



Mr Ladislav Miko
Acting Director General
European Commission
DG SANTE

Pierre Sultana
Director- European Policy Office
VIER PFOTEN – Stiftung für Tierschutz
Brussels, February 3, 2015

Dear Mr Miko,

Strong of half a million citizens in Europe, VIER PFOTEN is a prominent voice for Animal Welfare in Europe. Our main goal is to improve the consideration of the protection of farm animals, wild animals and companion animals at EU level to reach at least responsible ownership through better legislation, but also better enforcement.

For more than 35 years, VIER PFOTEN is fighting for animal welfare in and outside Europe. Through this time, our staff acquired a unique expertise in various domains, both on field and in scientific knowledge. In particular with our European Policy Office we have a long standing experience in consultancy on Animal Welfare in Brussels.

Following the meeting held on last Friday 30 January 2015, where you have been asking for more information linked our concerns regarding the definition of "wild animal" of the Animal Health Law, I am today sending you more complete answer:

VIER PFOTEN is rather positive to the basic idea of the proposal on the Animal Health Law. It is supposed to replace and encompass most of the present EU legislation on animal health, striving for simplification and greater consistency under common principles and general rules. Moreover, it is calling for the identification and registration of all dogs in Europe – an effort that we highly welcome.

The term "wild animal" is defined in article 4.1(8) of the proposal as *animals which are not kept animals*. This definition is therefore directly connected to the one of *kept animals*, defined under article 4.1(5) of the proposal as *animals which are kept by humans*. Under these definitions, a homeless dog or cat would be considered as *wild*, as it is clearly non kept. On the contrary, a lion or a tiger kept in a zoo or in a circus, could not be considered as a *wild* animal anymore.

As an organisation working on a daily basis with *homeless domesticated* and *wild* animals, we cannot understand these definitions. They are clearly against the scientific definition and understanding of *wild* and *domesticated* animals, as it has clearly been exposed by Prof. Dr. Kurt Kotrschal, Director Konrad Lorenz Research Station during his presentation [How to distinguish between wild and domestic animals](#): there are, between domesticated and wild animals biological distinctions depending on the genetic behavioural and morphological aspects.

Defining wild animals as not kept animals would also lead to legal uncertainty at stage of implementation. Creating such a system where the same animal would be sometimes *kept* - meaning *domesticated* for the case of cats and



dogs – and sometimes *wild* will only make the application of the law more complicated for practitioners such as judges. In addition, the basic principle of the categorisation between wild and domesticated animals is to give to the *domesticated animals* a higher protection than to the *wild animals*, necessary for some human activities such as hunting. A cat or a dog would then have the same legal protection than a wild boar or a deer. This is also highly probable that defining homeless cats and dogs as *wild animals* will increase the number of case-laws: in the nature or in the streets, how will practitioners or hunters distinguish between *kept* and *non kept* cats and dogs? To pretend that these definitions would only apply to the future Animal Health Law is not satisfactory, as it would not solve the above mentioned problems, as it is against consistency of the EU law and as it might create a precedent.

These definition will also lead to misinterpretation and misunderstanding from the European citizens. For almost the unanimity of Europeans, a cat or a dog is not a *wild animal*. Symmetrically, it is not clear that a lion, a tiger or an elephant is not a *wild animal*. Moreover, Cats and dogs are often perceived as entire part of the family and Europeans will never accept that domesticated animals of the same specie have a lower level of protection, and that this legislation might increase the risks for the *companion* when the *companion animal* is out of the home.

We would like to invite you to think about other possibilities to define these animals, and would be happy to help you, in a very constructive way, to find definitions which would be more in accordance with the concordance of the laws, with the existing scientific knowledge and with the sensibility of the European citizens. In this sense, we would like to inform you that the first trialogue on the Animal Health Law will be held on February 5th and that between all the existing alternatives, the following solutions would be possible:

- The European parliament voted an amendment creating a third category of animals, in between kept and wild animals, called "non kept animals of domesticated species" and in which would fall the homeless cats and dogs.
- Article 2(3) of the Estonian Animal Protection Act defines a *household pet is an animal kept or intended for keeping with the objective of providing personal entertainment or company for humans". This definition also applies to animals which are trained to perform special functions or are used (blind, police, rescue services...)*
- The First Working Group of the European Enforcement Network of animal welfare lawyers and commissioners states that a *wild animal should be considered as such when the animal is able to express natural behaviour when living in the wildlife and able to subsist on its own. This definition should exclude of its scope animals that were not wild by origin, but have been released in the wild by humans (abandoned animals and their offspring)".*
- In relation with the possible political agenda of DG SANTE concerning animal welfare and animal health, a solution would be to delete the very marginal part on companion animals and to treat them in a special legislation or under the future Animal Welfare Framework Law.

We thank you in advance for the kind consideration of our arguments of the limited aspects of the Animal Health law and stay fully available for any question or wish to have a meeting you may have.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Sultana', with a large, sweeping flourish underneath.

Pierre Sultana
Director – European policy office
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