

TRANSLATION

N. 3460/13 R.G.M.16 N. 14838/12 R.G.
reports

Crime

ITALIAN REPUBLIC

IN THE NAME OF THE ITALIAN PEOPLE

THE COURT OF BRESCIA

Second Penal Section

Single judge in the person of

Dr. Roberto Gurini

gives the following

JUDGEMENT

in the criminal case against:

GOTTI Bernard, born in Clamart (France) on 30.01.1946, address for service of documents c/o Luigi FRATTINI, a lawyer practising in Brescia,

defended by Enzo Bosio and Luigi FRATTINI, both lawyers practising in Brescia.

AT LIBERTY – PRESENT

RONDOT Ghislaine, born in Lyons (France) on 17.06.1953, address for service of documents c/o Luigi FRATTINI, a lawyer practising in Brescia,

defended by Enzo BOSIO and Luigi FRATTINI, both lawyers practising in Brescia.

AT LIBERTY – PRESENT

BRAVI Roberto, born in Volta Mantovana (MN) on 07.10.1978, resident and domiciled avowedly in Rodigo (MN), Strada Verduino n. 7

defended by Enzo BOSIO and Luigi FRATTINI, both lawyers practising in Brescia.

AT LIBERTY – PRESENT

GRAZIOSI Renzo, born in Pescara on 19.02.1976, resident and domiciled avowedly in Spoltore (PE), Via Vittorio De Sica n. 9

defended by Enzo BOSIO and Luigi FRATTINI, both lawyers practising in Brescia.

AT LIBERTY – PRESENT

CIVIL SECTION:

LE A.L. LEGA ANTIVIVISEZIONE (ANTI-VIVISECTION LEAGUE) defended by Edmondo Chiavazza, a lawyer practising in Cuneo

CIVIL SECTION:

LEGA NAZIONALE DIFESA DEL CANE (NATIONAL CANINE DEFENCE LEAGUE) defended by Michele Pezone, a lawyer practising in Chieti

CIVIL SECTION:

LAV ONLUS (ANTI-VIVISECTION LEAGUE), defended by Carla Campanaro, a lawyer practising in Rome

CIVIL SECTION:

ENPA ROMA (NATIONAL ASSOCIATION FOR THE PROTECTION OF ANIMALS, ROME), defended by Valentina Stefutti, a lawyer practising in Rome

CIVIL LIABILITY:

GREEN HILL 2001 S.R.L. – Luigi Frattini, a lawyer practising in Brescia

DEFENDANTS

of the following offences:

- A) **Offences defined in article 110, 82 cpv. 544-ter commi 1 and 3 c.p.**, how, in compliance with each other:
- GOTTI Bernard, as consultant and confidant of MARSHALL BIORESOURCES of Lyons, run by MARSHALL BIORESOURCES North America, companies of the holding MARSHALL FARMS GROUP Ltd of which GREEN HILL 2001 s.r.l. is an integral part, holding a managerial role relating to breeding procedures, so much so that he is the author of the internal procedures manual;

- RONDOT Ghislaine, as legal representative of GREEN HILL 2001 s.r.l. and co-director in deed, together with GOTTI Bernard, of the breeding facility GREEN HILL;
- BRAVI Roberto, director of the breeding facility GREEN HILL, having an executive role with directives issued by RONDOT Ghislaine and GOTTI Bernard;
- GRAZIOSI Renzo, as veterinarian responsible for the breeding facility GREEN HILL, and as such responsible for all the health issues related to the dogs held, with actions of criminal intention relating to same. unnecessarily depriving 2,639 beagle dogs, held at the facility run by same, of their behavioural pattern (or rather of all vital and insuppressible activities of any species), they subjected them to activities unbearable for their ethological characteristics.

In particular, the 2,639 beagle dogs held in conditions in which they were unable to express the ethological behaviour of their species, through a series of etho-anomalies found (for example the so-called freezing, fear, stress, stereotypes, repetitive behaviour), demonstrating a state of chronic stress (so-called *distress*) caused directly:

- a) by the temperature which was purposely kept high within the sheds in which said dogs were held in the various cages and therefore not regulated to ensure the well-being of the animals present therein;
- b) by the deafening and continuous noise from dogs barking inside the sheds;
- c) by the constant and almost exclusive use of artificial light, the sheds having been constructed in such a way as to not allow penetration of natural daylight (apart from the odd slot) into their interiors.
- d) by the absence of adequate internal space within the cages to permit isolation of individual animals who therefore had no chance to escape the external stresses also coming from their peers;
- e) by the complete lack of areas for stretching the legs (so-called *paddock* areas, see D.Lvo 116/1992) which would have permitted activities normal for their species;
- f) by being forced to live in a confined space which never changed and was therefore devoid of olfactory stimuli and sensory essentials for a beagle, being a hunting dog;

- g) by the bitches being forced, for obvious commercial purposes, to withstand a number of pregnancies per year, causing their total physical and mental decay;
- h) by prematurely separating the puppies from their mothers and leaving them alone in cages filled with litter made from small pieces of sawdust which were ingested by the puppies, causing in many cases death by suffocation, in others dehydration or inability to feed;
- i) from being subjected to gaseous anaesthesia without compliance with the normal veterinary procedures which involve preparatory sedation;
- j) from being, some of them, affected by various types of dermatitis (including demodectic mange) for which no treatment and no hygienic sanitation were provided;
- k) from being, some of them, kept in cages soiled with blood and coagulated faeces.

Always in compliance with each other and in ways described above, with actions of criminal intention relating to same, without necessity and with the sole purpose of reducing the running costs relating to the identification of dogs, instead of the painless but expensive micro-chip they used tattooing with needles, a tool considered not permissible in conjunction with art. 13D.lgs. 116/1992 and 7 Regional Law of Lombardy n. 16/2006.

Always complicit with each other and in ways described above, with actions of criminal intention relating to same, cutting their claws right down to their base they caused injury to the beagles by rupturing blood vessels connected to the roots of the same nails;

With the aggravating circumstance of causing the death of 104 beagles.

Established in Montechiari (BS), 18 July 2012;

B) Offences as defined in art. 110, 81 cpv. 544-bis c.p., how, in compliance with each other:

- GOTTI Bernard, consultant and confidant of MARSHALL BIORESOURCES of Lyons, run by MARSHALL BIORESOURCES North America, companies of the holding MARSHALL FARMS GROUP Ltd of which GREEN HILL 2001 s.r.l. is an integral part, holding a managerial role relating to breeding procedures, so much so that he is the author of the internal procedures manual;

- RONDOT Ghislaine, as legal representative of GREEN HILL 2001 s.r.l. and co-director, together with GOTTI Bernard, of the breeding facility GREEN HILL;
- BRAVI Roberto, director of the breeding facility GREEN HILL, having an executive role with the directives issued by RONDOT Ghislaine and GOTTI Bernard;
- GRAZIOSI Renzo, as veterinarian responsible for the breeding facility GREEN HILL, and as such responsible for all the health issues related to the dogs held, with actions of criminal intention relating to same, without necessity and with the sole purpose of freeing himself of a product which was no longer saleable to the customer, by elimination (so-called euthanasia), causing the death of 54 beagle dogs.

Committed in Montechiari (BS), between 1 January 2010 and 18 July 2012.

FINDINGS

The Public Prosecutor requests that the Court of Brescia find RONDOT Ghislaine, GOTTI Bernard, GRAZIOSI Renzo and BRAVI Roberto guilty of the crimes of which they are accused and, recognising the constraint of the continuation of same, considers most serious the crime under Chapter B) that they sentence them to the following prison terms:

- 1) GRAZIOSI Renzo, to a term of 3 years and 6 months imprisonment
- 2) RONDOT Ghislaine, to a term of 3 years imprisonment
- 3) BRAVI Roberto, to a term of 2 years imprisonment
- 4) GOTTI Bernard, to a term of 2 years imprisonment

It requests that firstly the pronouncement and then the motivations be communicated to the Order of Veterinarians of Pescara as well as the FNOVI for what may be classed procedures of disbarment of the accused GRAZIOSI. It requests, finally, that the case be presented to the Public Prosecutor of Brescia to proceed for perjury against witnesses VITIELLO, TABARELLI, FASOLI, PASTORI and TORTELLI.

Defenders of Civil Parties condemn all the accused to the penalty of justice and compensation for damages and expenses, as detailed in expense reports.

The defence asks for acquittal because the crime does not exist or because it is not an offence committed by all the defendants.



Sequence of Proceedings

On 17.07.2012, as a result of various reports by animal rights associations relating to abuse carried out inside the breeding facility run by the Company Green Hill 2001 srl, with head office in Montichiari (BS), via Colle San Zeno n. 6, the Public Prosecutor issued an order to inspect the premises and seize evidence - dogs, documents, hardware and all items relating to the business practised by said Company. The Court of Appeal, with an order issued on 01.08.2012 confirmed the decree of seizure order limited to the animals, as well as paper documents and computer files. It revoked the seizure of various items of furniture.

On 01.10.2012 the Gip (magistrate?) welcomed the request for seizure of property and dogs. The measures were re-presented by the Court of Appeal on 23.10.2012. Meanwhile the Supreme Court annulled the contested order limited to the seizure of the animals, subsequently confirmed by the Court of Appeal with judgement delivered on 14.05.2013.

With a decree of citation on 26.09.2013, GOTTI Bernard, RONDOT Ghislaine, BRAVI Roberto and GRAZIOSI Renzo, in their respective capacities, were taken for trial before a single judge in the Court of Brescia to answer for the crimes provided for and punished under art. 110, 81 cpv, 544 ter commi 1 and 3 (para. A) and 544 bis c.p. (para. B) in relation to the facts listed.

The trial was conducted in the presence of all the defendants. At the hearing on 23.06.2014 with the exception of the defence the renewal of notification of the decree of citation of judgement was established with Enzo Bosio, lawyer, co-defendant of the accused.

At the hearing on 29 October 2014, preliminary questions relating to the formation of the dossier of discussion, the constitution on the part of "Lav Onlus Association", "Le.a.l. Lega Antivivisezionista", "Lega Nazionale per la Difesa del Cane" and "Ente Nazionale Protezione Animali" was declared admissible. Moreover, the case of responsibility of "Green Hill 2001 srl" as cited by "LAV" was being built up.

During the cross-examination of the parties the evidence presented was declared admissible, large amounts of documentation were acquired, among which items relating to the case, emails extracted from PC available at Green Hill, communications ASL

At the hearing on 12.11.2014 the defence requested exclusion of some documents connected to the constitution of the civil part of ENPA; the request was said to be based just on that part referring to the descriptive assessment of the relationship between the Forestry Corps (annotation 14.09.2012), to the legal action of Colonna Antonio and to the relationship attached at no. 2. With the agreement of the parties the order from the Court of Appeal was obtained on 22.05.2013. The Public Prosecutor deposited documents relating to the fostering of the animals after their seizure and possible deaths of the dogs with explanatory notes.

At the same hearing the witnesses of the Public Prosecutor were examined; Giuseppe Tedeschi, (of the Provincial Command of the Forestry Corps of Brescia - NIRDA) who, on 18.07.2012 had coordinated the inspection inside the breeding facility Green Hill; Rossano Tozzi, employee of the Investigative Section of Offences against Animals of the Forestry Corps, based in Rome; Vassallo Francesco, Director of Health of the ASL in Brescia, guardian of the seized animals; Fulvia Ada Rossi, technical consultant to the Public Prosecutor, veterinarian specialising in the welfare and ethology of small animals, who also carried out the inspection made together with the Forestry Corps on 18.07.2012; Enrico Moriconi, technical consultant to the Public Prosecutor, veterinarian of the ASL in Turin. Following examination of the technical consultants to the Public Prosecutor, their respective reports were acquired.

The employees of Green Hill 2001 srl were then cross-examined (with witnesses cited by the Public Prosecutor); Faccin Andrea, Pastori Simone, Tortelli Antonio, supervisors at the breeding facility, and Piccinini Fulvio, veterinarian, deputy of the accused Graziosi Renzo in his absence. The Public Prosecutor adjusted the charge under A) by replacing the word "committed" with the word "established". There followed the notifications to defendants, still absent.

At the hearing on 19.11.2014 an interpreter (French language) was appointed for the accused Rondot Ghislaine, present together with Gotti Bernard; both gave up their right to object to the lack of translation of the notifications and of the previous acts relating to the debate as well as the notification of the procedure containing the modification of the accusation (minutes of hearing on 19.11.2014).

The defence produced a copy of the code of behavioural ethics, signed and accepted by Vitiello Cinzia, a copy of the Ethics Charter of the breeding facility, a copy of the schedule of medical interventions relating to 66 cases of euthanasia, a copy of the photo of the technical consultant to the Public Prosecutor, Dr. Moriconi at the LAV conference (June 2012).

There followed examination of the witnesses of the Public Prosecutor: Fasoli Alberto, person responsible at the facility between April 2008 to the end of 2010, Bosetti Angelo Umberto, Zanola Pietro Ivan and Zanetti Michele, all employees of Green Hill. There followed examination of the witnesses produced by the defence: Vitiello Cinzia, employee of the facility since 1992 and Giacchini Chiara, veterinarian at ASL Brescia (Lonato del Garda district, responsible for Montichiari) responsible since May 2012 for the inspections carried out at Green Hill.

During the course of interrogation of the witness Fasoli Alberto, the Court appointed an English language interpreter, (Sara Cortassa), who promptly deposited written translations of the emails dated 17 September and 18 June 2009⁽¹⁾, produced by the

Public Prosecutor (together with other documents, including emails and minutes of conference calls) and shown to witness Fasoli during the cross-examination. At the request of the Public Prosecutor and with all-party consensus, records of the ASL

inspections (08.07.2010, 10.06.2010, 31.05.2010) and other inspections (04.05.2012, 10.05.2012, 14.05.2012, 10.11.2010) were acquired.

At the hearing on 26.11.2014 the "LAV" produced evidence of euthanasia charts of each animal, linked to therapeutic treatment charts (produced by the defence at the hearing on 19.11.2014). In addition, the Court acquired the written translation of emails (attachment 14 Public Prosecutor, attached at the hearing on 29.10.2014, binder no. 2) and minutes of conference calls (produced by Public Prosecutor hearing on 19.11.2014, binder no. 3) produced by the Public Prosecutor.

