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## The Search for an Animal Legal Framework

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In recent years, legal reflection on animals has been opening up across the world; Evidence of this are the modifications that the traditional legal status of “animal thing” - dominant in countries with codified law - has been experiencing in certain countries that closely surround ours. It is known that, since Austria introduced a modification that animals “are not things” and regulated it with special laws in its Treaty of Property in its Civil Code (ABGB), this change had immediate repercussions in Germany, where its own Civil Code (BGB) was reformed in the same way, just as, only a little while later, the Swiss Civil Code did the same.[1] Therefore, an important change was made in the 90s that put into question the survival of a category that has had value since the Roman era: that animals are things of property.

It is certain that this change (that animals are “not things”) can be criticised for seeming to be a modification of little magnitude, little ambition, for neither providing a new legal status, nor improving the legal condition of animals; simply respecting the place of animals within the relations of property draws a difficult legal balance with the negation that they are “things”, and opening the door for a legal condition of animals regulated by their own laws.

Since the aforementioned change, other legal systems have adopted the same negative form (“not things”). Of these, it is worth highlighting book 5 of the Catalonian Civil Code (2006), and most recently the Czech Civil Code, which we have already been able to report about at this link.[2] Aside from this, Bulgaria passed an Animal Protection Law[3] on 31 January 2008 - an initiative that is being followed by other Eastern-European countries. These days, we find ourselves with five European Civil Codes that, although insufficiently, have taken a step forward in the search for a legal definition of animals, in accordance with that which science has come to recognise for some time now, which is that animals are “sentient beings”. Only one legal text, of programmatic nature, has incorporated this weighty scientific expression that accords with the condition of animals as beings sharing our capacity for feeling and suffering. I am referring to the Lisbon Treaty,[4] which is not a Constitution for Europe (although it is often inappropriately denominated as such), but it is the standard accepted by Member States as inspiration for our own laws.

The use of the term “sentient beings” as a standard for regulating animal welfare is used in many legal texts of the EU, and above all, in recent years, thanks to the tireless work of the European Commission, and most of all DG SANCO.[5] It can be said that great advances have been made in the area of Animal Welfare; it is enough to remember the regulations relating to the elimination of battery cages, which is literally revolutionising the poultry sector in Spain, as well as the habits of consumers, who are beginning to take an interest in the numbers on eggs to know whether the hens that have produced them have been raised respectfully in terms of their needs and interests;[6] put colloquially, whether the eggs come from free-range hens.

I am talking about incorporating the work of veterinary science into legal science; that is, the need for legal texts, and above all those around which the regulatory system and the legal application of regulations revolve, adopting the use of categories that place animals within a context more coherent with their condition as sentient beings, outside, for example, the field of things and the strict rules of property. The work of veterinarians and jurists must converge and lead to an improvement in the lives of animals; it is only by working from these solid foundations that the urgent changes necessary for animals in the legal system can be brought about.

Part of our job over the following years will revolve around building bridges; while we share the same interests as animals, certain obstacles have been keeping us from doing so, and therefore must be removed. I will name just one of them as an example of a step in the right direction, which is the effort to make legal language – which is, in itself, a technical language – an instrument of understanding; clearer, more accurate, more open.

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[1] Austria: ABGB, 1986; Germany: BGB, 1990; Switzerland: BGB, 2000.

[2] MÜLEROVÁ, Hana, [Animals Finally above Objects and stricter Criminalization of Cruelty in Czech Legislation](#), in DA, March 2012

[3] Vid. [external link](#)

[4] Vid. [external link](#)

[5] Vid. [external link](#)

[6] Vid. [external link](#)