intervention, partly in its own right** of the town of Hustopeče than the administrative decision.

## III.

### Fundamental rights and freedoms, the violation of which the complainant alleges

3. Against the above-mentioned **lasting measure, or other intervention of a public authority (ad II. of this constitutional complaint)**, I submit within the meaning of Section 72 paragraph 1 letter a) and Section 74 of Act No. 182/1993 of the Collection on the Constitutional Court (*hereinafter also "Act on the Constitutional Court"*) this **constitutional complaint together with a proposal to repeal the provisions of the Act** , which justifies the violation of **Articles 3, 6, 7, 26 and 36 of** the Charter of Fundamental Rights and Freedoms (Resolution No. 2/1993 of Collection Resolution of the Czech National Council on promulgation of the Charter of Fundamental Rights and Freedoms as part of the constitutional order of the Czech Republic) (*hereinafter also the "Charter"* ) and **Article 2 of** Constitutional Act No. 1/1993 of the Collection of the Constitution of the Czech Republic (*hereinafter also the "Constitution"*) .
4. Pursuant to **Article 2 of the Constitution** (3) State power serves all citizens and may be exercised only in cases, within the limits and in the manner provided by law. (*i.e. it also serves me and /Czech/ animals, which have basic rights and legal personality according to Czech law, see below, my note*) According to **Article 26 of the Charter** (1) Everyone has the right to freely choose a profession and prepare for it, as well as the right to do business and to engage in other economic activities., (2) The law can set conditions and restrictions for the performance of certain professions or activities., (3) Everyone has the right to obtain funds for their vital needs by work.(*which also applies to my abovementioned economic activity in the abovementioned market place, where the following legal restrictions or other unconstitutional discrimination against other persons in that market market in the sale of fresh, chilled or frozen meat should not apply to it because of the by me objected unconstitutionality which is allowed here according to the Operating rules / see Enclosure No. 5. / even according to my personal experience, it usually happens here, my note*)
5. Also the Charter (1) Fundamental rights and freedoms shall be guaranteed to all without distinction of sex, race, color, language, religion or belief, political or other opinion, national or social origin, membership of a national or ethnic minority, property, clan

or other status. **Article 6 (1)** Everyone has the right to life. Human life is worthy of protection before birth. (4) It is not a violation of the rights under this article if someone has been deprived of life in connection with conduct that is not criminal under the law., **Article 7 (1)** The inviolability of a person... is guaranteed. It can be limited only in cases stipulated by law. (2) No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. ("**All**", i. e. *human fundamental rights and freedoms as well as fundamental rights and freedoms of animals, which according to Czech law have the legal personality of animals /see below paragraph 18 of this constitutional complaint/, I mean in particular the right to life and protection of bodily integrity of humans and animals, with the exception of the legal restrictions mentioned above.*

6. The petitioner is convinced that the measure or other intervention of a public authority ad II. deviated from the limits of constitutionality and the protection of fundamental rights and that it violated its by Charter guaranteed right to a fair trial, as enshrined in **Article 36 and other** provisions of the Charter guaranting the right to a due process, in which all principles of right decisions in accordance with law and constitutional principles are applied.

#### **Ad Article 2 of the Constitution and Article 26 of the Charter:**

7. I am aware that according to the Czech **Act No. 166/1999 of the Collection on Veterinary Care** in its current version (*here also the " Veterinary Act "*):  
**Section 3 (1)** For the purposes of this Act, **letter d)** animals for slaughter shall mean farm animals which are intended for slaughter and slaughter processing and whose meat is intended for human consumption. **Section 5 (1)** The livestock farmer is also obliged to supply **point (h)** to the slaughterhouse only animals for slaughter with truthfully and completely stated information on the food chain in accordance with Annex II, Section III of Regulation (European Community) No 853/2004 laying down special hygiene rules for food of animal origin; the specified period within the meaning of point 3 (c) of Section III of Annex II to Regulation ( European Community) No 853/2004 means 60 days before the date of delivery of the animal for slaughter to the slaughterhouse. **Section 18, (1)** Animal products must be **letter b)** safe and safe from the point of view of protection of human and animal health, in particular they must not be a source of risk of spreading diseases and diseases transmissible from animals to humans, **letter c)** must meet microbiological criteria and must not contain residues and contaminants substances in quantities which, according to scientific evaluation, pose a danger to human health, **(4)** Animal products for which there are reasonable doubts about compliance with obligations or requirements to ensure their health safety may be used or further processed only with the consent of the regional veterinary administration and under its conditions **(5)** Foods of animal origin which are not harmful to health are considered edible, or edible after special treatment or further processing. Foods of animal origin that do not meet the health requirements are considered inedible. **Section 21 (1)** Unless otherwise provided, animals for slaughter must be slaughtered in a slaughterhouse under the conditions laid down by this Act, special legal regulations and European Union regulations. **Section 27a (1)** A breeder may sell in small quantities **point (b)** fresh poultrymeat, fresh rabbit meat or fresh nutria meat, originating from poultry, rabbits or nutrias from his own holding and slaughtered on that holding, on his holding, in a market or at a market located in the Czech Republic, directly to the consumer, or to supply them to a local retailer; poultrymeat need not be graded by quality and weight, **(3)**The animal products referred to in paragraph 1 must come from healthy animals and must be healthy and safe for the protection of human and animal health, in particular (*this is an illustrative list, see Section 18 above, my note*) must not be a source of disease and animal-to- human diseases. The animal products referred to in

paragraph 1 may not be placed on the market by mail order by the local retail operator. **Sections 39 (2) and (3), Section 39a to Section 41, Section 42 (2), the second and third developed sentence objects** consider dead animals as cadaver and as such include them under the broader term „animal by-products“ which, unlike animal products, are not intended for human consumption, but for disposal, removal or further processing (not processing into food intended for human consumption). **As part of the placing on the market of meat and meat products for human consumption, the Veterinary Act only works with the variant of slaughter, i.e. killing, of animals (in slaughterhouses).** (All the above Sections in this paragraph also refer to the " **contested provisions**")

**Section 3 (1)** For the purposes of this Act, **letter n)** the raw material of animal origin, namely all parts of animal bodies, especially meat means animal products. **Section 12 (2) (a)** of the bodies of dead, premature, stillborn or slaughtered animals ( hereinafter referred to as " cadavers").

8. However , in the case of carrions of animals after veterinary autopsy, " if they are heat-treated for 5 to 6 minutes at 121 degrees Celsius, the vegetative forms of the microorganisms as well as the spores are destroyed" [ 1]. This is possible by boiling in a pressure cooker or under a lid, for example in several waters ( see below) or by heat treatment of canned meat of carrions after a veterinary autopsy.