There followed examination of the witnesses for the defence: Azzi Luigi, veterinarian of S.S.N., who, during seizure (of items) from the facility had inserted microchips into the beagles; Galvani Luca, employee at Green Hill between April 2008 and February 2011, Tabarelli Antonio, employee at the facility from 2010 until the moment of seizure. There followed cross-examination of the technical consultants to the defence: Scrollavezza Paolo, lecturer at the University of Camerino, Massa Renato, lecturer in Animal Biology at the University of Milan, Fornasier Massenzio, specialist in Laboratory Animal Science and Medicine and Rueca Fabrizio, lecturer in Animal Internal Medicine. There followed the acquisition of the reports of the technical consultants cited.

The Public Prosecutor produced some charts used by Dr. Scrollavezza for lessons at the university, which explained ways of administering anesthesia. With all-party consensus, the input of another consultant to the defence, Uggeri Mauro, was acquired, waiving examination. The parties having consented to reverse the legal order of the employment of oral evidence, after the examination of all the defence witnesses, there followed the examination of the accused Graziosi Renzo. Gotti Bernard, Bravi Roberto, Rondot Ghislaine finally made spontaneous statements.

The case was adjourned until the hearing on 22.12.2014 for discussion, however, by order issued outside the hearing and duly notified, preparing for the hearing on 22/12/2014, the confrontation between the Public Prosecutor consultant (Dr. Enrico Moriconi) and those of the defence (Dr. Fabrizio Rueca and Dr. Massenzio Fornasier), at the outcome of which supplementary input of Dr. Moricone was obtained, illustrative of his own responses and conclusions, after comparing the individual charts of dogs killed with the relative therapeutic charts.

At this hearing, Graziosi Renzo gave spontaneous declarations and produced the statement analysis and comment of statistical data on dogs seized.

The investigation phase closed and, the acts declared usable, the parties illustrated in public discussion their findings and formulated requests as in the epigraph transcribed (depositing also written submissions).

At the hearing on 23.01.2015, the judge decided, on reading the evidence, to a postponement of 60 days.

Motivation in fact and in law

1. Today's defendants, in their respective capacities of persons inside GREEN HILL 2001 s.r.l. (RONDOT Ghislaine, BRAVI Roberto and GRAZIOSI Renzo) and outside advisor (GOTTI Bernard) are accused under Chapter A) of the crime, article 544 ter, commi 1 and 3, cp.

They dispute that they abused 2,639 beagle dogs, kept at the breeding facility Green Hill for scientific experimentation purposes, having deprived them, without need, of their behavioural pattern (or rather of all vital activities and irrepressible activities of all kinds) and subjected them to behaviour which was unbearable for their ethological characteristics.

Other conduct covered by Article 544 ter cp is not at issue, .i.e. injuries and abuse (event offences).

The etho-anomalies found, (e.g. freezing, fear, anxiety, stereotypes, repetitive behaviour), according to the assumptions of the accusers, constitute symptoms of real danger to which the animals were exposed because of integral violation of the directives detailed in the special rules (ex D.L.vo 116/1992); they, therefore, were the source of chronic stress (so-called distress), caused by the particular conditions of captivity and the environmental conditions in which the dogs were kept (lack of leg-stretching areas, excessively high temperature inside the sheds, unbearable noise of continual barking by dogs, lack of environmental enrichment, general captive conditions of puppies and bitches, etc.)

The premise in law that motivates charges is that Article 544 ter cp can be applied to animals bred for scientific experimentation purposes, if there is a violation of the Legislative Decree 27 January 1992 no. 116 (and – in particular – of the combined provisions of Articles 5 and 14 and the requirements of Annex 2) as these rules contain provisions of a binding nature and are not mere guidelines or recommendations; they can however, be repealed in part.

The defence of the accused, whose standpoint will subsequently be demonstrated, disputes the possibility of prosecution in fact and in law.

1. Before proceeding with examination of the seized evidence, given that the two criminal cases in dispute refer to the management of the beagle breeding facility by the company Green Hill, we must first present certain information to give a general overview of the company itself.

So, as proven, Green Hill s.r.l. 2001 was founded in the year 2001 and registered in Milan to operate from 24.10.2007. Its corporate purpose was "the acquisition, production, business, retirement and housing of animals of small to medium size, of rare and qualified strains, as well as

strains which were genetically altered to become carriers suitable to act as models for human diseases, of animal feed and of special diets for animals; micro-surgical interventions in the preparation of groups of animals used in research of a specific kind, active drugs, the preparation of experimental models of a biological nature for determining the levels of environmental contamination whether of organic, chemical or physical origin to be carried out also within private facilities”.

The society was 100% under the control of Marshall Farms Group Ltd US with headquarters in New York ⁽²⁾ and since 14.11.2007 was legally represented by Ghislaine Rondot, who had undertaken the administration as sole member of the Board of Directors.⁽³⁾

The permits issued by the Montichiari authorities, as well as the Manual of Internal Procedures, show that the business of Green Hill 2001 s.r.l. was to breed beagle dogs destined for scientific experimentation. The breeding was of the “hidden” type, in that the specimens held could only come from the colonies who were the property of Marshall, as documented by the preamble of the charts “monitoring of the state of health of the colony – general principles”⁽⁴⁾ dated 04.05.2010 which states as follows: “the colony of dogs Marshall Beagle was founded in N. rose, NY, USA, purebred dogs were acquired between 1962 and 1967. When the number of breeding dogs was sufficient the colony was closed and remained so. In 2001 a second colony of beagles was founded in Montichiari, Italy. This colony, named Green Hill 2001, was created solely from breeding dogs from the American colony”.

The society was in possession of permits, according to Article 10 of the d.lgs 116/1992, for the activity of supplier of breeding dogs as well as breeding beagle dogs for use in experiments.⁽⁵⁾

2. On examining the resulting debate concerning the individual integral conduct of abuse relating to A) the NIRDA (Investigative Section for Crimes Against Animals) was ordered by the Court of Brescia to carry out an inspection at the breeding facility Green Hill 2001 s.r.l. which resulted in seizure of the company.

The evaluation of the investigation resulted in charges related to multiple anomalies found in the running of the facility, to the detriment of the dogs bred, better described in the incrimination before us and that will be the subject of the following specific screening.

One must presume that, with the exception of the latest thorough examination which will subsequently be undertaken, the regulatory framework is Article 544 ter c.p., 19 ter of the coordination and arrangement of the transition to the Criminal Code, in Articles 5-14 of the D.L.vo 116/1992 and Annex II of the same decree.

3.1 Regarding the temperature, it should be said that Article 5, of the D.L.vo 116/1992, in particular Annex II and Table 1 dictate that in order to guarantee the comfort of the dogs held the temperature in the rooms of the breeding facility should be between 15 and 21 degrees.

Circumstances verified during the inspection carried out by agents of Nirda (assisted by 5 veterinarians appointed by the Federal Prosecutor) are objective and non-questionable, revealed that the temperatures measured were far beyond those indicated by legislative decree 116/1992 and its annexes.

On this subject, the witness Giuseppe TEDESCHI, who on 18.07.2012 had coordinated the inspection by the Provincial Headquarters of the Brescia State Forestry Corps, and whose evidence was heard at the hearing on 12.11.2014, referred to a particularly high temperature inside the sheds.⁽⁶⁾ This finding was obtained from reading the thermometers and the tables in which the employees noted the temperature each day (on 18.07.2012 in all sheds the temperature was 29 degrees; on 20.06.2012 in shed 4 the temperature was 30.1 degrees ⁽⁷⁾, on 18.06.2012 the temperature in shed 3 was 30.4 degrees ⁽⁸⁾; on 19.06.2012 in shed 3 the temperature was 30.4 degrees ⁽⁹⁾; the temperatures were also noted during the winter; on 27.02.2012 in shed 4 the temperature was 14.7 degrees; on 26.02.2012 in shed 4 the temperature was 13.7 degrees).⁽¹⁰⁾

The non-observance of the regulatory parameters as stated is an absolutely incontrovertible fact since it was obtained by the reading of digital thermometers ⁽¹¹⁾ installed (previously by Green Hill themselves) inside each of the sheds and from the tables compiled by the employees of the business, concerning temperatures during the preceding days. Furthermore, still in contradiction (of the facts) we refer to the doctor-veterinarian relationship drawn up by the veterinarians (auxiliaries of the Attorney General) at the outcome of the inspection on 18.07.2012, from which we learn that in shed no. 1 there were temperatures of 29 degrees, in shed no. 2 28 degrees, in shed no. 3 28 degrees, in shed no. 4 29 degrees and humidity of 55%, in shed no. 5 28.3 degrees ⁽¹³⁾.

It is believed that such a situation was well known to the accused, based on emails found on the hard discs seized at Green Hill after the inspection on 18 July.2012. We read, for example, in the email sent on 27 June 2012 from Ghislaine Rondot to Roberto Bravi ⁽¹⁴⁾: BRAVI refers to the fact that Dr. GIACHINI (ASL veterinarian) would visit Green Hill the next week; RONDOT, well aware of the possibility of sanctions in the case of a check on the temperature, replies: "Let's hope it's not too hot!"

We return, again, to an email of 20 June 2012 ⁽¹⁵⁾: Roberto BRAVI updates Ghislaine RONDOT about various severely problematic aspects inside Green Hill "It's very hot in here, in all the sheds the temperature is

30 degrees C with a humidity of around 60%; in shed 3 it's one degree lower because of the coolers but the humidity is 5% higher. Shed 3: with the high temperatures there are some problems with the bitches - they don't want to stay in their kennels; we have reduced the litter to a minimum and the employees are keeping the bitches from the first week in the kennels for several minutes to allow for lactation").

In the report 23-27 January, moreover, it reads verbatim *"temperature in shed 3 GH, variable especially along the external walls and extremities. In my opinion the external walls are too cold for giving birth"*⁽¹⁶⁾. The map attached to the report confirms that there are inadequate temperatures which reached 13.2 degrees.

Furthermore, in the email 29 June 2012, Bravi – Rondot, report week 26 we read: *"the temperature is 26 degrees during the night and 27 to 30 degrees during the day with approximately 70% humidity; currently there is no effect on the state of the litters and on the growth of the puppies; shed 4, the temperature is very high, between 28 and 30 degrees C with 60% humidity"*⁽¹⁷⁾.

From the report of week 32 it emerges verbatim: *"In order to show that he is doing his job in the appropriate manner, before a possible visit by the Regional Authorities, Dr. Silini has told me he wants to take a look in the sheds. Luckily, given the recent shipments, all the dogs should be in compliance with the law. It just remains to pray for a cold day"*⁽¹⁸⁾.

In shed 5 the agents of NIRDA reported: *"The humidity was high and this was evident in that the tiles in both the corridors and the room where the equipment is, as well as where the dogs were kept, were wet and damp all the time. I did not see any electronic systems for measuring humidity, The team of workers all had wet hair and the sheets on which they wrote the data were damp"*⁽¹⁹⁾.

The above findings, ultimately, give account of the existence of environmental conditions, albeit negative, which are definitely a direct and immediate consequence of precise business decisions. In this respect it is useful to recall the email (Point 9 Rondit, Bravi) 20 June 2012, in which we read that, in spite of the summer heat and the severity of the winter climate, no serious nor timely remedies to adjust the temperature inside the sheds to the needs of the dogs were employed.

In the email mentioned: *"Temperature: We have considered contacting some representatives so that we can understand (more) about geothermal costs; our plumber came this morning to install some pipes and told us that nowadays there are new technologies to create a system at reduced cost, with lower maintenance costs and excellent results which would allow for a pleasant temperature in the sheds"*⁽²⁰⁾.

In line with the discussion, we add that witness Tedeschi stated that inside the sheds there were no air conditioning systems, but just a system of forced air which sucked out air and recycled it; however, there were water-cooled systems on the roof to lower the temperatures inside the sheds during the summer ⁽²¹⁾.

So, the conditions described constitute a violation of the relevant legislation and in particular of the annex no. 2, point no. 2, of D.L.vo 116/1992, in the light of which the air in the rooms should be frequently renewed (*in general a ventilation rate of 15-20 changes of air per hour is sufficient; in certain circumstances when the population is scarce, a ventilation rate of 8-10 can be sufficient*).

It should not be underestimated that witness Zanola, with reference to the mode of ventilation at the facility, referred to the fact that the system present inside the sheds allowed for a change of air eight times an hour. ⁽²²⁾

It is a question of totally inadequate ventilation if one takes account of the temperatures recorded and the level of overcrowding at the facility, ⁽²³⁾ circumstances – the latter – fully demonstrated by the documented results which depict the fears and doubts of the accused, well aware of the precarious conditions in which the dogs were kept (*as you know we are keeping more dogs than expected in some enclosures* ⁽²⁴⁾; *there are concerns about the breeding of the dogs who have a history of skin problems and the rise in density of the animals in the summer months when the conditions are challenging* ⁽²⁵⁾).

A blatant violation, therefore, of the regulations, see paragraph 2.2.2 of the attached II, according to which, given the climatic conditions prevalent in Europe, *a system of ventilation with a facility to heat and cool the air is necessary*.

3.2 The lack, inside the pens, of a separate area for the dogs to rest in, has also been proven.

On this point, we highlight that article 2.5 of annex II indicates possible factors of disturbance to the animals inside the holding rooms, any loud noise in the range of audible sounds and sounds of a higher frequency. Isolation of the buildings is prescribed and even the possibility of introducing a background sound of moderate intensity, such as soft music to muffle the often-inevitable noise.

It is clear that the referenced provision refers to isolation of the holding rooms from sources of external noise at the facility; however it is drawn to attention here as it makes a specific reference to the noise as a *source of important change in organ functions, disturbances to behaviour and to the physiology of the animals*.

In line with these provisions, article 3.6.3 of annex II, in dictating requirements for the design of the pens, with the aim of guaranteeing the well-being of the animals, foresees the need for them to be fit to satisfy certain ethological needs, among which the need to *temporarily hide or shelter*.

