



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

The Secretary General

Brussels, 6.11.2013
C(2013) 7645 final

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deleted following the consultation
of the organisers]

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Subject: Your request for registration of a proposed citizens' initiative entitled "*Our concern for insufficient help to pet and stray animals in the European Union*"

Dear organisers,

I refer to the request for registration of 13 September 2013 of a proposed citizens' initiative entitled "*Our concern for insufficient help to pet and stray animals in the European Union*".

As stated in Article 4(2) of Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative, the Commission shall register a proposed citizens' initiative within two months from the receipt of the relevant information, provided that the following conditions are fulfilled:

- (a) the citizens' committee has been formed and the contact persons have been designated in accordance with Article 3(2) of Regulation (EU) No 211/2011;
- (b) the proposed citizens' initiative does not manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties;
- (c) the proposed citizens' initiative is not manifestly abusive, frivolous or vexatious; and
- (d) the proposed citizens' initiative is not manifestly contrary to the values of the Union as set out in Article 2 of the Treaty on European Union (TEU).

The Commission has examined your proposed citizens' initiative to ascertain whether it meets these conditions as laid down in the above-mentioned Regulation.

I regret to inform you that, further to this examination, the Commission hereby refuses the registration of this proposed initiative on the grounds that it falls manifestly outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties.

The in-depth examination of the content of your proposed initiative and of the relevant provisions of the Treaties (including those you have suggested) has led to this conclusion.

The main objective of your proposed initiative is to establish a common regulatory framework that would harmonise welfare and protection of pet and stray animals in the EU. The "draft legal act" annexed to your proposed initiative lists a number of actions focused on the regulation of breeding, trade and registration of dogs and cats, protection of stray animals and the introduction of obligatory pet sterilization in some cases.

You propose Articles 18-25, 45-55, 67-89, 168, 195, 119-144 and 325 of the Treaty on the Functioning of the European Union (TFEU), as possible legal bases for your initiative.

The Commission considers that the proposed legislation cannot be based on these provisions, as its power to improve animal welfare by law making and enforcement is limited to the policy areas exhaustively listed in Article 13 TFEU, i.e. agriculture, fisheries, transport, internal market, research and technological development and space.

In this respect, it is worth recalling that the Court considered in Case C-189/01 Jippes [2001] ECR I-5689, at point 71, that ensuring the welfare of animals does not form part of the objectives of the Treaty, as defined in Article 2 of the Treaty Establishing the European Community (TEC), and that no such requirement is mentioned in Article 33 TEC, which sets out the objectives of the Common Agricultural Policy (CAP).

The Court gave this interpretation against the background of the Protocol on protection and welfare of animals, annexed to the TEC by the Treaty of Amsterdam. It remains valid under the current Treaties, since the Protocol was in substance taken over as the current Article 13 TFEU.

Union legislation on the welfare of animals has therefore so far been adopted on the basis of what are now Articles 43(2) TFEU – Common Agricultural Policy, 114 TFEU – Internal Market and 192 TFEU – Protection of the Environment, as the adopted legislation contributed to the advancement of the specific objectives of these respective policies. However, the proposed legislation would not contribute to any of the objectives of these policies as set out in the Treaties.

In addition, the European Commission has no power to formulate and implement policies to protect stray animals or to sterilise pets for animal welfare reasons. These policy areas remain the exclusive responsibility of the Member States.

For these reasons, your proposed citizens' initiative falls manifestly outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties.

Should you wish to appeal against this decision, we would like to draw your attention to the means of redress available.

You may either:

- bring proceedings before the General Court under the conditions specified in Article 263 of the TFEU; or
- if you wish to complain about maladministration, file a complaint with the European Ombudsman under the conditions specified in Article 228 of the TFEU.

Please note that this letter will be published on the Commission's website for the citizens' initiative in order to inform the public of this decision in a transparent way.

Yours faithfully,

Catherine Day