



Press Release

-- For immediate release --

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Ombudsman Criticizes Commission's Handling of Austrian Case: Legality or Illegality of Circus Animal Ban Not Established

Brussels, Belgium – Finding in favour of the European Circus Association, the European Ombudsman last week issued a formal decision that the European Commission committed mal-administration in connection with its decision to close its infringement action against Austria. The Commission had initiated legal proceedings against Austria in 2005 on the basis of its conclusion that Austria's ban on non-domesticated animals in the circus violated the European Treaty's provision guaranteeing European citizens the right of freedom of movement to provide services throughout the European Community. The Commission later terminated the case for "political" reasons.

According to the European Ombudsman:

"The statement used by the Commission in order to justify its political stance in the present case, that is, that *"animal welfare issues are better left to Member States"* appears to be tantamount to acknowledging that, in all matters concerning animal welfare, the Commission is ready to abdicate from its role as Guardian of the Treaties. Such a statement does not comply with the duty to provide correct, clear and understandable reasons to justify the exercise of the Commission's discretionary powers to close an inquiry on an infringement complaint. This was an instance of mal-administration."

The Commission's decision to abandon the case for political reasons has been misinterpreted by some Member States and local authorities as indicating that such a ban is legal.

On the contrary, the Ombudsman's decision highlighted the fact that the Commission's choice to close the case was not premised on "whether the Austrian law was in conformity with the Treaty or not" but, instead, on political considerations. Accordingly, the Commission's closure of the case is unrelated to the question of whether such a ban violates European law.

The European Circus Association and its members are content with the Ombudsman's criticism of the Commission and will continue with legal action against Austria in national court challenging the legality of the ban under both European Community and Austrian law.

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