**Notes to paragraph 8:**

<sup>[1]</sup> "Canned and semi-preserved meat products are meat products hermetically sealed in tin or other suitable packaging and heat-treated to ensure their long-term shelf-life. - Canned meat - the market includes meat in its own juice, ready meals without side dishes and with side dishes, pâtés and hashes. **They are heat treated for 5 to 6 minutes at 121 degrees Celsius. Heat treatment destroys vegetative forms of microorganisms, but also spores.**", Page 9 of 17, Secondary Vocational School Domažlice, Teaching material, Food and Nutrition, cited on 18 May 2020, see <https://www.soudom.cz/maso-a-masne-vyroby.html>

9. Therefore I consider the **contested provisions of the Veterinary Act** as a whole as **unconstitutional**, because at present in the Czech Republic these legal conditions essentially **prevent the free sale of meat naturally died animals on principle of the old age even after veterinary autopsy**. However, such a sale would make it possible to keep the animals until their natural death, essentially in old age, and then to sell their meat freely to people, especially ethical vegetarians, after a veterinary autopsy, because according to the generally accepted opinions of the medical community in the Czech Republic, some people, especially I mean pregnant and breastfeeding women and young children, as well as some pets such as dogs and cats ( except vegetarian animal feed yarrah for dogs [2], or amicat with necessary taurine against blindness for cats, taurine is a protein that can be produced without the need to kill animals [3]) can not do without eating meat and because they would consume a minimum amount of today's most merciful meat (i.e. carrions) that do not endanger their health [4 ]. This meat was also eaten in antiquity: Bible (Bible of Kralice), Deuteronomy 14, verse 21 No dead (understand "no carrion" according to the Czech Ecumenical Translation) you will eat, and to the incoming, that is in your gates, you will give it and he or she will eat it (it is directly the **command of Biblical Torah to non- Jews to eat carrions**, my note), or you will sell to foreigner (it is directly the command of Biblical Torah for Jews, my note) (**apparently here both were proven experience of many years, which was a mistake leaving completely**, my note) ... The Roma also used an ingenious recipe for eating animal carrions, "carrions were boiled in several waters" [5], at a time when no one had yet heard of the sterilization of surgical instruments.

### **Notes to paragraph 9:**

<sup>[2]</sup> Breeding supplies bitiba.cz - All for low prices, **Yarrah Bio vegetarian and vegan dry dog food** [online], [cited May 21, 2020], Available from: [https://www.bitiba.cz/shop/feed\\_for\\_psy/granule\\_pro\\_psy/yarrah/adult/483455](https://www.bitiba.cz/shop/feed_for_psy/granule_pro_psy/yarrah/adult/483455)

<sup>[3]</sup> AmiCat 7.5 kilograms - Twiko, **Cat food only from plant and mineral raw materials** [online], Copyright © Twiko.cz, [cited May 21, 2020], Available from: <https://www.twiko.cz/ami-cat-7-5kg/>

<sup>[4]</sup> From 1 July 2003, a **ban on feeding cadavers (carrions)** was incorporated into feed legislation (Decree No. 544/2002 of the Collection, which amends Decree No. 451/2000 of the Collection, which implements **Act No. 91/1996 of the Collection on Feed**), virtually **animal carrions for livestock nutrition**. See Meat Bone Meal - Wikipedia, [online], [cited March 17, 2019], available from: [https://en.wikipedia.org/wiki/Meat\\_Bone\\_Meal](https://en.wikipedia.org/wiki/Meat_Bone_Meal). I consider this legal regulation, not only for herbivores, but also for omnivores, or carnivores such as **pigs or poultry**, if the feeding of meat after veterinary autopsy or boiled in several waters under legal conditions is concerned. **"Obiter dictum" also as unconstitutional** for the same reasons.

<sup>[5]</sup> "Meat rarely appeared on the table. Women obtained it in three ways, namely by buying it in a shop, stealing it or buying inferior meat in a slaughterhouse. Sometimes they dug up carrions. ( **Carrions were boiled in several waters. According to the old Roma, carrions are cleaner meat because the animal did not die a violent death.** ) ", Pages 30 to 31 of 142, Higher Vocational School and Secondary Medical School, MILLS, Ltd., Čelákovice, Prepared by: Tereza Rosecká, Leader: ThDr. and Mgr. Ladislava Marešová, Čelákovice, 2010, *The Life of the Roma Minority - PDF Free Download. Documents Professional Platform - PDF Download Free - ADOC.TIPS* [online], Copyright © 2020 ADOC.TIPS, All rights reserved, [cited may 20 2020] available from <https://adoc.tips/ivot-romske-meniny.html>

### **Ad Articles 3, 6, 7 of the Charter :**

10. I base this my opinion on the unconstitutionality of the impossibility of free sale even after a veterinary autopsy of the meat of naturally dead animals on the current trend in Czech law, which fundamentally changes the view of animal rights in our society. **Roman law placed animals, as well as slaves, in the legal regime of the thing.** The status of the animal as a slave in terms of Roman law defined by the principle of "servus nullum caput habet" ( slave has no "head", has no legal personality, that is, the slave is a living thing) is **changing to the position of the animal as a Hebrew slave within the meaning of the Bible, the Old Testament, Torah.** In Jewish law, the slave remained a human being and was a subject of law, that is, a bearer of rights. The law of Moses protected the slave against arbitrary mutilation and prosecuted his death by the slave master (*Exodus 21, verses 20 to 21, my note*). If the master damaged the slave's eyes or teeth, he or she was obliged to release him or her as compensation (*Exodus 21, verses 26 to 27*). [6] (*See the provisions of the amendment to the Criminal Code below, my note*) Aristotelian philosophy also defined a clear distinction between animal and human. In it, the animal is only a vegetative and sensual living being endowed with the ability to move, a human is a rational and social being, spiritual, moral, and therefore has an immortal soul. Christianity has fully adopted this concept since the High Middle Ages.