In the present case, inside the sheds the noisiness caused by the barking of the dogs was most certainly high and intense, so much so that when accessing them it was obligatory to wear ear plugs ⁽²⁶⁾

The absolute lack inside the pens of separate enclosed areas for rest and isolation is indisputable; this emerges from the video produced and is confirmed by the veterinarians (E. Chisari and others) ⁽²⁷⁾ who accessed (the facility) on 18 July 2012.

3.3 In this paragraph we will deal with aspects relative to the paddock areas, to leg-stretching and to letters F) and C), with special reference to the imprisonment of the dogs in environments with little environmental enrichment.

It is admitted that Article 5 of the D.L.vo 116/1992 prescribes that the animals be held in an environment which allows for a certain freedom of movement, the benefit of food, water and care in line with their health and their well-being; any limit to the possibility of satisfying the physiological needs and behaviour of the animal should be reduced to the minimum. The table VII of the attachment II (from Article 5), containing “guidelines for keeping dogs in cages during experiments” explicitly states that “dogs in cages must be able to get out to exercise at least once a day (... omissis). A time limit should be fixed beyond which an animal should not remain caged without daily exercise. Whilst the table VII gives “directions for holding dogs in enclosures, in waiting during experiments and reproduction” there are distinct provisions for minimal areas adjacent (to the enclosures) for exercise.

It cannot be doubted that at the breeding facility in question there was a total lack of *paddock* ⁽²⁸⁾ areas, in fact the beagles never came out of the sheds. It was suggested by the consultants to the defence that such a serious limitation was justified by the necessity to prevent the dogs (destined for experimentation) from coming into contact with diseases. ⁽²⁹⁾

In this respect it is enough to observe that the animals were anyway exposed to such “risk”, in that, albeit segregated, according to the statement of witness Zanola ⁽³⁰⁾ (from 2004 to 2012 responsible for the electrical, air and heating systems), the ventilation system of the sheds carried out air changes by introducing (eight times an hour) air from outside (the internal air was taken from a low level and forced outside).

3.4 The statements made by the witnesses suggest that the beagles did not usually perform programmed exercise outside the pens.

Firstly we need to discount the existence of practices which meant that the dogs got daily exercise during cleaning operations. This circumstance is negated by witness Faccin and is in contrast to the normal and logical management of the dogs.

Witness Faccin Andrea, employed at Green Hill for the month June/July 2012, in charge of cleaning the pens, claimed that he had never let the dogs out of the pens during cleaning operations, except when the animals managed to get out for a few minutes ⁽³¹⁾.

Witnesses Tortelli Antonio and Zanetti Michele confirmed that there were no external areas for stretching the legs but that the normal procedure was to leave the dogs free in the corridors, opening the doors to the pens ⁽³²⁾, clearly stating that such an operation lasted for hours and was carried out for groups of dogs and in rotation ⁽³³⁾.

Such assertions are not reliable; the version supplied by witness Zanetti, ⁽³⁴⁾ in which (he stated that) the operators used to leave the doors to the pens open to allow them to stretch their legs in the corridor, is, in all honesty, in contrast to that supplied by witness Franchi, ⁽³⁵⁾ who (stated that) this activity was ensured by opening the communicating bulkheads between neighboring pens.

In this respect, we do well to highlight further contradictions: as referred to by Zanetti, ⁽³⁶⁾ when the pens facing one another were opened, taking into account the width of the corridors and the length of the doors, they would have touched, meaning that it can be deducted that any movement by the dogs would most certainly have been prevented.

Even if you take as truthful the version of Franchi, it should be ruled out that the operation referred to by him would ensure additional space for leg-stretching: if it is true that with the bulkheads open there was the maximum space, then it is also true that the number of specimens doubled.

Also devoid of reason is the assertion by Tortelli ⁽³⁷⁾, saying that the beagles came out of the cages in turn (nine pens at a time), for two or three hours: if, in fact, one takes into consideration the low number of those in charge of cleaning, the high number of dogs held on average (around 2,300), the shifts (there were no shifts around 19.00 hours), the impossibility of identifying the dogs younger than sixty days (because they had no tattoo), one must reasonably exclude the fact that there was any leg-stretching in that manner, unless such activity guaranteed physical exercise with turns of brief duration only.

Granted that the pens were the only place inside which the beagles were allowed to express their behavioural repertoire, it is necessary to verify whether such an environment was planned and maintained in a suitable condition to satisfy the ethological needs of the animals, according to their species, their breed and their age.

The system for feeding and watering were thought-out in such a way as to guarantee food at will (through a hopper) and provision of water by gravity, by means of a small tube, with the aim of excluding both competition amongst the dogs and contamination of the water. At this point we are able to agree with the statements of Dr. Ada Rossi about the adequacy of same.

Regarding the light, the conditions of low natural light are raised regarding shed no. 5 only, for the reason that such a charge can be assumed to be true to a minimum degree.

Coming, finally, to the lack of environmental enrichment inside the pens, revealed by the agents of Nirda, it is clear that we are dealing with a condition, along with other deficiencies already identified - all sources, for the animals bred, of a permanent deprivation of sensory and social character.

Nor can we refer to the fact that in some of the sheds ⁽³⁹⁾ there were balls and rings, since such "toys", because of their size and consistency, were ignored by the animals, so that they were in a condition (either like new or dirty with faeces) that confirmed the lack of use. ⁽⁴⁰⁾

The arguments of the defence are without merit, aimed at highlighting the particular attention given by Green Hill to the problems relating to environmental enrichment without regard to the costs involved.

And indeed, even if hypothetically speaking one wanted to forget what became crystal clear during the course of the inspection conducted by Nirda, the documentation acquired in court shows that on this front the initiatives of the company had not brought any positive results; the situation described on 18.07.2012 is precisely the same as that verified by the Zooprofilactic Experimental Institute on 23.01.2012 ⁽⁴¹⁾ and recorded in the minutes of the ASL inspection on 31.05.2010 ⁽⁴²⁾, where it clearly makes the following recommendation: prepare a work plan which makes clear the timetable of the interventions for environmental enrichment ⁽⁴³⁾.

3.5 Regarding the letter G), relative to the number of pregnancies imposed on the bitches, we note follows.

From the statement of Cinzia Vitiello, employee at Green Hill from 2012 and in charge of the delivery room, each bitch underwent one and a half pregnancies a year with a time lapse between the two deliveries of eight months. The bitches were on heat twice a year.

On one point there is unanimous agreement to the assessment of the technical consultant to the Public Prosecutor and Dr. C. Giachini ⁽⁴⁴⁾, ALS (Lonato) veterinarian, where they confirmed that that tight natural reproductive cycle meant a disregard for the litter and the rapid decay of the physical and mental condition of the bitch.

The writer claims that merely respecting “the natural cycle” (every eight months) cannot be a guarantee of the well-being of the animal: it is, in fact, undeniable that prolonged reproductive activity (pregnancy-motherhood), at times to guarantee “a battery” production (for commercial ends), was a source of detriment to the psychophysical balance of adult females, even more so if used for extended periods of time as in the case where it was established that the bitches in heat had an average age of 4/5 years.

3.6 Another aspect of the treatment of the breeding animals, investigated during the trial, concerns the way in which operations were conducted.

One must start by saying that the surgery used as an “operating theatre” in shed no. 3 was for small surgical interventions, such as Caesarian sections, sterilizations, castrations ⁽⁴⁵⁾. This is confirmed by the evidence of scars of Caesarian births on some of the bitches ⁽⁴⁶⁾.

The evidence gathered shows with absolute certainty that inside Green Hill beagles, who underwent an anaesthesia for treatment reasons, were not given any pre-anaesthetic drugs.

From the report of the veterinary auxiliaries of NIRDA it emerges that the only drug retrieved from the facility for anaesthetic use was ISOFLUORANE-VET (anaesthetic gas), while no pre-anaesthetic (drug) was retrieved. On a list attached in the facility surgery there was an indication of things necessary to perform some surgical interventions ⁽⁴⁷⁾, one reads that anaesthetic gas should be used, but there was no mention of the need for pre-sedation.

And yet, on reading the pack-insert leaflet ⁽⁴⁸⁾ of the stated drug, one reads that anaesthetic gas should be administered only after having given a pre-anaesthetic.

That no pre-anaesthetic was used is also referred to by witnesses Vitiello Cinzia ⁽⁴⁹⁾ and Fulvio Piccinini; the latter, veterinarian – substituted by veterinarian Graziosi – and already an employee at the breeding facility

Green Hill under the previous management ⁽⁵⁰⁾, who stated that whilst the previous management had the practice of administering pre-anaesthesia to the animals, afterwards this had not been the arrangement of the Marshall society ⁽⁵¹⁾.

The administration of anaesthetic in this manner is certainly not in line with the obligations incumbent on the veterinary surgeon in accordance with Art 1, 17 and 20 of the Code of Ethics approved on 12.06.2011, being contrary to the basic principles which require the treatment of diseases of animals and their welfare and prohibit inappropriate use of medicines.

On this point, witness Rossi (veterinarian) stated: *"at the moment in which the vaporiser is opened, which adds oxygen, the drug Isoflurane (the dog n.d.r.) the dog senses a smell, which is not a pleasant smell. Apart from the fact that the smell is not pleasant, breathing in this drug is irritating and the animal, breathing continuously, begins to show signs of the effects of the drug, he feels lifeless and for this reason he becomes agitated". Therefore the dog "is agitated because of the restraint, I have to hold him, put the mask on him, he is agitated because he feels this thing that irritates his lungs, he feels he can no longer do anything, that he no longer has the strength to be able to move".* It is clear, therefore, that this state of agitation, the irritation of his airways and the sense of suffocation in the animal subjected to anaesthesia without pre-medication create a state of anxiety which is absolutely unjustifiable and easily avoidable. This practice, apart from being painful and causing much discomfort to the animal, is most certainly also risky, as proven by one of the tables relating to the deceased dogs, where we read the actual words: *"respiratory failure during anaesthesia"*⁽⁵²⁾.

The consultant to the defence, Dr. Paolo Scrollavezza, argued to the contrary, maintaining that pre-anaesthesia is hardly ever carried out any more since: *"it causes poisoning of the animal which can last from 24 to 48 hours; it produces negative consequences in the rapport with the other dogs in the pen ⁽⁵³⁾: the dog who undergoes a pre-anaesthesia, in fact, when put back in the pen will find himself in a situation in which he is not capable of interacting with his like and in addition the fact that he has been taken away from the group for the administering of the pre-anaesthesia is a cause of stress"*⁽⁵²⁾.

The consultant added that: "The anaesthesia at Green Hill was usually preceded by an analgesic, Carprofen, which is a painkiller; after which the anaesthetic was administered by air ⁽⁵⁵⁾. The use of Isoflurane by air means that the dog wakes up immediately as soon as one ceases administration." Finally, he clarified that: "Pre-anaesthesia is only carried out in cases where the animals are in a particular state of agitation or are particularly aggressive, which can be excluded because the dogs were used to contact with the operators".⁽⁵⁶⁾

The evaluations of the consultants are not convincing because they are contradicted by informational and educational materials from scientific sources relating to same.

We come back to the tables ⁽⁵⁷⁾, produced during the hearing and used by Dr. Scrollavezza, university lecturer ⁽⁵⁸⁾, attesting that the pre-anaesthesia is a phase in the anaesthesia procedure: it is used to reduce fear or state of anxiety, the pain threshold, excitement, bronchial secretions, motility and secretions from the gastro-intestinal system and the quantity of anaesthesia substances. In more detail, the pre-anaesthesia must be preceded by visits and laboratory tests (always), auscultation.

Further recommendations, relating to drawbacks and precautions in the administration of pre-anaesthesia, are that what we read in the university booklet should not lead us to exclude the need to practice pre-anaesthesia, but should alert the operator to the consequences and side effects.

Once again, we highlight the illustrated leaflet on anaesthetic ISOFLURANE-VET, actually written by Dr. Scrollavezza ⁽⁵⁹⁾, in which the administration of drugs for pre-anaesthesia purposes is highly recommended. The text of the leaflet quoted above: "INDUCTION OF ANESTHESIA: in dogs and cats anaesthetic is usually induced via a barbituric or propofol; in cats ketamine can be used.

It should be added that KARPOFEN (Rymadil), indicated by the defence as a useful painkiller used before anaesthesia at Green Hill, (whose administration was denied by Dr. Piccinini ⁽⁶⁰⁾, substitute veterinarian at the breeding facility) is not a pre-anaesthetic (drug), but rather an analgesic, ineffective except for localized pain according to the consultants to the Public Prosecutor.

With reference to the drawbacks reported by the defence consultant, i.e. poisoning the animal from pre-anaesthesia that can last from 24 to 48 hours and which results in behavior incompatible with the inclusion of the dog in the group (pen), it is easy to observe that quickly introducing the treated animal into the group could easily have been avoided, since inside the sheds were pens kept especially for those animals with certain health issues, where said dogs could be kept and easily observed and checked up on after an operation.

In the end, it is certain that, contrary to what has been shown to be good medical veterinary practice, at the breeding facility Green Hill pre-anaesthetic was not used and that according to claims made by Dr. Scrollavezza, during the pre-operative phase, it was the custom to use mechanical means to constrain the beagles, the only possible alternative (to pre-anaesthesia) for carrying out the anaesthesia. ⁽⁶¹⁾

3.8 Turning to the management of the breeding facility in zoiactric terms (letter J), it must be said that in the sense of Art. 5 of the D.L.vo 116/1992, in order to guarantee the well-being of the animals it is necessary to make daily checks.

In particular, a veterinarian must check the welfare and conditions of health of the animals so as to avoid lasting damage, pain, unnecessary suffering or anguish; direct measures must be adopted to opportunely correct faults or possible on-going suffering. In the sense of paragraph n. 3, annex II, the person responsible at the institute should ensure that a veterinarian, or other competent person, carries out regular inspections of the animals and the conditions in which they are housed and looked after.

Paragraph 1.3.4. states that *there should be separate rooms for sick or injured animals*.

In spite of this, during the inspection conducted by NIRDA there was evidence of the spread of dermatitis and clinical manifestations of various types among the dogs visited.

