

Analysis of Pet Retrievals, 1990 – 1998 under the Administrative Control of the Berlin Veterinary Authority an based on § 16a, Animal Protection Act

7. SUMMARY

Evaluation of different literature-based views regarding interpretation of applicability and validity of § 16a TierSchG [German Animal Protection Act] and its relevance to animal protection authorities together with presentation of the legal position by the example of a veterinary authority in Berlin has been the purpose of this paper.

Reference was made to animal protection files kept by this Berlin-based veterinary authority and covering the period from 1990 through 1998, with an analysis made of 64 acts of retrieval of pets from 60 persons. Each of these procedures was recorded and analysed by defined criteria, using evaluation form sheets specifically developed for this purpose. The entire administrative process is described, from initial report to concluding note, with reference being made to the most important legal provisions. The animal protection authority's right of intrusion into premises protected under Article 13, National Constitution [Basic Law] is discussed in some detail.

The following results were obtained:

Position of informants versus individuals reported as presumed offenders:

- 78,1% of all informants were not affiliated to any public authority.
- 51,6% of all informants were located in the direct environment of reported individuals.

Data relating to individuals reported as presumed offenders:

- Gender distribution was equivalent to the average of the general public in the period under review, with 48,3% females and 51,7% males.
- Most of the presumed offenders, 56,7% were aged between 20 and under 45 years.
- Information provided by presumed offenders in form sheets on their livelihood was not verifiable and, consequently, was of limited informative value, 35,0% were recipients of social welfare (public charge), while 15% were retired senior citizens and eight percent unemployed, 18,3% of presumed of-

fenders failed to provide any livelihood data, whereas an occupation was reported by 23,3%.

- Foreign citizens accounted for 6,7% of all reported presumed offenders.

Animals retrieved:

- 404 animals, representing 14 species, were retrieved in the period under review, Included were 108 dogs (26,7%), 100 fish (24,8%), 82 rabbits (20,3%), 58 cats (14,4%), 26 pigeons (6,4%), nine mice (2,2%), five finches (1,2%), four geese and four parakeets (1,0% each), two heads of fowl, two chinchillas and two guinea-pigs (0,5% each), one tortoise and one boa (0,3% each).
- Dogs were involved in 46 retrieval acts and thus were on top of the list. They were followed by cats involved in 19 acts (second on the list), rabbits and parakeets in three acts each (third place) and pigeons in two acts (fourth), All the other species were retrieved only once.
- Mongrels were predominant in the dog category, accounting for 58,3%.

Reasons for retrieval:

- Inadequate keeping, 40,6%,
- Animals left alone in apartments and motor-cars, 34,4%,
- Physical violence, 14,1%,
- Enforcement of bans on keeping, 6,3% and
- Abandonment, 4,7%.

Locations of retrieval:

- Private homes, 75,0%.
- Public areas, 25,0%, including 10,9% from motor-cars.

Destinations of retrieved animals:

- 336 animals (83,2%) from 78,1% of all retrieval acts were not returned to owners and were handled through animal asylums.
- 34 animals (8,4%) from 15,6% of all retrieval acts were returned to owners.
- 34 animals (8,4%) from 6,3% of all retrieval acts had to be euthanised.

Public spending:

- The average cost of one retrieval amounted to 1,133,25 DM, Actual expenditures were not unambiguously quantifiable. Time consumption of officials amounted to 8,4 hours according to available files but may have been much higher.

Administrative and court-related data:

- Animal keeping bans had to be imposed on 38,3% of all offenders in response to severity of offence.
- 63,3% of all offenders were fined between 100 and 5,000 DM, Fines were above 1,000 DM in 73,7% of these cases.
- Ban on keeping together with fine was imposed on 20 offenders.
- Files, on average, were kept open for 368 days, following conclusion of proceedings.

The legal obligation of the animal protection authority:

- Under § 16a, TierSchG (Animal Protection Act), the applicable animal protection authority is held to take appropriate measures to cope with reported violations. Yet, it is indispensable that the offence notified be checked and verified by a public veterinary officer.
- An official of the above authority who fails to act in response to a report may be prosecuted according to §§ 13 and 323, StGB (German Criminal Code).