11. **Some approaches give animals the ability to have rights (currently in Czech law it is a legal personality, my note) , but not the ability to perform legal acts (currently in**

*Czech law it is a question of legal capacity, my note), which is a status similar to a small child , or ranks them in the category of "sentient things" [7], both of which are the current trend in Czech law (see below). See, for example, Article 20a of the German Constitution , Article 80 and Article 120 of the Swiss Constitution, Section 285a of the Austrian Civil Code ABGB, Section 90a of the German Civil Code BGB, Article 641a of the Swiss Civil Code, Article 137 of the new Russian Civil Code and the same rule in Article 1 (1) of the Polish Animal Welfare Act or the American so- called abolitionist / historically in the United States anti-slavery/ approach in the concept of "animal liberation" /see for example Peter Singer in his main book Animal Liberation/ by means of judicial order „Habeas Corpus“ to reach protection of animals precisely by convincing the court that the term of person includes not only humans but also a certain animal [8], see also the explanatory memorandum to Sections 494, virtually 487 of the Czech New Civil Code, which also state that this "provision", following the example of other European legislations, eliminates dogma of Roman law on "roaring instruments" and the legal concept of animals as things in the legal sense. As a Roman Catholic Christian, I am grateful for efforts to correct the above-mentioned Aristotle Christian heresy about animals in the light of the ecological encyclical Laudato Si ( Be Praised) of 2015 (see here “Prayer for Our Earth” and “ Prayer for Christians and All Creation”, pages 151 to 153, publishing house Paulínky, 2015, my note) of the current Pope Francis.*

12. **Non-human persons. There are several cases where the court ruled on recognizing the status of person for intelligent animals, so-called non- human persons:** In July 2013, the Indian Ministry of Environment and Forestry decided to upgrade the status of intelligent cetaceans to non-human persons and ban aqua centers, water shows and similar facilities where cetaceans were kept in captivity and purely for entertainment. [9] [10] In December 2014, a New York City court ruled negatively to grant the status of a person to a chimpanzee, Tommy, who was trained for simple tasks and even starred in several films, virtually chimpanzees in general. The court's reasoning was based roughly on the fact that these primates could not bear the duties or be responsible for their actions. *(This is more a question of legal capacity than a question of legal personality, but for example the dog is, according to my personal experience, aware of obligations and is also responsible for his or her actions, my note )* . The Non human Project in New York State sought to grant status. [11] In March 2015, a court in Buenos Aires, Argentina, ruled that a female Sumatran orangutan who had spent the last 20 years at the zoo was granted non- human person status (with the right to liberty) and decided to move her to a Brazilian national park. [12] [13]
13. If the Constitutional Court's decision on the **unconstitutionality of the ban on the free sale of carrion meat under conditions guaranteed by law**, this would be another but apparently **turning point in the fight against animal slavery**, if slaughter is not absolutely necessary, and this constitutional complaint is one of the steps in this struggle, which in the fight against human slavery lasted practically from antiquity (the Qin dynasty ruling in China from 221 to 206 BC abolished human slavery for the first time) practically until 1865, when the 13th Amendment to the Constitution of the United States of America was adopted, which banned the slavery of people throughout the United States of America.

**Notes to paragraphs 10 to 13:**

<sup>[6]</sup> Slavery - Wikipedia, [online], [cited May 20, 2020], Available from: <https://en.wikipedia.org/wiki/>

<sup>[7]</sup> Animal - Wikipedia, [online], [cited May 21, 2020], Available from: <https://en.wikipedia.org/wiki/Animals>

<sup>[8]</sup> pages 13 to 14, 28 to 31, Houdek, Pavel. Benefits and risks of introducing the legal subjectivity of animals in Czech law. Prague, 2017. Diploma thesis. Charles University, Faculty of Law, Department of Environmental Law. Thesis supervisor Stejskal, Vojtěch. [online], [cited May 26, 2020], Available from: <https://dspace.cuni.cz/handle/20.500.11956/1860>

<sup>[9]</sup> India Declares Dolphins "Non-Human Persons", Dolphin shows BANNED / translation see the following note of this constitutional complaint /. Daily Kos [online]. Jason Hackman, Community, Tuesday, July 30, 2013, 5:00 PM 29 minutes. Copyright © Kos Media, LLC [cited June 22, 2020]. Available from: <https://www.dailykos.com/stories/2013/07/30/1226634/-India-Declares-Dolphins-Non-Human-Persons-Dolphin-shows-BANNED>

<sup>[10]</sup> India declares dolphins "non-human persons", show with dolphins banned | Dôležite.sk, important information, daily news, current news. Wayback Machine [online]. Jason Scott Hackman, translation: Miroslav Pavlíček, source: dailykos.com, Asia, February 25, 2020. Author: ac24 # HaqeVimo24 [cited June 22, 2020]. Available in the archive taken on March 5, 2014 from: <https://web.archive.org/web/20140305092621/http://www.dolezite.sk/India-vyhlasuje-delfiny-za-nelidske-osoby-show-s-delfiny-zak-ydX.html>

<sup>[11]</sup> Apeus corpus. Chimps not human, says New York court. Chimpanzees are not humans, says a court in New York, my translation /, RT USA News. Rt Breaking news, shows, podcasts [online]. Barbara J King (@bjkingape), December 4, 2014, 09 AM 27 minutes / Update 5 years ago. Copyright © Autonomous Nonprofit Organization [cited June 22 2020 available from <https://www.rt.com/usa/211639-chimpanzee-court-rights-newyork/>

<sup>[12]</sup> Argentine court extends human right to freedom to orangutan / Argentine court extended human right to freedom to orangutan, my translation /, Rt WorldNews. RT Breakingnews, shows, podcasts [online]. Lyndsay Farlow (@LyndsayFarlow), 22 December 2014, 03 AM 27 minutes / Update 5 years ago. Copyright © Autonomous Nonprofit Organization [cited June 22, 2020]. Available from: <https://www.rt.com/news/216551-orangutan-argentina-human-right/>

<sup>[13]</sup> Person - Wikipedia. [online], [cited June 22, 2020]. Available from: <https://cs.wikipedia.org/wiki/Osoba>

<sup>[14]</sup> Slavery - Wikipedia, [online], [cited May 20, 2020], Available from: <https://en.wikipedia.org/wiki/Slavery>

14. With regard to this new legal approach to animals, this is **Act No. 114/2020 of the Collection, i.e. the Act amending Act No. 40/2009 of the Collection, the Criminal Code**, pursuant to this amendment to the Criminal Code, **Section 302 Cruelty to animals (3)** and if this act has a lasting effect on health or cause death of the abused animal, the offender will be punished by **imprisonment** from two to six years ( *Increasing the current upper sentence from five to six years now it means that in this case, except for juvenile offenders, conditional cessation of criminal proceedings is not possible or the approval of a settlement in criminal proceedings. this criminal act with a stricter punishment, it could even be fulfilled by an unjustified slaughter of the animal., my note*) and according to this amendment to the Criminal Code a completely new **Section 302a Breeding animals in inappropriate conditions (4)** and if this act causes permanent ( health) consequences or death of a larger number of animals, the offender will be punished by imprisonment for five to ten years.
15. ODS Member of Parliament Marek Benda states that " there will be a tendency for some activists to start using the new provision" of the crime of intentional animal breeding in inappropriate conditions with a ten-year prison sentence, possibly "