The lesions found were indicative of demodectic mange, also called red mange because of the characteristic inflammation that it causes.⁽⁶²⁾ The dogs observed, infected with the most severe forms of dermatitis, were not kept in the recovery pen but were in ordinary pens mixed in with the healthy ones.

Inside other pens faeces were found which were unusual in appearance and texture (photo 24 E. Chisari), confirmed by two pathologies to be Coccidiosi and Giardiosi.⁽⁶³⁾

The presence of such widespread and endemic problems was also confirmed in a document produced by the company itself (photo 22, page 34, Chisari), in which we read "an elevated spread of two protozoan parasites of the intestine, i.e. coccidiosi and giardiosi, believed to be almost permanent".⁽⁶⁴⁾

In shed no. 2 the veterinarians indicated the presence of a lot of puppies with eye discharge in one or both eyes⁽⁶⁵⁾ and no therapy being administered; one dog had a vaccine-related granuloma and there were a couple of cases of umbilical hernia.⁽⁶⁶⁾

The problem Demodex (red mange) was widespread within production cycles and well known, but there were no effective remedies being applied.

In fact, it is true that the most suitable therapy for such pathology would have interfered with the natural balance of the dog with unpredictable consequences for future experiments; that the use of alternative therapies on animals with immuno-suppressed complications not easily managed, who were subsequently in line for elimination, would have been on-going . It is reported in the following documents:

The January 2012 Marshall Report on Green Hill, paragraph 10, says: *"Problem Demodex – I saw a small number of dogs with skin problems in shed 1. There is a significant loss of fur and inflammation of the skin. It is not clear what can be done for this problem as the treatment could render the animals impoverished for research purposes."* ⁽⁶⁷⁾

In the email (Rondot, Bravi) 20 June 2012 it can be read: *"shed 4: this morning we found 3 dogs from December with slight symptoms of Demodex; the dogs with symptoms were well yesterday, this morning when Dario arrived they were sweating and had a very high temperature."* ⁽⁶⁸⁾

Document 23 (email 6 October 2009 Henry, Rondot, Graziosi, conference call Marshall/Green Hill) attests: *"The incidence of Demodex has increased during the summer but is improving now. Attempts have been made to decrease the humidity in the sheds and this should be helpful as the humidity contributes to the problem of Demodex. At present we are recording the distinctive characteristics of the skin."* ⁽⁶⁹⁾

Not dissimilar is the content of Document 15 (weekly conference call 24 January 2012) in which it says: *"There are concerns regarding the breeding of dogs who have a history of skin (problems) and the increase in the density of the animals in the summer months when we know that the conditions are demanding. We recognise what happened last summer."* ⁽⁷⁰⁾

In the Document no. 20 (weekly conference call 7 May 2012) it says: *"Rich explained that he saw the state of the skin at Green Hill and that the problem is widespread, seasonal and so is difficult to do any genetic valuations with such high incidence. It seems to be a significant environmental problem,"* ⁽⁷¹⁾

Some diseases detected on dogs at Green Hill were most certainly treatable, although they were not given drugs as (in the case of giarda). ⁽⁷²⁾ For others, however, the therapies practised were ineffective or inadequate as in the case, for example, of demodectic mange (severe, grade 3).

We refer in this respect to the deposition of the Public Prosecutor's consultant, Dr. Ada Rossa, who referred to mange as a parasitic and infectious disease (whose diffusion is aided by promiscuity ⁽⁷³⁾); it is curable with pharmaceutical drugs, (along with nutritional measures and

paying particular attention to the animal) and it can be caused by stress with subsequent immuno-depression. The same consultant affirmed that inside the structure there were no specific drugs for the treatment of this disease, but just support drugs (in particular Interceptor tablets, Clorexiderm and Benzoil shampoo ⁽⁷⁴⁾), none of which contained the active ingredient necessary.

The writer claims that it is undeniable that the demodicosis was a widespread disease ⁽⁷⁵⁾ not fought with drugs ad hoc: for the simple reason that the specific drugs were contra-indicated for the final experimentation destination of the beagles. In this regard we refer to the declaration of the consultant for the defence Dr. Rueca: "the drugs used to treat the demodicosis often have side effects, inducing liver disease which undermines the normal systems of drug metabolism. This means that if I have a liver metabolism from a previous drug treatment, I could get a completely different drug reaction during the experiment."

To demonstrate the accuracy of this conclusion, we take into consideration what was exhibited by the other defence consultant, Dr. Fornasier, who confirmed explicitly that the use of effective drugs in the treatment of certain diseases can impact negatively on the outcome of the experiment. ⁽⁷⁶⁾

3.9 Regarding the use of tattoos for identification of the beagles, it should first be stated that Art. 13 of the D.L.vo 116/1992 prescribes the marking of the animals by the least painful method possible. The region of Lombardy, with circular no, 56/2002, specified subcutaneous inoculation with a microchip as the method for identifying the dogs, instead of tattooing. Subsequently, by L. 16/2006, Article 7, and by Law 30 December 2009 no. 33, Article 109, the necessity to use a painless methodology was stressed.

It is obvious that the dogs at the breeding facility were identified by use of a tattoo (with use of needles) on the ear on the 60th day from birth.

It has emerged from accounts of the consultants to the Public Prosecutor ⁽⁷⁷⁾ that at the breeding facility a 7-digit number was generated for each dog at birth: the puppies were usually tattooed on the right ear at the age of 8 weeks, with a number on one row and the initials BSGH on the second row. Only 20 of these were also micro chipped, some, however, had more than one tattoo. ⁽⁷⁸⁾

The defence for the accused referred to the provision dated 05.04.2007 with which the Lombardy region had authorised Green Hill to use tattooing instead of a microchip as the identification method. ⁽⁷⁹⁾

In this respect, it should be noted that the authorisation request, dated 15.01.2007, produced by the defence ⁽⁸⁰⁾, was motivated by the need to safeguard the objectives of the experiments (this is the text of the application: attached, our clients' request that they be permitted for technical and commercial reasons not to use a transponder for identification of our animals if at all possible as this interferes with the studies for which they are destined, respecting the privacy of our clients and with reference to the following laws (omission))".

However, as referred to during the discussion of the defendant's own consultant, Dr. Fornasier, it emerged that the request for authorisation of the use of tattoo instead of microchip was, in reality, motivated by the ease of reading the identification number of the animal without use of an electronic scanner, at the breeding facility as well as during the subsequent experimentation phases. ⁽⁸¹⁾

So it can therefore be agreed that it was arbitrary (and therefore not necessary) to use the most antiquated and painful means of identification; it should be added that during the course of the discussion it was not shown that there could be a possible interference between drug experiments and inoculation with a microchip.

It is indisputable that the accused present were aware of the contrariness of the use of the tattoo to the applicable law; we refer in this respect to the eloquent document no. 13 (email 16 February 2012 – Rondot, Graziosi) where we read: " his suggestion (n.d.est.: the reference is to Dr. Silini, ASL veterinarian) is to write again, mentioning all the current laws. The letter should be a bit innocent (editor's note naïve), asking whether there are other laws which require the use of a microchip for laboratory animals. In my opinion, even if the authorities don't reply, this letter will be useful for our lawyer in the event of a future inspection should ASL raise any problem or impose any fines. ⁽⁸²⁾

3.10 It has not been adequately proven that cutting the claws caused bloody wounds. It is not in doubt that, considering their captive status, the total lack of outside exercise and the existence of smooth surfaces, the operators of Green Hill periodically shortened the dogs' claws. However, the traces of blood, found in one pen only, seem most probably attributable to scratching the walls of the cage by (just) one dog who had previously undergone some nail treatment. According to the evidence, this was a single isolated case.

3.11 We now deal with letter H), in conjunction with the aggravating circumstances relating to the death of 104 beagles, see Chapter A).

The first fact we start with is that the floor of the cages was strewn with sawdust, useful for absorbing urine and faeces, this fact emerged from the depositions by agents of NIRDA and the veterinarians regarding the

conditions of the pens. The documentation of records, moreover, shows with absolute certainty, that ingesting the sawdust was a (frequent) cause of death, especially among the puppies.

In this respect, the content of the numerous tables relating to the puppies (99 in total), produced by the Public Prosecutor at the hearing on 29.10.2014 (on record in binder no. 2 A Bis) is univocal. It deals, in fact, with documents from which it is apparent that 93 beagles died for the following reasons: "sawdust blockage in the oesophagus"; "sawdust blockages in the throat"; "sawdust in the stomach"; "sawdust blockage in the throat and stomach"; "bedding in oesophagus"; "sawdust in the intestine"; "sawdust blockage oesophagus"; "blockage oesophagus and trachea"; "infection caused by ingestion of sawdust in stomach"; "intestinal haemorrhage (caused by) ingestion of sawdust"; "multi-organ infection due to ingestion/obstruction of sawdust"; "lungs full of froth and discoloured"; "sawdust in stomach". In addition, the tables give an account of the death of some dogs (6 in number) by intraoperative complications ⁽⁸³⁾ or trauma which were not diagnosed in time.

The data is not modest in volume when the number of deaths is related to the temporal reference between 2010 and mid-2012. ⁽⁸⁴⁾

By reading emails and reports in the file it emerges, however, that the existence of serious problems associated with the use of a certain quality of sawdust, as well as the widespread mortality of the dogs from various complications (including surgical procedures), was well-known (at every level) inside Green Hill. Relative to this point, we refer to paragraph 6 of the Marshall Report on Green Hill January 2012, in which we read that *"the litter, because of its size and quality (dusty) constitutes a serious problem because of being ingested by puppies"*; no less important and convincing is the weekly conference call on 31 January 2012 (document 16) as follows: "Another point discussed was the size of the litter. The puppies ingest it and this causes some losses". ⁽⁸⁵⁾ Of further significance on this point it was found that the Manual of Internal Procedures (brought to attention by Cinzia Vitiello) contains descriptions of emergency procedures to carry out in case of discovery of sawdust in the throat.

- 3.12** The conditions under which the beagles lived inside the breeding facility were thus outlined and, as undoubtedly will be shown at the outcome of the hearing, the writer considers there to be a direct link between the large number of deaths and the extremely dubious surveillance activities and inadequate assistance. On this point, the arguments and evidence brought by the Public Prosecutor are overabundant. It should be noted that Green Hill was not authorised to have an operating theatre ⁽⁸⁷⁾; that only one veterinarian had been taken on to deal with dogs, whose number on average reached close to 2,300; that the surgery, described as an office ⁽⁸⁸⁾, was not equipped for surgical activity ⁽⁸⁹⁾, even if, on

various occasions, the animals underwent sterilization and caesarian procedures ⁽⁹⁰⁾; that during the night, in the time slot between 18.30/19.00 to 06.30/07.00 the following morning ⁽⁹¹⁾, there were no employees at the breeding facility, even though in the majority of cases the deaths of the puppies were detected at 06.30/07.00 ⁽⁹²⁾.

The operational difficulties relating to the management of the enormous number of beagles, reported by ASL following seizure of the facility, cannot be attributable to mere chance; it was necessary to transfer some examples to other sites to produce a net reduction in mortality with the joint intervention of veterinarians and associations on site. ⁽⁹⁴⁾

4. The defence was incapable of dismantling the accusatory arguments presented during the debate.

In particular the defence deduced that: from the documentation produced, it emerged that the breeding facility had been subjected to numerous checks by public authorities and this charge, recalling the contents ("favorable outcome of the inspection") of the 67 inspection reports ⁽⁹⁵⁾; the previous criminal proceedings against Ghislaine Rondot, for the offence under Article 544 ter cp, which had been filed, this is because the consultants appointed by the Public Prosecutor (in service at the Zooprofilactic Experimental Institute of Lombardy and Emilia Romagna) verified the adequacy of the buildings and the welfare of animals in every respect; the film taken by the State Forestry Corps when they accessed the breeding facility Green Hill on 18.07.2012, acquired in the acts at the hearings, would constitute positive proof of the very good condition of the animals (lack of signs of infirmity, maltreatment, suffering, anxiety); the agents of the State Forestry Corps had not carried out inspections on the real conditions of the animals, on the dimensions of the enclosures, on the number, age and weight of the dogs; the consultant to the Public Prosecutor (Dr. E. Moriconi), had not provided any evidence about the irregular management of the breeding facility and further, with no specific professional experience of dog breeding facilities for scientific experimentation, he did not seem to be completely "independent" having engaged in the past in a consultant capacity on behalf of LAV and Legambiente (in addition an honorary member of the LAV); with reference to the statements of Dr. Chiara Giachini (veterinarian with the local ASL in Brescia with the task of verifying the conditions of the animals at the headquarters of the breeding facility in the two months prior to the seizure) she approved the suitability of the building and equipment and noted the lack of signs of maltreatment on animals (the dogs looked well-fed, lively, absolutely normal and well-bred); with reference to the statements of Dr. Luigi Azzi (veterinarian with the local ASL in Brescia, who had the task of providing the animals with healthcare at the breeding facility, in the period between the seizure and the transfer of the beagles to other facilities or to private owners) he claimed that the behaviour of the animals was normal (when you opened a cage they came out and ran around and did not show any

signs of having been beaten or malnutrition), and that they had not suffered any maltreatment; the same way that the testimony of employees of Green Hill has established that the breeding facility was run without any limitation of expenditure in relation to the facilities, equipment and animal feed.

5. The defence argument is not acceptable as will be shown below.

Firstly, we consider the findings made by ASL of Brescia, district of Montichiari, to be unreliable, as well as the corresponding 67 inspection reports; and indeed, the checks in question are revealed as superficial summaries, made with prior warning to Green Hill, with considerable time lapses, with respect to the assessment of 18.07.2012, relating to production cycles other than those verified in July 2012.

