

Norwegian Supreme Court Upholds Ban on Breeding Cavalier King Charles Spaniels but rejects call for English Bulldog Breeding Ban

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The landmark Norwegian court proceedings, spanning three years and going before all three of the Norwegian courts, have finally been decided, with the Supreme Court of Norway upholding a breeding ban on Cavalier King Charles Spaniels but rejecting the claim for a similar breeding ban for the English Bulldog².

This case stretches back to 2020 when civil proceedings were commenced by the Norwegian Society for Protection of Animals (NSPA) against the Norwegian Kennel Club (NKK). The NSPA argued the breeding of Cavalier King Charles Spaniels and English Bulldogs contravened Norwegian animal welfare law and specifically, section 25 of the Norwegian Animal Welfare Act (2009) which states that:

“Breeding shall encourage characteristics which give robust animals which function well and have good health.

Reproduction, including through methods of gene technology, shall not be carried out in such a way that it:

a. changes genes in such a way that they

influence the animals' physical or mental functions in a negative way, or passes on such genes,

b. reduces the animals' ability to practise natural behaviour, or

c. cause general ethical reactions.

Animals with a genetic constitution as cited in the second article shall not be used for subsequent breeding.”³

At first instance, the Oslo District Court in 2022 found in favour of the NSPA. They agreed that any future breeding of both Cavaliers and English Bulldogs was unlawful due to the high predisposition of these breeds to significant health issues, such as Chaired-like malformation for the Cavalier and brachycephalic obstructive airway syndrome (BOAS) for the Bulldog. The NKK appealed against this ruling to the Oslo Court of Appeal who in turn upheld the breeding ban for Cavaliers but overturned the District Court's ban on breeding bulldogs. Both parties then submitted appeals to the Supreme Court against the Appeal Court's ruling; the NKK appealed the decision to uphold the Cavalier breeding ban and the NSPA appealed against the decision not to implement a ban on breeding Bulldogs.

In giving their judgment, the Supreme Court unanimously upheld the decision of the Court of Appeal and agreed the breeding of purebred

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² HR-2021-1975-S, (case no. 20-143891SIV-HRET), (case no. 20-143892SIV-HRET) and (case no. 20-143893SIV-HRET). An English translation of this case is available at: <https://www.domstol.no/globalassets/upload/hret/decisions-in-english-translation/hr-2021-1975-s.pdf>

³ S. 25 Animal Welfare Act (2009)(Norway). Available at: <https://www.regjeringen.no/en/dokumenter/animal-welfare-act/id571188/#:~:text=%25.&text=Breeding%20shall%20encourage%20characteristics%20which,well%20and%20have%20good%20health.>



Cavaliers should be banned due to the significant health issues these dogs experience. Furthermore, due to the significant inbreeding of these dogs over several generations, there was no reasonable prospect for developing any framework that could allow for the safe breeding of future generations of purebred Cavaliers. The decision of the court does not provide an outright ban on any breeding from a Cavalier and therefore a purebred Cavalier may still be used in breeding provided the dog it is mated with is not also a purebred Cavalier.

With respect to the Bulldog, the Supreme Court felt that whilst there were indisputable welfare issues with the breed, it was safe to continue breeding Bulldogs provided this is done within a clear framework which ensures breeding is carried out responsibly and done in a way that minimises the incidence of dogs being bred with extreme conformations. This framework includes carrying out all health testing and screening as set out by new guidelines for the breed provided by the NKK. Any breeding of Bulldogs which is outside of this frame-

work would be regarded as illegal.

The verdict by the Norwegian Supreme Court is seen as a significant victory by animal welfare activists who are concerned by the continuing and growing demand for dogs with extreme conformations. It shows a willingness on the part of the Norwegian Courts to exercise their discretion when interpreting the Norwegian Animal Welfare Act and, in particular, to apply the protections under section 25 to safeguard the welfare of future generations of dogs.

To what extent this verdict will influence the regulation of pedigree dog breeding in other countries remains to be seen, however the case has received widespread media attention across Europe and there are similar calls in the UK for future progeny to be given protection under the Animal Welfare Act 2006 (AWA). In addition, there are calls for amendments to be made to strengthen schedule 6.6(5) of the Animal Welfare (Licensing of Activities Involving Animals (England) Regulations (2018) (LAIR) concerning the welfare of dogs involved in

breeding which currently states that:

“No dog may be kept for breeding if it can reasonably be expected, on the basis of its genotype, phenotype or state of health, that the breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring”⁴

The popularity of dog breeds with extreme conformations, such as the Cavalier and the Bulldog, continues to rise at an alarming rate⁵. Concern over this increasing trend and current dog breeding practices has led The All-Party Parliamentary Group on Animal Welfare (APGAW) to undertake a review of current dog breeding practices in England and, in particular, to consider the adequacy of the AWA and LAIA Regulations to govern these. APGAW is working with stakeholders from across the spectrum of the canine welfare community including leading members of the veterinary profession, the Kennel Club, animal welfare charities and members from our own Legal Advisory Group on Extreme Conformation in Dogs⁶ (LAGEC-Dogs) and further details from this review should be provided in early 2024.⁷

4 Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018. Available at: <https://www.legislation.gov.uk/ukdsi/2018/9780111165485>.

5 In excess of 11,500 English Bulldogs and 42,500 French Bulldog puppies were registered with the Kennel Club in 2022. See: <https://www.thekennelclub.org.uk/media/5989/quarterly-breed-stats-utility.pdf> for further details.

6 <https://www.alaw.org.uk/companion-animals/extreme-dog-conformation/#:-:text=Our%20aim%20is%20to%20inform,are%20not%20a%20campaigning%20organisation.>

7 For further information see: <https://APGAW.org/2023/07/16/APGAW-leads-on-dog-breeding/>.