against ... large farms" (*because most farms in the Czech Republic which are factory farms for the slaughter of animals is very unfair, for example, from birth the farm animals are restricted free movement to a very small space so as not to lose their weight by this movement, they are fed in such a way as to gain slaughter weight as quickly as possible, and where, shortly, that is, no later than a few months after their birth, after this great suffering from birth, they are also cruelly killed, that is, slaughtered in a slaughterhouses, for example in the Czech Republic with about 10 million inhabitants there are about half a million murders of broilers (it means hen chickens) per day, my note [15]* ). This amendment to the Criminal Code primarily affects the so-called reproduction breedings for dogs and cats. 133 of the 159 present deputies voted in favor of the proposal, and the law had **massive support across political parties in Parliament**. " It's a big moment," said the chairwoman of the Top 09 and co-author of the tightening of the criminal code due to animal cruelty, Markéta Pekarová Adamová. "I am glad that those who abuse animals will be punished more," SPD President Tomio Okamura said in the Chamber of Deputies. "I just voted in favor of a significant tightening of penalties for animal cruelty. I like animals and I hate it when it hurts them, " commented Prime Minister and Chairman of the Ano Andrej Babiš on Twitter. [16]

**Notes to paragraphs 14 and 15:**

<sup>[15]</sup> time 30 to 60 seconds of recording, broadcast date: 29 August 2018, 22 PM 45 minutes, Week according to Jaromír Soukup | Barrandov.tv, Barrandov Television - We Have Fun [online], Copyright © 2008 [cited May 20, 2020], Available from: <https://www.barrandov.tv/video/134367-tyden-podle-jaromira-soukupa-29-8-2018>

<sup>[16]</sup> For breeding animals in unsuitable conditions will be up to ten years in prison, the date of the article March 3, 2020 [cited 20 May 2020] Available from: [https://www.idnes.cz/zpravy/domaci/snemovna-tyrani-zvirat-trestni-zakonik-chov-v-inapnych-podminkach-mnozirnyn.A200303\\_182737\\_domaci\\_kop](https://www.idnes.cz/zpravy/domaci/snemovna-tyrani-zvirat-trestni-zakonik-chov-v-inapnych-podminkach-mnozirnyn.A200303_182737_domaci_kop)

16. Furthermore, it is **Act No. 89/2012 of the Collection /New/ Civil Code** (*hereinafter also NOZ*" ).
17. Under **Section 8 of the NOZ**, a manifest abuse of rights does not enjoy legal protection. (*these are the traditional principles and principles of modern law "neminem laedere"/not harming anyone/ and the criterion of the freedom of the individual that the freedom of one ends where the freedom of the other begins, which could also apply to "abusus iuris" /abuse of law/, that is, cruelty to animals by their unjustified slaughter, in my opinion it is a tort according to Section 2909 NOZ Violation of good morals or Section 2910 NOZ Violation of the law /namely the criminal act Cruelty to animals according to the Criminal Code, see above/, my note)*
18. According to **Section 494 of the Civil Code**, the living animal has a special meaning and value as a living creature already gifted with the senses. A live animal is not a thing and the provisions on things apply to a live animal similarly only to the extent that it does not contradict its nature. (*In my opinion, the legal personality of animals follows from this provision, because the animal is not a thing, i.e.the NOZ stipulates here that the animal is a living creature gifted with senses and if generally accepted scientific evolutionary theory applies, animal reason is only a developmental question in time /according to this scientific theory is man only more evolutionarily perfect animal/, and therefore a kind of borderline status of the animal between the thing and the legal personality as if the definition of the exact legal status of the animal the valid NOZ does*

not even demonstratively, unlike the original draft of NOZ, contain, but in fact the **animal has very limited /monkey [17] / or almost none /snake/ legal capacity / that is, reason / and needs custody and representation by a person as a small child (see above) in the performance of his duties and the rights granted to him or her under Czech law /for example, see the above provisions of the Criminal Code/, but it is true that **all living creatures should have in our society rights** recognized in a just manner by the laws of the state, my note)**

**Notes to paragraph 18:**

<sup>[17]</sup> The richly developed social life led by monkeys necessitates mutual communication. The monkeys just have to be able to talk. **List of apes who have learned sign language.** Chimpanzees: Washoe, Chimp Nimsky, Sarah, Loulis, Panzee, Lucy Temerlin (they all learned sign language), Lana (she used so-called lexigrams to communicate with - keys with symbols), Ai (she used a computer). Bonoba (another kind of chimpanzee): Panbanisha and her son Nyota, Kanzi. Orangutans: Chantek, Azy. Gorillas: Koko, Michael. How did the monkeys learn to speak? Ábíčko.cz. Entertainment, nature, science and technology Ábíčko.cz [online]. Copyright © 2001 [ cited May 21, 2020]. Published in ABC 23/2009. November 18, 2009, 6:00 AM Author: Zdena Martinová, available from:<https://www.abicko.cz/clanek/precti-si-priroda/9425/jak-se-opice-naucily-mluvit.html>

19. They are also **Section 2 of the NOZ (3)** the prohibition of cruelty (*also to animals, my note*) **Section 3 of the NOZ (1)** the prohibition of causing unjustified harm to others (*i.e. also to animals, my note*), **(2) letter a)** everyone has the right to protection of their life and health, **letter f)** no one can deny what he or she rightfully belongs (*see above also animal rights, for example, according to the criminal Code, my note*), **(3)** Private law stems also from other generally recognized principles of justice (*that is probably good manners, my note*) and law.
20. **Czech expert commentary literature** also shares this approach to animals, which relatively largely comments **Section 494 NOZ** in details and adoption of this Section 494 explains as "a manifestation of the legislative phenomenon of so called dereization (out of things) of animals and is associated with the reflection of the overall **changes of human relationship to nature (the subjugating relationship changes to a symbiotic-use relationship)**" and respects the starting points indicated in the explanatory memorandum. To do this, compare P. Lavický and collective: Civil Code 1, General part (Sections 1 to 654), Commentary, 1st edition, CH Beck, Prague 2014, page 1746 et seq., and further compare F. Melzer, P. Tégl and collective: Civil Code - big commentary, volume 3, Section 419 to 654, Leges, Prague 2014, page 228 et seq. Some of the commentary literature, on the other hand, approaches these questions very briefly, compare J. Švestka, J. Dvořák, J. Fiala and collective: Civil Code, Commentary, Volume 1, Wolters Kluwer, Prague 2014, pages 1166 to 1167.
21. This professional literature states that in Czech law there has been a significant shift in the value of animals, which is embodied in **Section 494 of the Civil Code**. "The provision is primarily about **value meaning** and accents the **living animal as a human companion**, acknowledges the existence of an emotional bond between them and protects the elementary principles of humanity." (Compare J. Křiváčková, K. Hamuláková, T. Tintěra and collective The concept of a human and thing in new private law, CH Beck, Prague 2015, page 197.)
22. "The extent to which the application of the provisions on things does not contradict the nature of the animal (sc. as a living creature) will always be necessarily