In many records, some entries in the questionnaire relating to the welfare of the animals and the hygiene at the breeding facility do not result "well", they are neither "yes" nor "no" ⁽⁹⁷⁾, sometimes giving both options ⁽⁹⁸⁾; the inspections carried by Dr. Silini ⁽⁹⁹⁾ cannot be granted any credibility because – having read the emails and reports of Green Hill – it emerges that Silini (veterinarian – inspector ASL) never even entered the sheds, the inspections were pre-announced, the public official had a rapport of unusual closeness with the society. ⁽¹⁰⁰⁾

Likewise, the inspection carried out jointly by the Lombardy Region and the Ministry of Health ⁽¹⁰¹⁾ on 18.01.2012 had been pre-announced, albeit with only a half hour's notice, (fixed at 10 am, the reason for this inspection, with only a 30-minute warning, is to check on the health conditions a year and a half after the last inspection (14 July 2010)). ⁽¹⁰²⁾

Regarding the outcome of the previous (similar) proceedings dealt with by Ghislaine Rondot and the positive relationship with the Experimental Zoo prophylactic Institute of Lombardy and Emilia Romagna, it is sufficient to note that the institution in question (although appointed technical consultant by the Prosecutor in past proceedings) does not have special competence, nor specialization in evaluating the ethology of animals from disease (see the relevant law regarding the establishment of same institution: D.L. vo 30 June 1993, no. 270). In fact, the report shows no thorough examination related to aspects connected with ethoanomalies (freezing, pica, stereotypes, repetitive behaviour), nor of some adult specimens who still demonstrated behavioral problems. It is important to highlight the sociability of the puppies, since the latter, referred to by the Forestry Corps is consistent with the young age of the puppies. It should also be highlighted that a large part of the investigations carried out consisted of conducting an interview with the director at the production site, with the veterinarian and with several employees (extract page 4), so the central nucleus of the investigation appears to be based on the statements of the same subjects controlled

or by these employees. It can be confirmed that at the time of such inspection there were some irregularities which do not contradict the subsequent findings of July 2012, like, e.g.: the presence of some cases of demodicosis (page 7), the use of tattoos (extract page 4) for identification of the dogs from the sixtieth day of life, the small dimensions of some pens (extract pen measurements for pens nos. 1, 4 and 5), the lack of areas for stretching the legs, the inadequacy of the so-called "operating theatre", judged fit on the supposition that the surgical interventions would be limited to emergency cases and, therefore, occasional.

Other aspects of the investigation are contradicted by the emails and reports, which have already been accounted for previously: in particular regarding the temperature and the overcrowding in the sheds.

Reference to the film is irrelevant, ⁽¹⁰³⁾ as it contains a series of images taken by the State Forestry Corps during the inspection carried out on 18.07.2012, if one considers, as previously reiterated, that the allegations that the defendants face do not relate to injuries or carrying out harm to the animals, but rather to depriving them of their behavioural pattern, considered unbearable for this race.

On the other hand, it is true that the images at the disposal of the Court prove the existence of certain problematical aspects for the animals, described in detail by veterinary auxiliaries: an excessive level of over-excitement due to the presence of the operators (e.g. at 17.48 and 19.06 minutes) followed by an unusual immobility (at 13.40, 14.40, 15.36, 15.41, 15.16, 18.35, 18.52, 19.12, 19.18, 19.33, 19.48, 27.42 minutes); an unmotivated state of fright of several dogs (the dogs distance themselves from the UPG at 18.09, 15.35, 16.26, 16.59 minutes); examples of repetitive behaviour (at 21.40 and 23.25 minutes), like eating the litter or turning anxiously along the same trajectory, in a circle.

Neither can critics of the checks made by the State Forestry Corps be denied. Bearing in mind the accusations made, any useful inspection should have led to weighing the dogs, and by way of the eloquent documentation obtained (reference the emails which have already been mentioned) dealt with overcrowding of the pens.

The inspections of the State Forestry Corps were sufficiently complete and in-depth (the checks on the building were carried out by qualified staff and they included all five sheds, the pens, the storerooms and the infirmary; those on the animals were conducted on all those (animals) inside the sheds by veterinarians, amongst whom - M. Michelazzi and A. Rossi – are specialists in precisely "animal welfare and ethology". In this respect, it should be said that the overall assessment of the breeding facility and condition of the dogs was shared by the five Attorney General veterinary auxiliaries.

Regarding the criticisms made to the consultant to the Public Prosecutor Dr. Moriconi, it should be noted;

It is undeniable that Moriconi is an expert on the subject and that he has acted as technical consultant in various criminal proceedings: we refer to the scientific data mentioned by him (veterinarian at ASL Turin 3) relating to welfare or illness of the dogs and livestock breeding facilities ⁽¹⁰⁵⁾.

It should be pointed out that the granting of an honorary membership card to Dr. E. Moriconi by the LAV constitutes an attestation of professionalism which nevertheless, in the absence of ulterior elements which show active participation by the consultant in initiatives of the association, cannot lead to formulating an opinion of lack of objectivity or insufficient detachment from the parties.

Lastly, it is evident that the views expressed by Dr. Moriconi in court, find foundation in objective data first collected by the Attorney General veterinary auxiliaries.

The statement of Dr. Chiara Giachini (ASL veterinarian who succeeded Dr. Silini), the Court believes that the results of the investigations she conducted at the breeding facility are infected (once again) by a serious defect: the inspections were pre-announced to Green Hill, sometimes by the veterinarian herself ⁽¹⁰⁶⁾, even if in certain cases they were carried out by third parties ⁽¹⁰⁷⁾.

The familiarity between Giachini (public official in charge of the inspection) and the people at the top at Green Hill (attested by the emails on record), puts in serious doubt the witness statements where she referred to "a well-run breeding facility with animals in normal condition", in fact contradicted by the findings after the seizure of the breeding facility.

In addition, the witness Giachini, responsible for sanitary supervision at the facility from May 2012 up to the day of seizure, having never revealed problems in the operating theatre or relating to health management, was forced to admit at trial ⁽¹⁰⁸⁾ to the various problems relating to the management of puppies at Green Hill. Giachini, particularly, stated that, in certain circumstances, it was preferable to rely on external organisations and that the care of the puppies suffered because of the huge number of specimens: "after the seizure, for example I had a dog with diarrhoea, I couldn't stay there giving it First Aid, it was necessarily to hospitalize it and to follow it up after 24 hours, you couldn't follow it for three hours and then the next day I had a limping one, a dog limping to make a diagnosis whether it was dislocated or not, it should have been seen by an orthopedic specialist. The puppy with diarrhoea I put on a drip but when we agreed to transfer it I was really happy because the responsibility for the puppy was a problem

when I had to leave it". This because "it was better for it to be on a drip". "We were the ones putting pressure on (Vassallo) to not give us this workload, i.e. it was like having a surgery with 2500 patients and I asked for some dogs to be let out to distribute the workload" (109).

Regarding the statements of Dr. Azzi Luigi, veterinarian of ASL Brescia (headquarters in Lonato), it should be noted that the report by same (from the check performed on puppies and bitches in shed no. 3, no etho-anomalies were observed) does not affect the reliability of emergency proceedings we have examined so far.

His affirmations, in fact, if in part confirm certain aspects that came out after the inspections carried out by the veterinarians – Attorney General auxiliaries (who state that in shed no. 3 there were only a few cases of stereotypical behaviour given the young age of the dogs), some are blatantly contradicted by the findings of films on record (mother walking round in circles), as well as the outcome of further investigations (cases of dermatitis, of a dubious nature at times resolved by scraping the skin, suspected parvovirus enteritis, lack of toys in the pens, presence of an infirmary with the characteristics of a real surgery).

The statements of employees (Bosetti, Vitiello) relating to the company policy at Green Hill, described as to ensure a high level of well-being of the animals "no expense spared" are considered unreliable.

With reference to showing that the resources of Green Hill for better maintenance of the animals were not so unlimited, we must refer to the following communications extracted from emails and reports on file, which show some attention to the charges: "Variations to the temperature in shed 3 - the thermometer is positioned in the centre. There are no additional zones nor thermostats in the shed which indicate the variations in temperature. One option for resolving this problem is to raise the temperature inside the shed so that the lower-level areas are within the average range. This would involve additional costs (110). We have considered contacting some representatives so that we can understand (more) about geothermal costs; our plumber came this morning to install some tubes and told us that nowadays there are new technologies to create a system at reduced cost, with lower maintenance costs and excellent results which would allow for a pleasant temperature in the sheds." (111)

The line of defence, in the end, is fully refuted by the reading of the correspondence taken from the files of the proceedings in which a trace of the harsh reality is found: the beagles were raised according to a protocol which should have guaranteed, at an acceptable cost, conditions of health/fitness for the successive phase of experimentation. In the absence of such conditions, in the case of illnesses which needed treating with therapies which could have interfered with the successive

phase of experimentation, the dog was considered an unnecessary burden and the upshot was elimination.

Following are three emails which, in this respect, appear very significant.

The first refers to the use of euthanasia by the society, in fact often for reasons of space ⁽¹¹²⁾; the second to the eventual elimination of the dogs affected by serious demodicosis at the site of Green Hill, ⁽¹¹³⁾ taking advantage of the occasion of the attack by animal rights activists; the third refers to a communication about the results of laboratory tests from which we learn of the elimination of a dog, who we discover was not affected by demodex, ⁽¹¹⁴⁾

In conclusion: the multiple evidential findings lead unequivocally to affirm the existence of ill-treatment as alleged by the Public Prosecutor, within the limits set forth above, (as previously discussed) the alternative supported by the defense not being seriously envisaged.

7. The conduct found places the crime under Chapter A), also from a legal standpoint. Before expressing the reasons for this finding, it is fitting to correctly classify the crime of maltreatment, it is appropriate to make an introduction, directly, in order to: clarify interference (confusion) between Articles 544 ter cp, 19 ter of the coordination and transitional provisions of the Criminal Code, Articles 5 and 14 of the legislative decree 166/1992; and to investigate the combined provisions of Article 19b Rules att. cp and D.L.vo 116/1992.

They are obligatory passages which also verify the nature (binding or not) of the requirements of Art. 5 of the D.L.vo 116/1992 and in the annexes to the aforementioned decree; clarifying under what conditions a crime of abuse in relation to the animals can be configured.

Remember that in the sense of Article 19 ter of the coordination and transitional provisions of the Criminal Code *"the provisions of Title IX bis of Book II of the Penal Code do not apply to cases provided for by special laws on the subject of hunting, fishing, breeding, transportation, slaughtering of animals, of scientific experimentation on them, of circus activities, zoos as well as other special laws on the subject of animals"*.

The protection of animals bred for experimental ends is regulated by D.L.vo 116/1992. Reference standards are those contained in Articles 5 and 14. In particular, under Article 5 *"whoever raises, supplies or uses animals for experiments must ensure, in accordance with the guidelines of Annex II, that:*

- a) *the animals are kept in an environment which allows a certain freedom of movement and supplied with food, water and adequate care for their health and well-being;*
- b) *any limitation to the possibility of satisfying their physiological and behavioural needs be reduced to a minimum;*
- c) *daily checks are carried out to check on the physical conditions in which the animals are bred, kept or used;*
- d) *a veterinarian check on the welfare and health conditions of the animals with the aim of avoiding lasting harm, pain, unnecessary suffering or anguish;*
- e) *measures to promptly correct any eventual defect or suffering.”*

Article 14 of the aforementioned decree also provides: *“that anyone who violates the provisions of Articles 5 and 6, unless the fact constitutes a crime, shall be punished with an administrative fine of between ITL 5 million and 30 million; in the case of repeated infringement or of relapse, the maximum fine increases up to 150 million”.*

On the first of the issues raised, the Court agrees with the principle of law (stated by the Court of Cassazione in relation to circus activities) to the effect that Article 19 ter disp. coord. c.p. *“excluded in any case the applicability of provisions of Title 9 bis of the Second Book of the Criminal Code, but finds they do apply to the activities carried out because of special regulations that expressly govern them”.*

Exoneration, by definition, must be regarded as effective only in the case in which the activities referred to in it are carried out within the jurisdiction of the provisions that they govern while any behavior that falls outside such area is liable to be criminally evaluated ⁽¹¹⁵⁾.

This principle is explicitly confirmed by the Supreme Court with the sentence issued on 11 April 2012, no. 16497, in these proceedings (in the precautionary phase) in which it was confirmed that the activities mentioned in Article 19 ter, must be carried out, in order to be exempted from penalty, under the special legislation itself. *“The provision in question, equal to the general one of Article 51 c.p. relating to the exoneration of the exercise of right, seems, however, to be an expression of the principle of the necessary coherence of the legal system, given that the same conduct cannot, at the same time, be allowed or even imposed on the one hand and prohibited on the other. But we should also note, the requirement that the conduct in the abstract sense can be related to the types of Title IX bis of the Second Book of the Criminal Code and are within the parameters of the provisions of the special laws, given that an exit, even only in part, from the limits of the*

standard would result in the loss of the rationale behind Article 19 cit., e, and therefore make for full traceability within the criminal laws.”

The abstract configurability of the offense, moreover, can be sustained in the light of a single piece of literal data in which Article 14 of D.L.vo 116/1992, because the phrase “*unless the fact constitutes a crime*” provides an express reservation clause in favour of the criminal law. The reading of the normative data also requires consideration, *condicio sine qua non* ai fini della consummazione del delitto the concrete assessment of typical elements of maltreatment, amongst which injury, abuse or subjecting to behaviours, toil or work unbearable for their ethological characteristics.

Nor can it be in doubt that the requirements of Article. 5 of the D.L.vo 116/1992 and of Annex II are mandatory rules, relating to the objectives (amongst which are animal welfare, the adoption of measures to promptly correct defects or suffering, checks designed to prevent lasting harm, unnecessary suffering, distress) and to the positive mode of design of the facilities and detention of the animals ⁽¹¹⁶⁾.

A further argument of fundamental importance is clarify the concept of “*submission to behaviour or toil or work unbearable for ethological characteristics*”, as a judgement of the value of the unbearable most certainly nullifies the purpose of existence of the crime and the exact qualification of the fact, especially if one takes into account the existence of this case, like ones of Article. 727, comma 2 cp.

On this point, the argument that motivates the counsel of the accused must be rejected with force, i.e. that in the examination of ethology of the animals an anthropocentric approach is to be preferred; ⁽¹¹⁷⁾ animals, being creatures susceptible to habits, when subjected to processes of domestication, can tolerate exercises, efforts and activities of all kinds or live in conditions quite different to those they would encounter in nature (we reference here the case of the chimpanzee trained to undergo treatments voluntarily offering his arm).

