



Constitutional Court

**PRESS RELEASE ON
JUDGMENTS 52/2019 AND 53/2019**

The Belgian Constitutional Court refers three questions on the ban on slaughter without stunning to the Court of Justice of the European Union for a preliminary ruling

In the case on the Flemish Act introducing a general ban on slaughter without stunning, the Belgian Constitutional Court refers three questions to the Court of Justice of the European Union, before ruling on the substance of the case. The Belgian Constitutional Court is required to bring the matter before the Court of Justice, as there is doubt regarding the interpretation and the validity of the 2009 European regulation on the protection of animals at the time of killing.

With respect to the actions for annulment of the Walloon Act, the Belgian Constitutional Court finds that the provision on the general ban on slaughter without stunning has been removed before it has ever taken effect. Therefore, these actions have become without object. The ban is now included in the Walloon Animal Welfare Code.

The Belgian Constitutional Court has been requested to rule on the constitutionality of the introduction of a general ban on slaughter without stunning by the Walloon and Flemish legislature. The previously applicable Animal Welfare Act authorised the practice of ritual slaughter without prior stunning by way of derogation. With the sixth state reform, the competence for animal welfare has been transferred in 2014 to the Regions. Both the Walloon and Flemish legislature have opted to eliminate the exception for ritual slaughter after a transition period. However, they do permit the reversible stunning method for ritual slaughter.

A great number of organisations and individuals have brought actions before the Court for annulment of the Walloon Act of 18 May 2017 and the Flemish Act of 7 July 2017. The applicants in essence invoke a violation of the European regulation No 1099/2009 on the protection of animals at the time of killing, the freedom of religion, the principle of separation of Church and State, the freedom to conduct a business, the freedom of goods and services and the principle of equality and non-discrimination.

In its **judgment 52/2019**, the Constitutional Court finds that it can no longer rule on the actions for annulment of the **Walloon Act**. The Act of 4 October 2018, which introduces the Walloon Animal Welfare Code, has removed the contested provision on the general ban on slaughter without stunning before it has ever taken effect. Consequently, the actions brought before the Court are without object. The Walloon Animal Welfare Code also provides for a general ban on slaughter without stunning, with effect from 1 September 2019. The time limit to bring an action for annulment of this Act before the Court has not yet expired.

In its **judgment 53/2019** on the **Flemish Act**, the Court refers **three questions to the Court of Justice of the European Union, before ruling on the substance of the case**. The Court is required to bring the matter before the Court of Justice, as there is doubt regarding the interpretation and the validity of the 2009 European regulation on the protection of animals at the time of killing.

Several applicants invoke that the ban on slaughter without stunning violates the principle of equality and non-discrimination, read in conjunction with the 2009 European regulation on the protection of animals at the time of killing. The regulation requires, as a general rule, that animals are killed only after stunning. By way of derogation, the practice of ritual slaughter without prior stunning is authorised. The derogation gives expression to the positive commitment of the EU legislature to allow the slaughter of animals without prior stunning in order to ensure effective observance of the freedom of religion, guaranteed by the Charter of Fundamental Rights of the European Union. The Grand Chamber of the Court of Justice confirmed this in [its judgment of 29 May 2018 in the case C-426/16](#), in which it ruled on the requirement that ritual slaughter without stunning may take place only in an approved slaughterhouse. Subsequently, the Court finds that the 2009 regulation expressly permits the Member States to adopt national rules aimed at ensuring more extensive protection of animals at the time of killing than those contained in the regulation.

The Court therefore asks the Court of Justice if this authorisation can be interpreted as meaning that the Member States can introduce a general ban on ritual slaughter, as contained in the Flemish Act (first preliminary question). If this is the case according to the Court of Justice, the Court then poses the question whether the 2009 regulation infringes the freedom of religion, guaranteed by the Charter of Fundamental Rights of the European Union (second preliminary question). Moreover, the Court inquires, at the request of several applicants, whether the **2009 regulation does not institute a discrimination**, as the Member States can limit the derogation for ritual slaughter, while **the killing of animals without stunning is permitted during hunting, fishing and cultural or sporting events (third preliminary question).**

This press release is a document produced by the Registry of the Belgian Constitutional Court and the law clerks charged with media relations. It does not bind the Belgian Constitutional Court. A summary, by its very nature, contains neither the necessary reasoning as developed in the judgment, nor its specific nuances.

The judgments Nos 52/2019 and 53/2019, available in French, Dutch and German, can be found on the website of the Belgian Constitutional Court, www.const-court.be.

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