individual. For the purpose of understanding the rule, it is possible to point out, by way of example, to certain general groups of type cases in which the facts are in fact the same, and therefore the same value conclusion will be justified. It is essential that, as a result of the mechanical application of the provisions on objects, the living animal is not exposed to feelings of anxiety or fear, that it is not pained, that it is not stressed (for example by being separated from its owner), that it **is not damaged or even killed** and the like ...”(See F. Melzer, P. Tégel and collective: Civil Code - The Great Commentary, Volume 3, Sections 419 to 654, 1st edition, Leges, Prague 2014, pages 233, 234.)

23. “The meaning and value of an animal is related to the fact that a living animal is a creature gifted with the senses and able to perceive pain. For this reason, it is not possible to treat it in the same way as other material objects. It is therefore necessary to respect the nature of the animal as a living creature and **animal integrity**.” [Compare P. Koukal in P. Lavický and collective: Civil Code, Commentary, General Part (Sections 1 to 654), CH Beck, Prague 2014, page 1748.]
24. "Unlike inanimate and insensitive objects, animals can no longer be disposed of without considering their feelings and nature. The owner of the animal must tolerate adequate interference with the right to use property, which follows the welfare and interests of the animals. Restrictions on legal treatment were intended by the authors primarily with regard to animals that are highly emotionally attached to humans - although dogs are explicitly mentioned in the explanatory memorandum, these rules can be expected to apply to less common species for which there is a strong mutual relationship and emotional ties.”(Compare I. Prouza: The Animal at the Interface between Person and Thing, Legal Perspectives No. 1/2017, page 13)
25. For more details, **see the order of the Supreme Court of 29 October 2019, file number 22 Cdo 1722/2018**. In assessing the merits of an action for the extradition of an animal (dog), the nature of the animal as a living creature must also be taken into account; even an action for the extradition of a dog filed by its owner can be rejected for abuse of rights. In the present case, however, the finding of abuse of rights was based on the relationship between the animal and the de facto master - the defendants. [18]

**Notes to paragraphs 20 to 25:**

<sup>[18]</sup> Home page Czech Bar Association [online]. Advocacy Bulletin 5/2020, pages 51 to 53. Copyright ©, [cited 11 June 2020]. Available from: [https://www.cak.cz/assets/komora/bulletin-advokacie/ba\\_5\\_2020\\_web.pdf](https://www.cak.cz/assets/komora/bulletin-advokacie/ba_5_2020_web.pdf)

**Ad Article 36 of the Charter:**

26. Preventing me from my above-mentioned sale of fresh (meat) of poultry carcasses excluding this my assortment from sale and even not concluding a private contract for the lease with me (*or reservation according to the new Operating rules of market, my note*) of market place (*see Enclosures No. 5 and 7*), against which there are no other remedies than the constitutional complaint, are from here given reasons the **expression of essential arbitrariness of the municipality as a public authority, when I complied with all statutory deadlines and gave her preliminary text of my constitutional complaint and philosophical reasons against it (see Enclosure No. 4, 6 and 1).**

#### IV.

##### Compliance with the admissibility requirements of the complaint

27. By me **exhausted remedies** under Section 75 paragraph 2) letter a) of Act No. 182/1993 of Collection on the Constitutional Court are my aforementioned application to rent a market place of 17 May 2020 and the fruitless pre-litigation letter of 19 June 2020 ( see **Appendices number 2 and 3.** ) .
28. Preventing me from above-mentioned sale of fresh (meat) of poultry carrions through excluding this my assortment from sale and even not concluding a private contract for the lease with me (*or reservation by the new Operating rules of market, my note*) of market place (*see **Enclosures No. 5 and 7***), that is all obviously due to the above-mentioned unconstitutional contested public provisions of the Veterinary Act, go beyond the scope of delegated competence under Section 18 of Act No. 455/1991 of Collection the Trade Licensing Act and it is an illegal public service partly within the private (not only administrative) competence of the Town of Hustopeče and the administrator of market, therefore it is the execution of measures, or other intervention of a public authority in the sense of the Act on the Constitutional Court Section 72 paragraph 5) of Act No. 182/1993 of the Collection on the Constitutional Court, against which **there are no remedies other than a constitutional complaint** and against which this constitutional complaint is not inadmissible.
29. This constitutional complaint also, in the sense of Section 75 paragraph 2) letter a) of the Act on the Constitutional Court, significantly exceeds the complainant's own interests and was filed within the prescribed period of 1 year, because in the case of **permitting free sale of carrion meat** under legally guaranteed conditions it would probably be a **turning point in the practical fight against slavery currently in the slaughter factory farms of the most mass scale imprisoned, tortured and murdered farm animals, i.e.the above-mentioned non-human persons (in the Czech Republic, for example, there are about half a million murdered broilers per a day, which is only in the Czech Republic with about 10 million inhabitants a terrible number of about 30 million murders of broilers, it means hen chickens /it is baby-animals/ in two months /slaughtered in factory farms at the age of about 1 month from birth according to experience from my "shelter" for broilers/ and our State power is probably not interested in it, which is a kind of new holocaust**[15], my note). Therefore, this constitutional complaint is not inadmissible, **even if the Constitutional Court comes to the conclusion in this case that I have not exhausted all procedural remedies.**

#### V.

##### Legal protection required if the Constitutional Court rules in my favor

30. **Contested provisions of the Veterinary Act** from all the above reasons negate in a major extent the core of my constitutionally guaranteed right of economic engagement in commercial and other economic activity and behind this obvious legal regulation of economic right is hidden infringement of fundamental rights of animals ( *protection of fundamental rights to life and health of animals and their equality before law and a due process, the animals have legal personality in accordance with the*

*Charter of fundamental rights and also according to applicable NOZ, see above, my note*) which are apparently otherwise unrelated to this economic right (*it should be a reason for stricter constitutional test of proportionality not only of rationality, my note*). Therefore, the contested provisions of the Veterinary Act are unconstitutional and because their application has obviously led to the fact (i.e. preventing the above-mentioned sale of fresh / meat/ of poultry carrions) which is the subject of this constitutional complaint and the system established by them not to sell carrion meat cannot be tolerated, they **should be annulled as a whole for conflict with the constitutional order by the Constitutional Court of the Czech Republic. This expires 12 months after the publication of this finding in the Collection of Laws**, so that the Parliament of the Czech Republic has time to adopt an amendment to these legal provisions allowing the free sale of meat of animal carrions under conditions guaranteed by law.