Indeed, the system of legal protection of animals, also inspired by regulations of a community nature, tends to overcome the concept of patrimonialistic animals and expressly acknowledges them as sentient beings. Crimes introduced by the Law 20 July 2004, no. 189 are of a multi-violation nature, extending the subject of legal protection for animals to forms of maltreatment against their ethology, or against the natural characteristics of the species.

With regard to “*submission to unbearable behavior*” (ref. Article 544 ter c.p.) the Supreme Court ⁽¹¹⁸⁾ maintained that the notion of “unbearable” is to be evaluated in relation to the ethological characteristics of the animal without claiming that the same must necessarily achieve behaviors that

go beyond, surpass and cancel the “physical” capacities of the animal. If this were the case, we would end up attributing to the concept “of “behavior” a significance very close to that of “toil” when instead, as evidenced by the regulation, the legislator has used both the concepts, attributing to each its own independent significance”.

With the following sentence no. 39159 of 2014 the Court, in reaffirming the same principle, added: “the notion of unbearable behavior for the ethological characteristics does not assume an absolute significance (like reaching a limit beyond which the animal would be eliminated), but a relative significance that contrasts with the behavior of the species in question, as reconstructed from natural science. And, in this sense, the placing of the animals *in environments unsuitable for their natural existence; inadequate from the point of view of dimensions, healthiness, the technical conditions certainly aids the integration of the case in the terms required today by the legislator.*”

Subjectively, for the configurability of the crime in dispute it is sufficient (to state) that the malice is generic, even in the form of possible malice. For clarification, moreover, “*maltreatment of animals, cruelty or lack of necessity qualifies as a crime even when the conduct causes a different result other than injuries or the subjection of the animal to behavior or toil or tasks unbearable for his/her ethological attitude*”⁽¹¹⁹⁾.

8. In point of fact, it is clear that the etho-anomalies revealed in the dogs inside the breeding facility are not connected just with being in a captive state. They are a clear and direct consequence of the environmental and managerial conditions of the site and, in particular, are due to the substantial violation of the requirements contained in D.L.vo 116/1992.

In this regard, we need to take into account the evaluations and conclusions of the veterinarians who carried out the inspection of the facility on 18.07.2012 and of Dr. E. Moriconi who, apart from viewing the documentation acquired, observed the behavior of some specimens some time after the seizure.

We must start by saying that in ethology, “*behavior patterns*” are all vital activities, peculiarly insuppressible to each species, i.e. “*conditioning and learning, sensory capacity, general habits, reproductive behavior, feeding habits and social behavior*”.

In the development and manifestation of one’s own behavior repertoire, the environment is an element of predominant importance since it inevitably conditions the expression of traits. From this we can deduce that an inadequate environment which does not allow expression of natural behavior of the animal is a source of stress. In literature a distinction is made between three different phases of stress: 1) reaction of alarm – 2) stage of resistance (partial adaptation) – 3) stage of

exhaustion (with intervention of behavioural and organic pathologies). Stress is not a synonym for inevitable suffering: if the negative conditions are easily overcome, the individual can reach a balance and the stress ceases. If, on the other hand, the criticalities are insurmountable, the animal enters into a state of chronic stress or distress, a proven cause of suffering of the animal⁽¹²⁰⁾.

Among the factors which generate stress, the following are cited: excessive noise pollution, conditions of excessive cold or heat, lack of a peaceful place to rest, insufficient physical activity, insufficient mental stimulation. ⁽¹²¹⁾

So, as previously stated, the environmental conditions at the breeding facility Green Hill were such that they did not guarantee the welfare of the animals, even, in the case of some specimens, amounting to clear evidence of suffering, connected with same.

In particular, relating to the high temperature, consultant Moriconi reported: "the dogs react to the high temperatures by breathing more quickly, but panting is definitely not a favourable condition and, if it lasts for a considerable time, subjects the relevant muscles to strain, which becomes exhausting."

Relating to the deafening noise, due to the barking of the dogs, and to the lack of rest areas, the consultant pointed out that these are conditions which characterize the natural life of dogs and are covered under what literature defines as "general habits". Such conditions, considered absolutely negative, completely go against natural needs (writer's note awake/asleep) and constitute a non-ethological behavior.

Relating to the lack of "paddock" areas it was impossible to have any free movement, the consultant observed that not being able to undertake physical exercise is very serious for the beagles in that for their physical and mental health they must absolutely be able to undertake this activity, as evidenced by their race. The conditions of little movement imposed, excluding that inside the pens, is a cause of stress. Evaluating this according to the five freedoms, the negation of the possibility of movement must be interpreted as a violation of the fourth freedom, to express the specific species-related behavior. An external area, more spacious, is an indispensable condition for allowing the dogs a certain amount of movement, a possibility which is definitely not guaranteed inside the pens. Movement is a general habit, i.e. it is part of natural behavior, for this reason if outside movement is denied the dog is forced into a situation of unbearable and non-ethological behavior ⁽¹²²⁾.

The environment situation (characterized by insufficient spaces, lack of movement outside, pens with little enrichment), influenced, according to the consultant, not just (and not to a great degree) the physical activity

but also the psychic, sensory and mental capacity. To explain, it is said that beagle dogs are hunting dogs, with a good temperament, very bright, with a strong olfactory capacity. As a hunting dog, for physical and psychic health they must have full freedom be able to walk and also run. From puppyhood, for brain development and well-being of the dog the stimuli that come from the surrounding environment are determining, which is why exploration of the territory, hunting for food, partner, protection from eventual danger, all contribute to brain development, along with attention and vigilant and participatory attitude. The expression of natural or ethological behavior of a dog is, therefore, the result of the expressive possibilities relating to mental stimulation, possibility of communication and of expression of the main sensory capacities.

In this framework, it is clear that management decisions (at a high echelon) imposed a substantial sensory deprivation with serious threat to the sensory development and normal levels of attention and vigilant state. ⁽¹²³⁾ An example is clearly visible at 7 minutes in on the film taken by the State Forestry Corps, where we catch a glimpse of an operator of Green Hill who carries out the movement of dogs from one pen to the other and, having left the door of the cage open, a puppy remains almost immobile on the doorstep.

9. The judge believes that the observation of the dogs' behavior represents a convincing confirmation as stated above, the consultant having highlighted (also during the fostering period) etho-anomalies such as freezing, fear and anguish, repetitive activity, stereotypes, pica. The "freezing" or rather the state of "immobilization" is an anomaly well-known in literature: it is an adaptable and defensive behavioural phenomenon, common to many animal species and which manifests itself in natural conditions of threat or fear. During the inspection on 18.07.2012 the veterinarians – auxiliaries of the Public Prosecutor – witnessed various cases of "freezing" ⁽¹²⁴⁾ and this anomaly was also noticed subsequently by Dr. Moriconi, both in the dogs visited at the time of fostering (especially when they were lifted up in (someone's) arms⁽¹²⁵⁾) as well as those examined some months after they had been living in a family environment, where it was verified that, in a much different situation, they still displayed unease at being lifted in this way. ⁽¹²⁶⁾

Fear and anguish, symptoms also highlighted in the report of the veterinarians of U.P.G. ⁽¹²⁷⁾ constitute behavior, according to the consultant to the Public Prosecutor and the other veterinarians involved in the case, which precedes freezing and they represent a reaction (of a level inferior to "freezing") of frightened submission towards a person or a situation. They represent, equally, a condition of alteration to the behavior.

Also undisputed, for the reasons clarified above, the existence of “repetitive” behavior, explained by the experts as behavior that the animals undertake when they cannot do what they want, and which represents equivalent behaviour. On this point, consultant to the Public Prosecutor Dr. Moriconi observed that, since the wish to get out of the pen could not be satisfied, the dogs undertook other actions like biting the bars or ingesting the sawdust or other indigestible objects (pieces of plastic from the basins and kennels, their own faeces or that of other dogs in the same pen), or to compulsive vocalizations, turning around and around ⁽¹²⁸⁾, scratching the floor ⁽¹²⁹⁾.

This behavior, it should be remembered, was observed and described at first by the veterinary auxiliaries of the Attorney General, and is certainly not without adverse consequences for the animals.

And indeed, the filing of the teeth, as also the black marks on teeth found during the visits carried out on the fostered dogs, occurred inside the breeding facility Green Hill and it is reasonable to trace this back to actions of biting the bars of the pens. This habit was also observed later on in the adult dogs in foster care.

For definite, one can dispassionately conclude that from the repeated and persistent violations of the regulations set out in D.L.vo 116/1992 a serious and considerable danger to the welfare of the dogs ensued: the methods of management, well-known at every level, in fact, deprived the beagles of their most elementary needs, or rather, using the language of the experts on both sides, of those defined as “the five freedoms” for the protection and welfare of the animals ⁽¹³²⁾, with consequences of considerable importance for several examples.

10. The accused are asked to respond to the crime which Article 544 bis cp, ascribed to them in Chapter B), to have caused the unjustifiable elimination of 54 dogs.

The accusation is made based on the “dog-tables” relating to 54 (cases of) euthanasia; the unjustifiable elimination of the dogs is questioned in that each table does not carry information useful to illustrate details of the treatment administered and the duration of the therapy that preceded death. This inspired the investigators to think that the health conditions of the examples who died were not such as to justify the solution that was in fact undertaken.

It should be said that at the hearing on 19.11.2014 the defence for the accused produced copies of the tables containing therapies carried out pre-euthanasia (these were tables which were not found during the course of the inspection); based on these documents the consultants to the defence (Rueca Fabrizio and Massenzio Fornasier) deduced that the

decision to euthanise the dogs was justified because of the illness diagnosed, judging it incurable or the therapies used to be inadequate.

In particular, regarding the demodicosis, it has been confirmed that this is a complex illness that can cause serious infections, blood-borne bacteria and germs can reach any organ and damage it; the skin lesions and inflammation of a purulent nature, moreover, cause of pain and suffering to the animal ⁽¹³³⁾. The treatment is, of course, difficult, being conditioned largely by environmental and genetic factors, as well as being resistant to drug treatments. None of the treatments available nowadays guarantees the complete recovery of the animal – the percentage is less than 50% ⁽¹³⁴⁾. Among the possible therapies, and also the most advisable with a low risk of side effects, is the application of an antiseptic shampoo and massaging of the skin with squeezing of the follicles, which is the treatment carried out at Green Hill ⁽¹³⁵⁾.

With regard, however, to the cases of euthanasia for diab/diah (diarrhoea) it was claimed that the parvovirus and bloody diarrhoea are infectious illnesses, of an acute and hyper-acute nature, which strike very young puppies and have a very high mortality rate. The rapid course of the illness means that it is also very difficult to effect a diagnosis and begin suitable treatment. The only effective therapy to halt the course is an infusion in order to counterbalance the loss of liquid due to the diarrhoea.

11. It is believed that for the indictment sub Chapter B) the charge of criminal responsibility of Rondot Ghislaine, Bravi Roberto and Graziosi Renzo is called for.

We start by saying that the “Tables – dog” relating to the animals eliminated were 66. Amongst these, the prosecution consultant, in view of the meagre notes on the pathology of same, therapies, clinical observations, has decided to reduce the cases of unjustified elimination to 54 (as expressed in Chapter B).

Tables pertaining to the “sacrifice” of the dogs, all marked with the wording “SACR”, can be grouped as follows, according to the “traits” ⁽¹³⁶⁾ indicated: 12 Tables ⁽¹³⁷⁾ “Skin” ⁽¹³⁸⁾, “Diah” ⁽¹³⁹⁾, 14 “Diab” ⁽¹⁴⁰⁾, 3 “Dian” (actually “Diah”), 3 “Multi-factor” ⁽¹⁴¹⁾, 1 Rp ⁽¹⁴²⁾, 1 Eye ⁽¹⁴³⁾ + Rinf ⁽¹⁴⁴⁾, 1 Drsg, 1 in agony, 2 diarrhoea, 3 Miscellaneous ⁽¹⁴⁵⁾, 1 Resp ⁽¹⁴⁶⁾, 1 Convulsions, 1 Hindlimb Paralysis, 1 Diac ⁽¹⁴⁷⁾, 2 no movement.

During the course of the investigation, linking the tables of each dog euthanised to those of the relative therapies, the consultant to the Public Prosecutor confirmed that the elimination was justified in 22 cases (3 cases of mange, 10 for diarrhoea, 5 for enteritis, 3 for neurological symptoms, 3 for respiratory symptoms, 1 without descriptive code ⁽¹⁴⁸⁾), regarding the puppy tables and therapy tables a hopeless situation

emerged: some dogs who had been indicated as being underweight or undergoing special treatments were found in a comatose state ⁽¹⁴⁹⁾; in other situations the appearance of complications (M7236433 F7233558 M7262457)⁽¹⁵⁰⁾, for example rectal prolapse or (complaints) of a neurological nature did not allow for administration of therapy for a prolonged period of time; in others, the decision was justified because of the onset of complications, in spite of the prolonged therapy (F7250185 M7336691)⁽¹⁵¹⁾.

Apart from the above-mentioned cases, in line with the thesis of accusation the elimination must be considered unjustified.

The accusatory formulation can certainly be shared for the cases of demodicosis (in all 12 ⁽¹⁵²⁾) and this is for three reasons.

Demodectic mange is a curable illness: in reference to this we take the convergent opinions of the veterinary auxiliaries of the Public Prosecutor ⁽¹⁵³⁾ and the first written report of Dr. Moriconi: "Demodectic mange is a skin parasitosis provoked by *Demodex canis*, a frequently occurring parasite on the skin of dogs which, however, is easily eliminated by the animal's antibodies and which only in the case of depression of the immune system may give rise to pathological forms; for this reason demodectic mange was common when dogs lived in conditions with poor nutrition and depression of the immune system. Depression of the immune system can easily be present in dogs in kennels the size of Green Hill. One characteristic of the parasitosis is that it can be quite easily resolved with timely therapies aimed at overcoming the parasite and at the same time supporting the immune response of the organism with support products.

