

ADI 1,856

Banning Cockfighting

CASE SUMMARY

A Direct Action of Unconstitutionality (ADI) filed against Rio de Janeiro State Law 2,895/1998, which authorized the creation and holding of exhibitions and competitions between birds of the fighting breeds, a practice known as “cockfighting”. The plaintiff argues that the law violates article 225, paragraph 1, item VII of the 1988 Federal Constitution, which protects fauna and flora and prohibits practices that subject animals to cruelty.

LEGAL REASONING

1. The promotion of cockfighting violates the Federal Constitution, which prohibits the subjection of animals to acts of cruelty (article 225, paragraph 1, item VII of the 1988 Federal Constitution). It also constitutes a criminal practice typified in the environmental legislation (article 32 of the Law 9,605/1998), in which animals are forced to fight until they are exhausted or one of them dies. The dispute is preceded by a preparation that involves cruel acts, such as cutting off the crests and dewlaps.
2. The constitutional protection granted to fauna covers both wild and domesticated animals, including the roosters used in cockfights. Furthermore, cockfighting cannot be classified as a cultural event, as its perverse and violent nature is incompatible with the constitutional principles of environmental protection.

Country:

Brazil

Court:

Federal Supreme Court

Competent Court:

Full Court

Format of the Session:

In-person

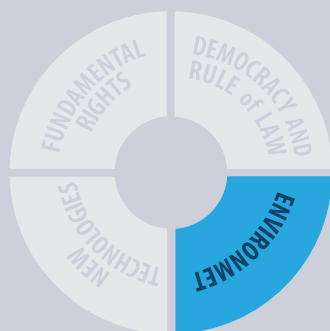
Rapporteur:

Justice Celso de Mello

Decision Date:

May 26, 2011

Matter:



DECISION OF THE COURT

The Federal Supreme Court declared the unconstitutionality of Rio de Janeiro State Law 2,895/1998, which authorized cockfighting, for violating article 225, paragraph 1, item VII of the 1988 Federal Constitution, which ensures the protection of fauna and flora and prohibits practices that subject animals to cruelty.

ADDITIONAL NOTES

The Federal Supreme Court already had precedents declaring the unconstitutionality of practices of cruel treatment against animals, such as the so-called “farra do boi” (RE 153,531, drafter of the decision Justice Marco Aurélio). Later, the Court also declared unconstitutional a state law that legalized the practice of “vaquejada”, based on similar grounds (ADI 4,983, drafter of the decision Justice Dias Toffoli). In 2017, in a legislative reaction, the National Congress approved the Constitutional Amendment 96/2014 (known as the “PEC da Vaquejada”), which considered sports practices using animals to be non-cruel, as long as they were considered cultural manifestations. These practices should be regulated by a specific law that ensures the welfare of the animals involved. The EC 96/2014 also had its constitutionality challenged in the Supreme Court (ADIs 5,728 and 5,772), and there was no final decision as of December 2024.



part 1



part 2