31. It would be a **kind of precedent** to allow such free and commercial sale of carrion meat. See Section 11 of the Act on the Constitutional Court (2) in plenary the Constitutional Court decides letter (i) about the opinion on the legal opinion of the Senate, which deviates from the legal opinion of the Constitutional Court expressed in the judgment. And also see Section 13 of the NOZ Anyone seeking legal protection can reasonably expect that his or her legal case will be decided in the same way as another legal case which has already been decided and which coincides in essence with his or her legal case; unless the legal case is decided otherwise, anyone seeking legal protection has the right to a convincing explanation of the reason for this derogation.

## VI.

### Prayer of the constitutional complaint

I am therefore forced to invoke legal protection before the Constitutional Court and to propose to that court that

#### Judgment:

1) grants this my constitutional complaint and, in the sense of Section 82 paragraph 3 letter b) of Act No. 182/1993 of the Collection on the Constitutional Court, prohibited the Town of Hustopeče, IČO: 00283193 and the market administrator: Organizational unit of the Town of Hustopeče Administration and maintenance of buildings, both with seat on the Dukelské square 2/2, 693 01 Hustopeče to prevent me from selling after veterinary autopsy in small quantities unprocessed of fresh (meat) carrions of poultry, namely hens from my own small farm (breeding activities), by not renting according to the old Operating rules as amended by May 22, 2012, or by non-reservation according to the new Operating rules effective from July 1, 2020 of one market place or by excluding my sale assortment from sale according to both of these Operating rules, all at the market place on Dukelské square in Hustopeče, postal code 693 01 in the Czech Republic .

2) grants this my constitutional complaint, and within the meaning of Article 87 paragraph 1) letter a) of the Constitution in conjunction with Section 74 of Act No. 182/1993 of Collection on the Constitutional Court repeals parts of the Act No. 166/1999 of Collection on veterinary care as amended (i.e. current version from 15 January 2020 to 30 June 2020), namely the part

of the provision of **Section 3**, namely its whole **paragraph 1 letter d)**, the part of the provision of **Section 5**, namely its whole **paragraph 1 letter h)**, the whole provision of **Section 18**, the part of the provision of **Section 21**, namely its whole **paragraph 1**, the part of the provision of **Section 27a**, namely its whole **paragraph 1 letter b)** and its whole **paragraph 3**, the part of the provision of **Section 39**, namely its whole **paragraph 2** and its whole **paragraph 3**, all provisions of **Section 39a to Section 41** and the part of the provision of **Section 42**, namely of its **paragraph 2, second and third developed sentence objects**, all after expiration of a period of 12 months from the publication of this judgment in the Collection of Laws.

- The exact text of part of this provision of **Section 3**, namely its whole **paragraph 1 letter d)** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

*"(d) slaughter animals means farm animals intended for slaughter and slaughter processing and the meat of which is intended for human consumption,"*

- The exact text of part of this provision of **Section 5**, namely its whole **paragraph 1 letter h)** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

*"(h) to supply to slaughterhouses only animals for slaughter with truthfully and fully food chain information in accordance with Section III of Annex II to Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin; a specified period within the meaning of point 3 (a) of Section III of Annex II. (c) Regulation (EC) No 853/2004 means 60 days before the day of delivery of the animal for slaughter to the slaughterhouse,"*

- The exact text of this whole provision of **Section 18** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

„§18

*(1) Animal products must*

*a) comply with the requirements for their production, processing, storage, transport and marketing set out in this Act, special legal regulations <sup>3)</sup> and European Union regulations <sup>14d)</sup>,*

*b) be healthy and safe from the point of view of the protection of human and animal health, in particular it must not be a source of risk of the spread of diseases and illnesses transmissible from animals to humans,*

*c) meet microbiological criteria and must not contain residues and contaminants in quantities which, according to scientific evaluation, pose a danger to human health <sup>14e)</sup>,*

*d) be, unless otherwise provided for by this Act or regulations of the European Union, provided with a health mark in the prescribed manner or, if the use of the health mark is not stipulated, with an identification mark <sup>14f)</sup> .*

*(2) Animal products intended for human consumption must be obtained from animals which:*

*a) meet the veterinary requirements for animals of the relevant species laid down by this Act, special legal regulations <sup>14g)</sup> and European Union regulations <sup>14d)</sup> ,*

*(b) do not come from a holding, establishment, territory or part of a territory subject to restrictive or prohibitive veterinary measures applicable to the animals and their products concerned and adopted in accordance with the rules laid down by this Act or special regulations <sup>14h)</sup> due to foot-and- mouth disease , classical swine fever, swine vesicular disease, African swine fever, rinderpest, Newcastle disease, avian influenza or small ruminant plague, or due to the occurrence of diseases of aquatic animals, fish and molluscs referred to in special legislation <sup>14h)</sup> ,*

*(c) has not been slaughtered, in the case of meat and meat products, in an establishment where, during the slaughter and production process, animals infected or suspected of being infected with point (b) or bodies or parts of bodies of those animals were present until such suspicion is ruled out,*

*(d) in the case of aquatic and aquaculture animals, comply with the requirements laid down in special legislation <sup>14i)</sup> .*

*(3) The Regional Veterinary Administration may, subject to the measures for the control of diseases referred to in paragraph 2 letter b) authorize, under specified animal health conditions, the production, processing and placing on the market of animal products intended for human consumption originating in the territory or part of the territory subject to the restrictive or prohibitive veterinary measures referred to in paragraph 2 letter b), but not from a holding where is one of the diseases referred to in paragraph 2 letter b) or which is suspected of having such an infection.*

*(4) Animal products for which there are reasonable doubts about compliance with obligations or requirements to ensure their health safety, and food of animal origin <sup>15)</sup>, which were for this reason returned from the commercial network, may be used or further processed only with the consent of the regional veterinary administration and under the conditions laid down by it.*

*(5) Foodstuffs of animal origin which are not harmful to health shall be considered edible or edible after special treatment or further processing. Foods of animal origin that do not meet the health requirements are considered inedible.*

*(6) Implementing legislation*

*(a) provides*

1. animal and public health requirements for the special treatment and use of animal products referred to in paragraph 3 and intended for human consumption, as well as food of animal origin for use after special treatment or further processing,

2. the method of labeling meat originating in the territory or part of the territory referred to in paragraph 3,

3. which foods of animal origin are edible and which are inedible,

(b) may lay down, where required by European Union legislation, details concerning the special treatment or further processing and use of minced meat, meat preparations, meat products, milk products and egg products. "