In accordance, it is assessed that the treatments prepared were inadequate since they were not timely, were inefficient ⁽¹⁵⁵⁾ and of a short duration ⁽¹⁵⁶⁾. In this respect we refer to the report of the veterinarians (Dr. E. Chisari and others) in which we read that: "*the dogs, struck down by the most severe form of dermatitis, were not accommodated in the recovery pens but in ordinary pens, in proximity to healthy individuals. The parasitosis, defined as a pathology with fairly slow development, allows for early diagnosis and effective treatment: clinical cases of a certain seriousness, observed and documented during the course of the inspection, are a consequence of the lack of administration of appropriate medical care* ⁽¹⁵⁷⁾".

In addition, and with reference to this, Dr. Moriconi has confirmed that in the majority of cases demodicosis is cured with the use of specific drugs which contain the active ingredient against demodex (acaricide treatment with macrocyclic lactones such as ivermectina, milbemicina and moxidectina). The treatment lasts at least 2 or 3 months; for etiological healing, i.e. the disappearance of the mite you need to wait a year. The

same consultant emphasized that on analysis of the cards and tables of treatment it emerged that the therapies were carried out for very brief periods of time (6-15 days) and the drugs used were not specifically for demodex. Antibiotics were administered to treat the skin infections but not to fight the demodex, often there was no examination for diagnosis of the illness (158) such as skin scrapings or antibiogramma ⁽¹⁵⁹⁾.

As for the inefficiency of the therapy, as copiously stated in relation to Chapter A), it should be remembered that to evaluate those same consultants to the defence, the decision not to administer "acaridae" was based on the need not to expose the animals to treatments which could have altered the pharmaceutical response in the course of successive phases of experimentation ⁽¹⁶⁰⁾.

From this, it is inferred that the worsening in the health conditions of the dogs and the subsequent complications which led to the elimination of certain ones, were the result of specific company policies, in contrast, however, to sector regulations (D.L.vo 116/1992), which states as an objective the guarantee of the welfare of the animals destined for experimentation, with no explicit exemptions relating to treatments or cures.

The dogs sacrificed for DIAB and DIAH are 29 ⁽¹⁶¹⁾

First of all we must agree that the technical consultant to the Public Prosecutor reported that an animal affected by diarrhoea does not reach a state of near-death in a few hours ⁽¹⁶²⁾; and it must be added that such an occurrence is certainly due to internal deficiencies at Green Hill (the veterinarian was not always present or the staff delegated with observation of the dogs did not adequately watch over the conditions of same).

A further technical assertion is that diarrhoea is often a symptom of curable diseases ⁽¹⁶³⁾: in this respect even the auxiliary-veterinarians reported that sometimes the diarrhoea reached a scale of seriousness equivalent to 3, associated to death of the dog (These disease patterns may be due to various causes and would be easily treatable e.g. in the case of Giardia or coccidiosis ⁽¹⁶⁴⁾).

The therapy, for such cases, is based on the administration of physiological solutions which can have different elements as a basic principle. As explained by consultant Moriconi, they are complex and require time and resources which, according to the findings of the proceedings, were incompatible with the management of a breeding facility where for over 2,000 dogs there was only one veterinarian and there was no provision for work shifts in the night.

It should be borne in mind that, as confirmed by the technical consultant to the Public Prosecutor and undeniable from reading the dog-tables on record, the diagnoses of "extreme suffering and state of near-death", present on the treatment cards or tables, are not accompanied by the description of related symptoms such as the heart rate, respiratory condition, blood pressure and body temperature, all elements which are basic for judging a state of near-death. The diagnosis was not supported by laboratory tests, preventing, according to the consultant, a differential diagnosis "of a state of near-death with hypoglycemic or hypovolemic collapse, both of which are absolutely solvable".

Again, in many cases it was maintained that pharmacological treatment was of a very short duration (even as little as 48 hours), whilst in other cases, stating the existence of a near-death state or of severe suffering, the only remedy was euthanasia with Tan ax. In other cases, Marconi added, the decision to eliminate was based only on a shaky judgment of "suspected of parvovirus", without there being any trace of a previous clinical examination.

Regarding the cases of elimination for enteritis (2) ⁽¹⁶⁵⁾ the consultant reported that the descriptions on the cards were laconic and in all cases the therapeutic treatment was definitely too brief in duration since it lasted only one/two days.

In this framework the elimination of dogs appears arbitrary and without valid justification and must be considered under Art. 544 bis cap Chapter B). The elimination of 44 dogs is objectively unjustified in terms of assistance and therapeutic treatment, so that there remains some exoneration of necessity, as reading the tables of the dogs does not cross-reference with health conditions for which adequate treatments could have avoided unnecessary suffering to the animals.

In this respect we should remember Article 3 of the Veterinary Code of Ethics according to which "Euthanasia of the animal is exclusively an act for a veterinary surgeon, it forms part of the professional ethics of the veterinarian and can be carried out to avoid psychophysical suffering and/or unacceptable pain to the animal patient and in cases permitted by the law".

Those same principles are contained in the Manual of Internal Procedures at Green Hill, which on page 2004, point 32, specifically provides: *"If the result of the medicinal treatments is to restore conditions of good health, bearing in mind that this is not always possible or ethically preferable. In those circumstances where the possibilities for recuperation have been exhausted and/or the animal is subject to severe suffering, euthanasia can be recommended. (omissis) By way of an example, puppies with uncontrollable hemorrhage, extremely serious trauma like loss of a limb, or if affected by syndromes or birth defects*

(ADMC, TSMC, PAL) could be eliminated. ADMC: part of the abdomen open; TSMC: part of the brain open; PAL: divided palate”.

So, the evidence after close examination shows that, contrary to what was covered under the Veterinary Code of Ethics and the Manual of Internal Procedures at Green Hill, it was practice to use euthanasia to avoid the use of resources useful for treating dogs with problematic conditions. We cannot end the discussion of this chapter without remembering, regarding the curability of certain diseases, that Dr. Moriconi stated that even dogs with very serious forms of demodectic mange ⁽¹⁶⁶⁾ or diarrhoea ⁽¹⁶⁷⁾, diagnosed after leaving Green Hill, had undergone treatment with a totally favorable outcome.

12. The crimes under Chapter A) and B) attributed to Rondot Ghislaine, Bravi Roberto and Graziosi Renzo.

Rondot, legal representative and administrator of Green Hill, Bravi (from January 2012) manager of the breeding facility and Graziosi, veterinarian (from April 2008), as custodians were the main assignees of the legal obligations imposed on breeders and veterinarians.

For Graziosi, veterinarian and Bravi, manager of the breeding facility, there were precise monitoring obligations so that the ill-treatment and the unjustified elimination of dogs are attributed to them, as a result of commissive and omissive conduct.

Rondot, likewise, legal representative of Green Hill 2001 srl, as well as co-manager of the society, had guarantee obligations, arising from the legislation on breeding facilities.

The three accused were certainly aware of the conditions at the site in Montichiari and of the adverse consequences for the animals: this is obvious for Graziosi and Bravi since they were present daily inside the breeding facility and in the afore-mentioned capacities were fully cognisant of the numerous problems associated with the management of the company and with the state of captivity of the dogs.

Regarding Rondot Ghislaine, it must be said that, although her presence was of an irregular nature, she was nevertheless constantly kept up to date by the afore-mentioned (Bravi) and by the veterinarian on all matters (inspections, outcomes of check-ups, health conditions of the dogs, deaths, protocols relating to treatments, food, state of the sheds, temperatures, humidity, overflow situations) enough to give directions and advice.

On this point precise information (as already stated in Chapter A) is gained from emails, conference calls and reports from periodic

correspondence between the three accused, testifying their full and conscious participation in the management of various problems, by all and, as relevant here, by Rondot.

Much can be deduced from documents that, among the many acquired and cited above, we recall here: point 7, email (Graziosi, Rondot) 10 April 2009 ⁽¹⁶⁸⁾; point 8, email (Rondot, Bravi) 27 June 2012 ⁽¹⁶⁹⁾; point 9, email (Rondot, Bravi) 20 June 2012 ⁽¹⁷⁰⁾; point 10, email Socialization Folder ⁽¹⁷¹⁾; point 11, email (Bravi, Rondot) 17 July 2012 ⁽¹⁷²⁾; emails Thursday, 17 September and 18 June ⁽¹⁷³⁾; point 12, email (Bravi, Rondot, Fontanesi) 19 March 2012 ⁽¹⁷⁴⁾; point 16, email (Bravi, Rondot) 25 June 2013 ⁽¹⁷⁵⁾; document 7, email 1 October 2008 (Rondot, Gotti, Graziosi) ⁽¹⁷⁶⁾.

The responsibility of Rondot and Bravi cannot be doubted also in relation to the offense referred to in Chapter B).

It should also be noted that:

- the number of eliminations relating to this period (January 2010 – June 2012) is by no means negligible.
- the decision not to treat animals affected by demodex with effective drugs was shared at the highest levels, with full consciousness that said therapies would have prejudiced suitability of the dogs for experimentation.
- regarding the puppies with diarrhoea, the administering of challenging therapies (e.g. infusions) was not compatible with the tight production cycles and the small number of staff on duty (lack of night shifts).

Finally, the defendant Rondot, apart from being conscious of the casual manner of resorting to euthanasia, was also a promoter of it.

Significant is the email Point 5 email (Bravi – Rondot with copy to Graziosi) 8 June 2012, in which the lady, told by Bravi of intrusion by animal activists at the facility, suggests to the director to take advantage of the intrusion to justify the euthanasia of several dogs with demodex (demodectic mange).

Bravi, in reply, after having confirmed that he and the veterinarian (in the email Renzo) had had the same idea (*"OK, Renzo and I also thought the same"*), closes the correspondence by referring to a *"plan"* agreed with the veterinarian, hinting at sharing Ghislaine's suggestion, quite clearly, of unjustifiably resorting to euthanasia (it is the lady's intention to claim

the reason for elimination of certain dogs is the invasion by animal activists).

Following is the text of the email in question:

(Email Friday 8 June 2012, 17.09 hours)

From: Roberto Bravi to Ghislaine

Ghislaine,

Please find attached (n.d.est.: the reference is to the weekly report, defined in the email as "week 23 Report")

Thanks,

Roberto

(Email from 8 June 2012, 17.59 hours)

From: Ghislaine Rondot

Thanks Roberto

I think we should use the aggression as the reason for euthanising some of the dogs with marked signs of Demodex.

(Email from 8 June 2012, 18.04 hours)

From: Roberto Bravi

Ghislaine,

OK, Renzo and I thought the same thing;

On Monday I'll speak with him and afterwards I'll let you know about our plan.

The eloquent correspondence quoted above confirms the direct participation of Rondot to the conduct which is the subject of charges sub Chapter B), and in addition the same defendant Graziosi, in statements made in court, merely said that despite assertions open to criticism by the statements, practices of concrete unjustifiable euthanasia had not been carried out.

13. Gotti Bernard, with charges as co-manager of the breeding facility, is acquitted of the crimes for not having committed the deed.

The results of the investigation do not demonstrate that he worked in the role outlined by the prosecution, emerging only with tasks of an external consultant, so that in the absence of formal charges and/or other collaborative facts, it must be ruled out that he is subjected to the same obligations of guarantee or supervision.

In fact, the investigations carried out by the Forestry Corps and the acquired documentation lead one to deduce that the conduct of maltreatment and cases of unjustifiable euthanasia have been put in place well outside the scope of those rules and those procedures outlined in the manual written by Gotti, whilst the sole practice of socialisation⁽¹⁷⁸⁾, what's more performed by the operators⁽¹⁷⁹⁾ of Green Hill, certainly does not represent a case of maltreatment.

Neither is there any comfort in several emails in which Gotti appears as recipient "for information", bearing in mind that there are no responses from the accused, or other directives on behalf of the company, nor initiatives on his part which lead to maltreatment of the dogs, or to conditions or strategies or business programmes which directly caused the conditions of danger listed above.

14. The crimes were found to be bound by the continuation of subsisting the same criminal design. The maltreatment and killing of 44 dogs, in fact, are acts performed in a single context closely connected to the management of the breeding facility in violation of the regulations of D.L.vo 116/1992.

The crime under Chapter B) is more serious, in view of the limits prescribed by law and specifically enhancing the effect on the legal interest.

Coming to the treatment of sanctions to be imposed on RONDOT Ghislaine and GRAZIOSI Renzo, taking into account the criteria in Article 133 cp, one year and six months imprisonment is considered a fair punishment: punishment relating to the crime under sub Chapter b) one year's imprisonment, increased ex. Article 81 cp to one year, six months imprisonment in relation to crime under Chapter a).

Regarding BRAVI Roberto, a fair punishment is one year's imprisonment, calculated thus: punishment relating to the crime under Chapter b) 8 months imprisonment, increased ex. Article 81 cp to a punishment of one year's imprisonment in relation to crime under Chapter a).

The deviation for all the accused from the minimum prescribed is motivated by the high number of examples killed and the protracted conduct over a considerable time span.

The lower punishment assigned to BRAVI is justified by the reduced amount of time during which the accused stood in for the Director of the breeding facility (from January 2012).

The mitigating circumstances are negated, taking into account the seriousness of the deeds, because they were committed by professionals from the sector, lack of clean records, the lack of any other positively validated elements in reference.

We can, however, grant the conditional suspension of the punishment for all the accused, being worthy of favourable prognosis: they have clean records and also a certain judicial experience, the outcry unleashed by the case and the closure of the site once and for all represent a deterrent.

According to the law, there follows the order to pay court costs, the declaratory disqualification and the measure of confiscation of the dogs, as ordered.

15. The accused and Green Hill 2001 s.r.l., as jointly legally liable (Green Hill, only in relation to the positions of LAV Onlus, "The A.L. Antivivisection League", "National Canine Defence League" that have applied for civil liability costs), under the combined provisions of Articles 538 c.p.p., 185 c.p. and 2043 c.c., must be ordered to pay pecuniary and non-pecuniary compensation in favour of the plaintiffs, to be paid separately except for the provisional payment indicated below.

Under Article 539, comma 2 c.p.p., there follows the order of RONDOT Ghislaine, BRAVI Roberto, GRAZIOSI Renzo and Green Hill 2001 s.r.l. as civil respondents, to pay as a provisional amount the sum of € 30,000.00 in favour of LAV Onlus and the sum of € 10,000.00 in favour of the National Canine Defence League, who put forward a specific request to that effect.

