

Crustaceans as sentient beings and their mistreatment. Sentence n. 30177/2017 of the Third Criminal Section of Italian Supreme Court¹

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The Third Criminal Section of Italian Supreme Court with the sentence n. 30177 of the 16 June 2017 has established very relevant principles about protection of animals, deciding that “(human) interest in not animal suffering” is legally relevant and that “as for the protection of pets and companion animals, the detention of crustaceans on the ice integrates the crime of mistreatment (art 727 Italian criminal code), because it causes important suffering, for economic reasons, with the consequence that between the economic balance and (human) interest in not animal suffering, this last one is prevailing”.

Florence’s Tribunal, on LAV denunciation, had convicted a restaurant owner for mistreatment because he was holding crustaceans on the ice. The accused brought an action at Supreme Court complaining the existence of the crime. He was arguing that he had received the animals on the ice, so it was not his blame for the way they were held, and anyway in Italy there were not legal ban for that. He was also lamenting the fact that there were no proofs of mistreatment and of animal suffering, if not the scientific publications product from LAV the NGO who was civil part in the trial.

Supreme Court has defined the appeal manifestly unfounded, establishing relevant principles about mistreatment crime related to the “habits or practice”.

About the suffering of crustaceans, not being them common animals (as companion animals), the judges clarifies that to proof the suffering we need the help of the natural science’s study (as just decided from other sentences as Cass. Sez. 3, n 6829/2015; Cass.Sez.3.n 37859/2014). The scientific researches about animal suffering are an important tool to proof the offense, and in the last years they have showed that “crustaceans are sentient being so they can suffer”, that’s why the sentence of Florence’s Tribunal is corrected.

¹ <http://www.derechoanimal.info/bbdd/Documentos/2275.pdf>

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The Tribunal has ascertained that animals were held on the ice, and making a recon of the possible alternative it has been discovered that many restaurants and supermarkets were now holding the animals in aquarium not to make them suffer. So it was widespread the sensibility of the community to the ethological needs of crustaceans which was implicating the use of tools more expensive, as aquarium, to safe the animals.

Against the practice to hold the animals on the ice, there was a new habit to detain them in a way more respectful of their needs.

So, according to the Supreme Court *“It cannot be considered a habits socially valued the one to hold crustaceans on the ice, which causes pain and suffering to this animals, because economic operator use now different way of detention, more expensive but more respectful of the ethological needs of this animals”*.

The existence of an alternative do not allow to consider the habit to hold crustacean on ice a practice that is not a crime, despite at the moment in Italy there are not legal ban to do it. Crustaceans are so compared to companion animals in Italy, as animals who have subjective positions with the right not to suffer, if it is possible.