



Weltunion der Schäferhund-Vereine (WUSV)

Bitter defeat for VDH/FCI

Once again, the Higher Regional Court of Düsseldorf has ruled that the regulations of the VDH and FCI contain illegal provisions which violate competition law and are therefore null and void. The Higher Regional Court - like the Regional Court of Dortmund before it - rejected the application of VDH and FCI to prohibit the SV from including foreign, non-FCI members of German Shepherds in the studbook. The SV can now include non-FCI members of German Shepherds in the studbook, provided that of course the other requirements are met.

The illegal statutes of the VDH and FCI must be changed, otherwise financial penalties may be imposed."

Dear WUSV members, friends of the German Shepherd, friends of pedigree dog breeding,

The institutionalized breeding of pedigree dogs is currently confronted with increasing problems. In the home countries of classic European dog breeds there is a significant decline in registration numbers of puppies from controlled breeding. In an alarming way, the registration of puppies as well as membership numbers and other indicators are a clear sign.

If one now considers that despite massively changed social conditions, the number of dogs and the dog trade has remained constant, at least within the European Union, it must be noted that in recent years there has been a shift in the dog market to an uncontrollable, grey, and less transparent market to the detriment of controlled dogs breeding.

There are understandable reasons for this unpleasant and predictably fatal development from our point of view:

The possible puppy buyer, i.e., the target group, ultimately the "consumer", is inundated with an unmanageable wealth of information that is in no way validated or regulated. This encourages a grey market. The entire system is vulnerable. Cynological organizations and institutions are not able to provide the puppy buyer with objectifiable, controlled data that would be suitable to inspire confidence in the potential dog buyer. The reason for this can be found, among other things, in the fact that the relevant cynological organizations have developed a momentum of their own over the decades, which is more focused on the protection of their own interests and that of their protagonists than on cynological quality.

Lofty lip service in the rules and statutes is in stark contrast to the lack of factual implementation of actual cynological quality and control in the sense of consumer protection and cynology.

Free competition, transparency, and consumer protection play no or only a slim role in institutionalized pedigree dog breeding. The consumer (puppy buyer) is at the mercy of the dominant cynological institutions who have a self-centered attitude and a complacency whose time has passed because of its lack of credibility. One cannot escape the impression that this self-absorbed focus is more for the protection of privilege, acquired over decades, than with transparency and cynological goals.



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The current situation in the cynological world does not correspond in any way to the requirements and information patterns and at times of rapidly advancing globalization. In the absence of transparency and traceability, information on any topic, whether right or wrong, is made possible via worldwide, communication within seconds, and used or manipulated as needed.

As the numerous criminal excesses in the context of the illegal dog trade at the time of the pandemic show, the current situation requires those responsible to reject archaic thought patterns and make an urgent and necessary paradigm shift to be implemented by society, politics and cynological associations.

For example, in recent years, politics and society have implemented animal welfare protection, which today is contained in every civilized national legislation and partly integrated into highly differentiated regulations. An example is Germany, where animal welfare has been included in the Basic Law. Thus, animal welfare and species-appropriate treatment of the animals entrusted to us are not only a matter of course, but also a legal obligation that the state and society has implemented. These rules must be strictly followed. This is beyond discussion and has a social consensus despite occasional divergent possibilities of interpretation.

The same applies to the legal bases concerning consumer protection, antitrust and competition law, as well as quality control. From the point of view of competition and consumer protection, rules which are a common law have developed in recent decades, especially in the European market. Obviously, these laws and regulations have either not been recognized by responsible cynological organizations or they are deliberately undermined. It goes without saying that, in a society governed by the rule of law, these laws which protect the free market economy – which ultimately serve quality control and consumer protection – and must also be strictly followed by our representatives and lobbyists.

One cannot choose which laws to follow based on personal opinion.

This is especially true since in recent decades dominant positions of individual organizations have developed which contradict and abuse consumer protection and free competition, and thus greatly affect quality-related cynology. A paradigm shift on the part of the umbrella organization must be immediately demanded and implemented. This is particularly true given the global influence of these institutions and the impact these policies and decisions have on both the domestic market and the rest of the world.

The SV and the WUSV have practiced "competition" since the foundation of the association almost 125 years ago under strict regulations of quality parameters. Competition takes place directly at our major events and also as the most conscientious, de facto certified proof of health and individual contributions of our pedigree dogs, unquestionably a positive effect on breeders and lovers of the German Shepherd and the breed worldwide.

With the breeding control regulations of the WUSV, we have set a milestone in cynology, which is implemented and is fully accepted worldwide. A dog bred within the WUSV, according to the specified criteria, fulfils the highest quality marks, which are meticulously verified. Only the dogs bred in accordance with these criteria are



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accepted within the WUSV as a German Shepherd in the sense of the Rittmeister von Stephanitz. Never will a "MeToo" Shepherd dog, which does not meet our high criteria, find its way into the breeding of the motherland. However, dogs that do meet the high criteria have access to our breeding.

With this in mind, we are pleased about the far-reaching recent victory of the founding association of the breed German Shepherd "Verein für Deutsche Schäferhunde (SV) e.V." in a legal dispute before the Higher Regional Court of Düsseldorf.

This legal dispute was initiated by the VDH, joined by FCI, and directed against the SV.