- The exact text of part of this provision of **Section 21**, namely its whole **paragraph 1** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

*"(1) Unless otherwise provided, animals for slaughter must be slaughtered in a slaughterhouse under the conditions laid down by this Act, special legal regulations <sup>6)</sup> and European Union regulations <sup>17c)</sup> ."*

- The exact text of part of this provision of **Section 27a**, namely its whole **paragraph 1 letter b)** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

*"(B) fresh poultrymeat, fresh rabbit meat or fresh nutria meat, originating from poultry, rabbits or nutria from their own holding and slaughtered on that holding, on their holding, in a market or in a market located in the territory of the Czech Republic; directly to the consumer or to supply them to a local retailer; poultrymeat need not be graded according to quality and weight <sup>52)</sup> , "*

- The exact text of part of this provision of **Section 27a**, namely its whole **paragraph 3** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

*'(3) The animal products referred to in paragraph 1 must come from healthy animals and must not be harmful to health and they must be safe from the point of view of the protection of human and animal health, in particular they must not be a source of diseases and illnesses transmissible from animals to humans. The animal products referred to in paragraph 1 may not be placed on the market by mail order by the local retail operator. "*

- The exact text of part of this provision of **Section 39**, namely its whole **paragraph 2** and its whole **paragraph 3** of Act No. 166/1999 of the Collection on Veterinary Care, as

amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

*"(2) Veterinary sanitation activities referred to in paragraph 1 may be performed only on the basis of a permission from the State Veterinary Administration.*

*(3) Animal by-products which are not suitable for animal feed or further processing must be disposed of without delay by burial in a designated place or by incineration, or disposed of in another manner specified in this Act and European Union regulations<sup>9b)</sup>. "*

- The exact text of this whole provision of **Section 39a** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

„§ 39a

*(1) Principles of classification of animal by-products, veterinary and hygiene rules for collection, transport, labeling, storage, disposal, use and further processing of animal by-products of individual categories, as well as for the presentation of these products and products from market, trade and import, transit and export shall be governed by European Union rules<sup>9b)</sup>.*

*(2) If the regulations of the European Union<sup>9b)</sup> require that animal by-products be disposed of or further processed, the operator of an approved establishment, plant or other establishment is obliged, unless otherwise specified, to dispose of or further process these animal by-products in an establishment, plant or other establishment which has been approved by the State Veterinary Administration for the disposal and further processing of animal by-products of the relevant category and registered under the assigned veterinary approval number. The conditions for approval and suspension, or withdrawal of approval, are set out in European Union regulations<sup>9b)</sup>.*

*(3) Operators of approved undertakings, businesses or other facilities referred to in paragraph 2, proceed in the disposal and processing of animal by-products and the control of their own health conditions such activity under this Act and the regulations of the European Union<sup>9b)</sup>.*

*(4) Official veterinarians in approved establishments, plants or other establishments referred to in paragraph 2 shall proceed in the performance of state veterinary supervision in accordance with this Act and the regulations of the European Union<sup>9b)</sup>. "*

- The exact text of this whole provision of **Section 40** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

„§ 40

*(1) Breeders and persons handling animal products are obliged to ensure the safe disposal of animal by-products that arise in connection with their activities or in their facilities; this also applies mutatis mutandis to operators of airports, ports and other points of entry into the*

*Czech Republic, in the case of imported animal products or other veterinary goods seized in accordance with European Union regulations <sup>21)</sup> and destined for disposal, or kitchen waste from means of transport in international transport. Unless otherwise stated, they are required*

*(a) immediately report the presence of animal by-products to the person who carries out their collection and transport. The breeder or the person handling animal products is not obliged to report if he has agreed with the person who has been authorized to perform veterinary sanitation activities on a regular ( rotating) collection of confiscations of animal origin,*

*b) sort, label, safely store and, if necessary, treat animal by-products until transport for disposal in places approved by the regional veterinary administration, so as not to steal them, endanger human or animal health or environmental damage,*

*(c) keep commercial and other documents relating to animal by-products handed over for transport for at least 2 years and, in the case of cadavers of animals individually marked in accordance with special legislation <sup>9d)</sup>, ensure that such cadavers are handed over for transport, including identification resources,*

*(d) hand over the animal by- products to the person who carries them out (collection) and transport (collection), provide him with the necessary cooperation and assistance, in particular when approaching cadavers to places accessible to means of transport and loading them, and pay him for transport; and harmless disposal and further processing of animal by- products at the agreed price.*

*(2) Breeders and persons handling animal products, in whom confiscations of animal origin usually occur, are further obliged*

*a) set up impermeable, easily cleanable, disinfectable and closable rendering boxes for the short-term storage of confiscations of animal origin, clean and disinfect them after each emptying,*

*(b) locate the rendering boxes appropriately, both in terms of their separation from other premises and in terms of the handling and transport of animal by-products.*

*(3) The person who owns or manages the place of discovery of animal by- products has a reporting obligation under paragraph 1 letter a) where the keeper or person handling the animal products referred to in paragraph 1 is not known.*

*(4) Unless the State Veterinary Administration decides otherwise for health reasons, the breeder himself may safely remove the carrion of animals in hobby breeding on his own land, provided that this cadaver does not come from an animal belonging to ruminants or pigs, or from an animal ill or suspected infection. Disposal in this case means burial in a place suitable for the protection of human and animal health and the environment, to a depth of at least 80 cm using disinfectants. The carrion of horse in hobby breeding may be disposed of by the breeder himself on his own land only with the consent of the regional veterinary administration and under the conditions laid down by it; The breeder is also obliged to mark the place of*

*burial of the carrion of the horse in the manner specified by the implementing legal regulation and to keep this marking for a period of 10 years.*

*(5) An entrepreneur who treats animal products, with the approval of the District Veterinary Administration and under the conditions laid down by European Union regulations <sup>9b)</sup> process in-house animal by-products arising in connection with its activities. "*

- The exact text of this whole provision of **Section 41** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

*„§ 41*

*(1) A person who has been authorized to perform veterinary sanitation activities is obliged to perform it in such a way that there is no threat to human and animal health, animal cruelty or damage to the environment. A person whose object of activity is the collection, transport, disposal and further processing of animal by-products ( hereinafter referred to as the "remediation company") is obliged further*

*(a) to ensure the continuous receipt of reports of the occurrence of animal by- products and collect them within 24 hours of being notified of their occurrence, in cases of public interest without delay,*

