



Press and Information

Court of Justice of the European Union

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Advocate General's Opinion in Case C-336/19  
Centraal Israëlitisch Consistorie van België and others

## **AG Hogan proposes that the Flemish Law prohibiting slaughter of animals without stunning including those subject to particular methods of slaughter prescribed by religious rites is not permitted under EU law**

*Member States may adopt stricter rules than those contained in EU law, however the prescribed derogation in favour of religious rites must be respected*

A decree issued on 7 July 2017 of the Flemish Region (Belgium) amending the Law on the protection and welfare of animals, regarding permitted methods of slaughtering animals had the effect of prohibiting the slaughtering of animals by means of traditional Jewish and Muslim rites and requiring that such animals be stunned prior to slaughter in order to reduce their suffering. In this context, various Jewish and Muslim associations challenged this decree seeking its total or partial annulment.

The Grondwettelijk Hof (Constitutional Court, Belgium), hearing the case, decided to refer the matter to the Court of Justice for a preliminary ruling. The principal question for the Court is whether such an outright ban, in the absence of stunning, is permissible under EU law, not least having regard to the guarantees of religious liberty and freedom contained in the Charter of Fundamental Rights of the European Union (the Charter).

In today's Opinion, Advocate General Gerard Hogan proposes that **the Court should find that Member States are not permitted to adopt rules which provide, on the one hand, for a prohibition of the slaughter of animals without stunning that also applies to the slaughter carried out in the context of a religious rite and, on the other hand, for an alternative stunning procedure for the slaughter carried out in the context of a religious rite, based on reversible stunning and on condition that the stunning should not result in the death of the animal.**

Advocate General Hogan reviews the current case-law concerning the relevant provisions of the EU regulation on the protection of animals at the time of killing (the Regulation).<sup>1</sup> In this context, he notes that the regulation gives concrete expression to the clear obligation imposed by the Treaties on both the EU and the Member States to pay full regard to the welfare requirements of animals, which are sentient beings. Additionally, he notes that despite the strict terms of the obligation contained in Article 4(1) of the Regulation that 'animals shall only be killed after stunning', Article 4(4) of the Regulation provides a derogation from that rule, addressing the necessity to guarantee the entitlement of those of certain religious faiths to preserve essential religious rites and to consume meat of animals which have been slaughtered in this religiously prescribed fashion (the Derogation).

Advocate General Hogan notes that the Derogation permits the practice of ritual slaughter as part of which an animal may be killed without first being stunned solely in order to ensure observance of the freedom of religion given that that form of slaughter is insufficient to remove all of the animal's pain, distress and suffering as effectively as slaughter with pre-stunning. The derogation thus reflects the desire of the EU legislature to respect the freedom of religion and the right to manifest

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<sup>1</sup> Council Regulation No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ 2009 303, p.1)

religion or belief in worship, teaching, practice and observance, as enshrined in the Charter, despite the avoidable suffering caused to animals in the context of ritual slaughter in the absence of prior stunning. In his view, that provision thereby gives effect to the EU's commitment to a tolerant, plural society where divergent and, at times, conflicting views and beliefs subsist and must be reconciled.

He adds that, it is clear from the Court's judgment in *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others*<sup>2</sup> that that technical conditions or specifications which seek to minimise the suffering of animals at the time of killing and ensure the health of all consumers of meat which are neutral and non-discriminatory in their application may be imposed on the freedom to carry out slaughter without prior stunning for religious purposes in order to organise and manage that slaughter.

Advocate General Hogan states that it is evident that the derogation must be interpreted strictly. This is necessary in order to protect animals to the greatest degree possible at the time of killing while at the same time ensuring observance of the freedom of religion and deeply held religious beliefs. He suggests that while Member States are obliged to respect the deeply held religious beliefs of adherents to the Muslim and Jewish faiths by allowing for the ritual slaughter of animals in this manner, they also have obligations for the welfare of these sentient creatures. Specifically, a state of affairs whereby meat produce resulting from the slaughter of animals according to religious rites is simply allowed to enter the general food chain to be consumed by customers who are unaware – and who have not been made aware – of the manner in which the animals came to be slaughtered would not comply with either the spirit or the letter of Article 13 TFEU which requires the EU and the Member States to pay full regard to the welfare requirements of animals.

According to the Advocate General, while point (c) of the first subparagraph of Article 26(2) the Regulation permits Member States to maintain or adopt national rules aimed at ensuring more extensive protection of animals at the time of killing than those contained in that regulation, it does not contemplate the elimination or quasi-elimination by Member States of the practice of ritual slaughter. He finds that the adoption by Member States of such stricter rules must take place within the context of and with full regard to the nature of the Derogation provided for by that regulation. Therefore, such adoption of stricter national rules in order to protect animal welfare is permitted if the 'core' of the religious practice in question, namely ritual slaughter, is not encroached upon. It thus does not authorise Member States to prohibit the slaughter of animals as prescribed by religious rites and explicitly permitted by the Regulation.

Advocate General Hogan emphasises that additional measures do not extend to prohibiting ritual slaughter without prior or post-cut stunning, since to do so would amount to negating the very nature of the Derogation provided for in the Regulation. This in turn would compromise the essence of the religious guarantees contained in the Charter for those adherents of Judaism and Islam respectively for whom, these religious rituals are of profound personal religious importance.

He considers that in accordance with point (c) of the first subparagraph of Article 26(2) of Regulation Member States may for example, adopt technical conditions or specifications which seek to minimise the suffering of animals at the time of killing and promote their welfare in addition to the requirement under the Regulation that ritual slaughter take place in a slaughterhouse.

In conclusion, Advocate General Hogan notes that there is no avoiding the fact that the preservation of the religious rites of animal slaughter often sits uneasily with modern conceptions of animal welfare. The Derogation is, nevertheless, a policy choice which the EU legislature was certainly entitled to take. It follows that this Court cannot allow this specific policy choice to be hollowed out by individual Member States taking specific action in the name of animal welfare which would have the substantive effect of nullifying the derogation in favour of certain religious adherents.

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<sup>2</sup> Case [C-426/16](#): *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others*, see Press Release No [69/18](#)

**NOTE:** The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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*The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.*

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