These umbrella organizations wanted to prohibit us from entering dogs that are bred according to our high and above all objectifiable criteria in our studbook if they are bred outside an FCI club. From the standpoint of the FCI, only dogs bred within their network should be included in the SV studbook. Priority was mandated for affiliation to the association and not actual cynological quality, objectifiable criterion, or consideration of the consumer.

Following the lifting of the so-called "judges' embargo" last year, the Cartel Court has now once again confirmed our view: the VDH and the FCI are behaving in violation of antitrust law! Significant parts of its regulations are null and void due to violation of the prohibition of cartels. In concrete terms, this means that the FCI and its member associations must now for the second time within a very short period adapt essential contents of their statutes and the rules to the rule of law.

The SV will and must stick to its practice of entering German Shepherds from all WUSV clubs in its studbook. Thus, the Higher Regional Court of Düsseldorf has fully confirmed the corresponding judgment of the Regional Court of Dortmund from January 2021.

The VDH and the FCI wanted to prevent German Shepherds from non-FCI clubs from being entered in the SV studbook – and not only in the annex register as before. The VDH had therefore filed an application for an interim injunction on 23 December 2020. The Higher Regional Court of Düsseldorf has now conclusively stated that the SV may not be prohibited from entering non-FCI dogs in its studbook. Rather, the Higher Regional Court considers such a prohibition to be a "by-purpose" and thus particularly serious restriction of competition. Previously, the Regional Court of Dortmund had already clearly ruled in favor of the SV. The corresponding regulations of the VDH and the FCI violate the prohibition of cartels and abuses. They are void and may no longer be implemented.



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Specifically, the Higher Regional Court states on the worldwide consequences of this cartel violation:

'Those rules have as their object a noticeable restriction of competition within the internal market and, in addition, worldwide on the supply markets for pedigree dog breeding and dog breeding services and have the potential to appreciably affect competition between Member States.'

The Higher Regional Court of Düsseldorf illustrates how much the regulations of the FCI and the VDH restrict competition worldwide. Breeders outside the FCI are placed in a worse position than breeders within the FCI, without there being any justification for this:

'[These rules affect] the competitiveness of non-VDH/FCI breeders with VDH/FCI breeders and of non-VDH/FCI dog breeding clubs with dog breeding clubs belonging to VDH/FCI or linked to that organization by means of a cooperation agreement. It makes it more difficult to sell puppies bred outside the FCI to breeders within the FCI, in this case for example of German Shepherds from foreign WUSV associations that are not affiliated with the FCI, to breeders who belong to the [SV], and thus affects the market value of those dogs.'

The Higher Regional Court of Düsseldorf has recognized the high-quality standards that are adhered to in the WUSV associations. It does not consider a general prohibition of registration against dogs not subject to VDH-FCI to be justified if the same or stricter purebred and breeding criteria are complied with, as is the case with the SV.

The German Shepherds bred in WUSV clubs go beyond the objective criteria of the national cynological organizations of the FCI network. In most cases, there is only a mere adherence to the low breeding standards of the FCI network which cannot guarantee compliance with the breed standards themselves.

The Regional Court of Dortmund had already correctly found a violation of Art. 102 TFEU or §§ 19, 20 GWB, i.e., an abuse of market power:

'The fact that dogs with a pedigree not recognized by the FCI or [the VDH] may not be included in the stud books, affects the competitive possibilities of competing breeders who are not organized in the [VDH] or the FCI in a manner relevant to the market for the sale of pedigree dogs.'

In general, dominant companies such as FCI and VDH bear a special responsibility for competition. Their regulations and decisions must not interfere with the proper functioning of the market. The SV along with the WUSV clubs have thus again achieved an important victory in court. Essential provisions of the FCI and the VDH (namely Art. 8 of the FCI Rules of Procedure of 2015 and their current version as well as § 3 No. 1.13b of the VDH Statutes and § 3 No. 1 and No. 2 VDH Breeding Regulations) have been declared antitrust violations and null and void. The cartel courts correctly assess cynological organizations, such as FCI and VDH, as companies within the meaning of antitrust law who must comply with the applicable competition laws and not internal association rules and statutes that restrict or distort competition.



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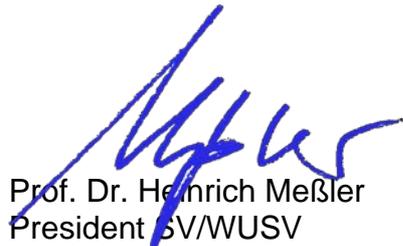
Breeders, their dogs, and their offspring from non-FCI clubs may therefore not be discriminated against. It is illegal that breeders from non-VDH/FCI worldwide have not been able to register their German Shepherds in the respective stud books, even if their dogs meet the strict SV requirements and they are just as purebred as dogs with VDH-FCI-recognized pedigrees. The regulations of the FCI and its member associations have been ruled as null and void throughout the entire FCI network. A deliberate continuation of this breach of antitrust law can result in significant fines and legal damages.

WUSV clubs are true representatives of the greatest possible responsibility in the breeding of purebred German Shepherds throughout the world in accordance with the breed standard and highest quality breeding regulations of the WUSV.

SV and WUSV meet the strictest criteria in the examination of the pedigree of the German Shepherds, their health and character traits as well as their characteristics as working and family dogs within highest animal welfare standards.

We can be proud of this, and we will continue on this path undeterred in the spirit of the Rittmeister von Stephanitz.

Sincerely,



Prof. Dr. Heinrich Meßler
President SV/WUSV