*b) to collect and safely remove or further process all animal by- products from the designated territorial district (collection area) whenever these products have not been disposed of or otherwise processed in accordance with this Act and European Union regulations <sup>9b)</sup> and demand payment for it in the amount of the price agreed according to a special legal regulation <sup>24)</sup> ,*

*c) to deal with the control of a dangerous disease or disease transmissible from animals to humans and their consequences in accordance with the prescribed protective and control measures,*

*d) to draw up the operating rules and submit them to the regional veterinary administration for approval before commencing their activities,*

*e) to comply with the veterinary and hygienic requirements for the disposal and further processing of animal by-products laid down by this Act and European Union regulations <sup>9b)</sup>, as well as procedures based on hazard analysis and critical control points (HACCP),*

*f) to carry out its own inspections of compliance with veterinary and hygiene requirements for the disposal and further processing of animal by-products laid down in this Act and European Union regulations <sup>9b)</sup>, keep records of the results of these inspections, keep them for at least 2 years and submit them to the official veterinary office upon request. doctors,*

*g) to create conditions, including the free provision of suitable space for the performance of pathological-anatomical autopsies of cadavers ( hereinafter referred to as " veterinary prosector activity") by the regional veterinary administration,*

*h) in the case of cadavers of animals individually marked in accordance with special legal regulation <sup>9d)</sup>, not to remove or take out the means of identification before the actual disposal or further processing of these cadavers.*

*(2) Confiscations of animal origin taken over by a sanitation company for disposal or further processing may no longer leave the premises of this company without the consent of the regional veterinary administration, unless it is their transfer to another sanitation company.*

*(3) A place designated for the harmless disposal of animal by-products by burial (hereinafter referred to as "burial ground"), facilities intended for the harmless disposal and further processing of animal by-products or a place intended for storage or incineration of cadavers of animals in hobby breeding shall be established after the opinion of the regional authority, municipal office or district office and regional veterinary administration on the spot,*

*(a) which is sufficiently distant from the places where the farm animals are kept,*

*(b) where the activity will not disturb the environment.*

***(4) Equipment intended for the harmless disposal and further processing of animal by- products must be equipped and maintained in such a way as to enable safe work and safe disposal and processing of these products or the placing on the market of such products that do not contain unacceptable amounts of harmful substances or pathogenic microorganisms. Products intended for human nutrition may not be produced in this establishment.***

*(5) Implementing legislation may provide, if required by European Union acts,*

*(a) more detailed veterinary and hygiene requirements for the labeling, collection, transport, disposal and further processing of animal by-products, the layout and equipment of the holding, plant or other establishment for the disposal and further processing of animal by-products, to burial grounds and to facilities (places) intended for the storage or incineration of cadavers of pet animals, unless these requirements are laid down in European Union regulations,*

*b) details concerning the performance of the own control of hygienic conditions of harmless disposal and further processing of animal by- products by the operators of establishments, plants or other facilities referred to in Section 39a, paragraph 2.*

- The exact text of part of this provision of **Section 42**, namely of its **paragraph 2, second and third developed sentence objects** of Act No. 166/1999 of the Collection on Veterinary Care, as amended, which should be repealed in this way only as a part of the Act by judgment of the Constitutional Court, it is as follows:

*"As well as the collection and disposal of cadavers of animals in hobby breeding,"*

## VII.

### Supplementing my constitutional complaint

**In addition to paragraph 18 in conjunction with paragraph 11 of my above-mentioned constitutional complaint about the enactment of the just rights of living beings by the State, I cite, for example, The Great Ape Project (GAP)** (see Home - GAP Project [online]. June 2020] Available from: <https://www.projeto-gap.org.br/en/> ) represented by the above-mentioned Peter Singer (who is a professor at the University of Melbourne and Princeton University and specializes in bioethics and whose book Animal Liberation of 1975 became the impetus of the worldwide movement).

1) Namely, the **Austrian Law on Animal Experiments (Tierversuchsgesetz) of 2012** federal law, consolidated version of 28 June 2020, inspired by this Great Ape Project:

My Czech translation:

Inadmissible animal experiments

Section 4. In any case, an animal experiment is inadmissible if:

5. Animal experiment on

(a) all species and subspecies of chimpanzees (*Pan troglodytes*), bonobos (*Pan paniscus*) and gorillas (*Gorilla gorilla* spp), as well as all species and subspecies of the Orangutan (*Pongidae*) and Gibbon (*Hylobatidae*) families, to be carried out

Original version:

Unzulässige Tierversuche

§ 4. Ein Tierversuch ist jedenfalls unzulässig, wenn

... 5. der Tierversuch an

a) allen Arten und Unterarten der Schimpansen (*Pan troglodytes*), Bonobos (*Pan paniscus*) und Gorillas (*Gorilla gorilla* spp), sowie an allen Arten und Unterarten der Familien OrangUtans (*Pongidae*) und Gibbons (*Hylobatidae*) ... durchgeführt werden soll, ...

(see <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20008142> )

2) Furthermore, namely by this Great Ape Project inspired, on the contrary, experiments on apes not completely excluding **Directive 2010/63 /EU of the European Parliament and of the Council of 22 September 2010** (Existing consolidated version of 26 June 2019) on the protection of animals used for scientific purposes (18) The use of apes, i.e species closest to human and having the most developed social and behavioral abilities, should only be allowed for conservation research. of these species, provided that it is guaranteed that the measures are related to conditions which endanger human life or weaken a human, and if the use of other animal species or alternative methods is not sufficient to achieve the objectives of the procedure. A Member State which claims that such a need has arisen should provide the Commission with the information necessary to enable it to take a decision. (see <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1593342693962&uri=CELEX:32010L0063> )

In my opinion, medical experiments on living creatures cannot be completely excluded if there is causing the least possible death and pain. That is, in human and veterinary medicine I on

principle admit only one, that is, a unrepeated necessary experiment on one least possible evolutionarily perfect healthy animal, at the following place on a healthy human during their life, preferably not a child, at the following place a baby-animal, for the development and production of medicaments of serious humanic, at the following place animalist diseases, which should always be supported by a court decision in a dispute with the participation of (advocate) defender of or also (advocate) defenders of human, at the following place animal rights, which should always determine the number, type of the animals, at the following place the people, the method of experimentation and fair compensation for suffering. damage in principle in money intended for an experimental person, at the following place an experimental animal, namely for their subsequent treatment and further life of this person, at the following place breeding of this animal. ( see page 354 et seq. in my book the Philosophy of Balance on: <http://www.spvzt.cz/Filosofierovnovahyknihacela.pdf> ).

Sincerely, and with hopes for justice

In Hustopeče, 30 June 2020

JUDr. Dalibor Grůza Ph.D.  
represented by JUDr. Miroslav Moltas, LL.M., lawyer

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