As to the non-pecuniary damage, it is noted that the associations as plaintiffs are collective bearers of interests relating to the protection of nature of animals.

The conduct of the accused injured the direct pursued and protected interests by statute of said associations, having undermined the feeling of pity for the animals, with the effect of direct and immediate moral damage.

Regarding damage of a pecuniary nature, from the documentation on record it results that following the seizure, the dogs were fostered with the plaintiff associations (amongst these, the L.A.V. and E.N.P.A.), who incurred huge expenses in advance connected with the need to manage and treat the beagles with recourse to professionals or specialist set-ups.

Except for the exact determination of damages in every component before the civil courts, after evaluation of the inherent adequacy of the costs, regarding the costs of treatment, the court believes that, according to a prudential valuation of expenses incurred based on invoices on record, € 10,000.00 can be awarded to the "LAV" for moral damages, and a further € 20,000.00 for patrimonial damages; for "ENPA" the sum of € 6,000.00 for moral damages, a further € 4,000.00 for patrimonial damages.

It must also be accepted that the request formulated by "LAV Onlus", "Le.a.l. Lega Antivivisezionista" and "Lega Nazionale per la Difesa del Cane" to sentencing Green Hill 2001 srl, as civil respondent to pay damages (to be decided at a separate hearing) and payment of court costs.

The crimes of maltreatment and killing of the animals were committed by the accused as illustrated above and were functions and skills permanently connected to the employment relationship and management functions. Regarding the position of Graziosi and Bravi, the society, whose employer responds strongly to these, in compliance with art. 2049, of the Civil Code, the work relationship being subordinate; with reference, however, to Rondot, in view of her managerial functions there was a direct responsibility in virtue of the rapport between Rondot and the society represented by her.

The accused and Green Hill 2001 s.r.l. (regarding LAV Onlus, "Le.a.l. Lega Antivivisezionista", Lega Nazionale per la Difesa del Cane), are bound to pay the court costs in favour of Lav Onlus, Ente Nazionale Protezione Animali, "Lega Nazionale per la Difesa del Cane" to be settled for each one at

€ 6,156.00, as well as general expenses, VAT and Cassa Previdenza; € 3,420.00, as well as general expenses, VAT and Cassa Previdenza in favour of the Association "Le.A.L. Lega Antivivisezionista".

The complexity of the matter authorises recourse to the provisions of Article 544 comma 1 no. 3 cpp, giving a limit of 60 days.

SUMMING UP

Articles 533, 535 c.p.p., states the criminal responsibility of RONDOT Ghislaine, BRAVI Roberto and GRAZIOSI Renzo regarding offences under Chapter A) and B), the latter limited to 44 animals; deemed continuation, sentence

RONDOT Ghislaine and GRAZIOSI Renzo to a punishment of one year and six months imprisonment; BRAVI Roberto to a punishment of one year imprisonment, as well as payment of court costs.

Article 544 sexies c.p. provides for the confiscation of the seized animals and applies a further punishment to the accused of suspension of the business of breeding for two years.

Article 530 c.p.p. absolves GOTTI Bernard of the alleged offenses for not having committed the deed

Article 538, commi 1 and 3, c.p.p., sentences the accused and Green Hill 2001 s.r.l. civil respondent (regarding LAV Onlus, "Le A.L: Lega Antivivisezionista", Lega Nazionale per la Difesa del Cane), are bound to pay damages in favour of Lav Onlus, Ente Nazionale Protezione Animali, "Lega Nazionale per la Difesa del Cane, the parties being put before a civil judge for settlement of same.

Article 539 comma 2 c.p.p. sentences RONDOT Ghislaine, BRAVI Roberto, GRAZIOSI Renzo and Green Hill 2001 s.r.l, as civil respondents, to payment of the sum of € 30,000.00 in favour of LAV Onlus, the sum of € 10,000.00 in favour of Lega Nazionale per la Difesa del Cane.

Article 541 c.p.p., sentences the accused and Green Hill 2001 s.r.l

(regarding LAV Onlus, "Le A.L: Lega Antivivisezionista", Lega Nazionale per la Difesa del Cane) to a payment of court costs in favour of LAV Onlus, Ente Nazionale Protezione Animali, "Lega Nazionale per la Difesa del Cane" in settlement for each of them € 6,156.00, as well as general expenses, VAT and Cassa Previdenza; € 3,420.00, as well as general expenses, VAT and Cassa Previdenza in favour of the Association "Le.A.L. Lega Antivivisezionista".

Article 544 comma 3 c.p.p. indicates a limit of 60 days for depositing of the case.

Brescia, 23.01.2015

Signed by:

Dr. Roberto Gurini (Judge)

Serra Pasquale (Chancellor)

Deposited in Chancellery

24.03.2015

Illegible text line

Illegible text line

NUMBERED REFERENCES FOLLOW

References:

- (1) The translations of the two emails are attached to the minutes of the hearing 19.11.2014 at page 107
- (2) Extract attached at 6, corporate information Green Hill 2001 s.r.l., extract from Milan Chamber of Commerce and Industry; attached 7 note of the Brescia Police HQ, investigative section dated 28.09.2012, presented by the Public Prosecutor to the hearing on 29.10.2014 and filed on record in binder no. 2
- (3) Extract from the minutes of the meeting of members on 14.11.2007, attached 7 produced by Public Prosecutor and filed on record in binder no. 2
- (4) Extract from Manual of Internal Procedures, sheet 2016, also produced by the defence at the hearing on 29.10.2014, on record in binder no. 2
- (5) Extract from documents 4 and 8 produced by the defence at the hearing on 29.10.2014, on record in binder no. 2A
- (6) Extract from statement of Tedeschi, page 29-30, from the shorthand minutes, hearing on 12.11.2014
- (7) Extract from statement Tedeschi page 35
- (8) Extract from statement Tedeschi page 36
- (9) Extract from statement Tedeschi page 35
- (10) Extract from statement Tedeschi page 33
- (11) Extract from statement Tedeschi page 30
- (12) Extract from statement Tedeschi page 31
- (13) Extract report 31.08.2012 by Dr. Enrico Chisari and others pages 25, 46, 63, 82, 91 on record at hearing on 12.11.2014 in binder no. 3
- (14) Extract documents produced by Public Prosecutor, attachment 14, sub 8 (in original language) hearing 29.10.2014, in binder no. 2; report – translation by interpreter Sara Cortassa of attachment 14, page 9, deposited at hearing on 26.11.2014 in binder no. 4

- (15) Extract documents produce by Public Prosecutor, attachment 14, sub 9 (in original language), hearing 29.10.2014, in binder no. 2; report – translation by interpreter Sara Cortassa of attachment 14, page 10, deposited at hearing on 26.11.2014, in binder no. 4
- (16) Extract documentation Public Prosecutor, attachment 14, sub 6 (in original language), hearing 28.10.2014, in binder no. 2; also related – translation by interpreter Sara Cortassa of attachment 14, page 2, deposited at hearing on 26.11.2014 in binder no. 4
- (17) Extract documentation Public Prosecutor, attachment 14, sub 4 (in original language) hearing 29.10.2014, in binder no. 2; also related – translation by interpreter Sara Cortassa of attachment 14, page 28, deposited at hearing on 26.11.2014 in binder no. 4
- (18) Extract documentation Public Prosecutor, DOC 14 (in original language), hearing 19.11.2014, in binder no. 3; also related – translation by interpreter Sara Cortassa of attachment 14, page 33, deposited at hearing on 26.11.2014 in binder no. 4
- (19) Extract Dr. E. Chisari, pages 86/87, hearing on 12.11.2014, in binder no. 3
- (20) Point 9, email (Rondot, Bravi) 20 June 2012, page 13, translation Sara Cortassa, deposited at hearing on 26.11.2014, in binder no. 4
- (21) Extract statement Tedeschi page 36
- (22) Extract statement Zanola page 84, hearing on 19.11.2014
- (23) Extract 31.08.2012 Dr. Enrico Chisari and others pages 86, 91, on record at hearing on 12.11.2014, in binder no. 3
- (24) Extract document produced by Public Prosecutor, attachment 14, sub 7 (in original language), hearing 29.10.2014, in binder no. 2; also related – translation by interpreter Sara Cortassa of attachment 14, point 7. Email (Graziosi, Rondot) 10 April 2009, page 9, at hearing on 26.11.2014 in binder no. 4
- (25) Extract document produced by Public Prosecutor, sub 15 document weekly conference call 24 January 2012 (in original language), hearing 29.10.2014, in binder no. 2; also related – translation by interpreter Sara Cortassa page 56, at hearing on 26.11.2014 in binder no. 4
- (26) Extract statement TEDESCHI pages 27 and 5; extract TOZZI page 56; ROSSI page 122; MORICONI page 180; FACCIN page 219, hearing on 12.11.2014, in binder no. 3. Extract Zanetti, page 116, hearing 19.11.2014, in binder no. 3. Extract Dr. E. Chisari, paragraph 6.2, page 24, at hearing on 12.11.2014, on record in binder no. 3
- (27) *The holding rooms, in fact, do not provide structures which permit temporary isolation of an individual (extract Dr. E. Chisari and others, page 26, at hearing on 12.11.2014, on record in binder no. 3); Inside the pens there were no “hiding places” or structures which would allow a dog to shelter at the moment in which it perceives there to be dangerous external stimuli which need to be*

avoided (extract Dr. E. Chisari and others, page 51); in the pens there was no comfortable bedding for the dogs to sleep on, rest on or simply lie down on; no designated areas for rest (extract Dr. E. Chisari and others, page 88); the pens have no sections reserved for rest (extract Dr. E. Chisari and others, page 90).

(28) In the introduction to the attachment II the paddock area is defined thus: d) *"paddock": enclosed area with fencing, wall, bars or metal grill, normally situated outside a building, in which the animals held in cages or enclosures can move around freely during determined periods, in line with their ethological and physiological needs, e.g. for exercise;*

(29) The consultant (to the defence) Renato Massa claimed, referring to the spaces inside the breeding facility, that it is normal to have restricted spaces, that the dogs were kept in closed spaces and it was not permitted to let them out for business reasons, because they had to reduce to a minimum the possibility that they would contract an illness (ref. Massa pages 97, 100, hearing on 26.11.2014). The consultants (to the defence) Rueca and Fornasier claimed that the lack of areas for leg-stretching was due to the necessity to avoid that the dogs could come across pathogenic agents; for that same reason persons entering the sheds needed to arm themselves with protective instruments (Extract statement of Formasier page 139)

(30) Extract witness Zanola, page 84, hearing on 19.11.2014

(31) Extract statement of Faccin, questioned at hearing on 12 November 2014, pages 219, 220, 222

(32) This is the version given by witness Zanetti Michele, questioned at hearing on 19.11.2014, page 121

(33) This is the version of witness Tortelli, questioned at hearing on 12.11.2014, page 253

(34) Extract witness Zanetti, page 121, hearing on 19.11.2014

(35) Extract witness Franchi, page 189, hearing on 19.11.2014

(36) Extract witness Zanetti, page 121, hearing on 19.11.2014

(37) Extract Tortelli, pages 252, 253, hearing on 19.11.2014

(38) Extract Dr. Ada Rossi page 112, hearing on 12.11.2014

(39) Extract Dr. E. Chisari pages 28, 29, 43, 64, 82, 87, 88 hearing on 12.11.2014, on record in binder no. 3

(40) Extract Dr. E. Chisari page 55

- (41) Extract IZS, attachment sub 24, produced by defendants at hearing on 29.10.2014, on record in binder 2A
- (42) Extract attachment no. 10, produced by Public Prosecutor, hearing on 19.11.2014, on record in binder no. 3
- (43) Nor can it can be agreed, even if repeatedly stated by the defense, that production costs were a negligible factor at Green Hill. On reading Document 8, it emerges, in fact, that on researching the market for acquisition of kongs, the choice depended on the shipping charges. (Extract document no. 8, Email 14 November 2008, page 16 translation Sara Cortassa, deposited at hearing on 26.11.2014, on record in binder no. 4)
- (44) Extract Dr. E. Chisari page 67 and Dr. E. Moriconi, page 21, at hearing on 12.11.2014, on record in binder no. 4; extract statement by Chiara Giachini, page 94, hearing on 19.11.2014
- (45) Extract witness Vitiello Cinzia pages 170, 171, 172, hearing on 19.11.2014
- (46) Extract statements by Rossi page 127
- (47) Extract photo in shed 3, page 71, re. E. Chiari
- (48) Pack-insert leaflet at attachment 12.7 Report Dr. E. Chisari, on record at hearing on 12.11.2014, binder no. 3
- (49) Extract witness Vitiello Cinzia, hearing on 19.11.2014, page 172
- (50) Extract statements by Piccinini page 264
- (51) Extract statements by Piccinini page 265
- (52) Extract table Dog M – 732 7919, on record of Public Prosecutor, attachment no. 1 (binder 2A bis), hearing on 29.10.2014
- (53) Extract statements by Scrollavezza pages 69, 70
- (54) Extract statements by Scrollavezza pages 71, 72
- (55) Extract statements by Scrollavezza pages 72, 73
- (56) Extract from statement Scrollavezza page 73
- (57) Extract of slide produced on behalf of the Public Prosecutor (extract) and in full by the defence of the accused at the hearing on 26.11.2014, on record in binder no. 4

(58) Dr. P. Scrollavezza is lecturer in anaesthesiology and veterinary surgery at the University of Camerino. The consultant recognised the tables produced as part of slides extracted from courses on pre anesthesia (extracts pages 78, 79, hearing on 26.11.2014)

(59) Extract from statement Dr. Scrollavezza, page 85, hearing on 26.11.2014

(60) Piccinini, veterinarian at Green Hill with a call contract, stated that previously at Green Hill the practice was to administer pre-anesthesia to the animals; later on this practice was abandoned by the Marshall company (page 265, hearing on 12.11.2014)

(61) On this point, this is the conclusion reached by the consultant (extract page 79, hearing on 26.11.2014)

(62) Extract reference E. Chisari page 30 and photo page 31 onwards: for shed no. 2, extract page 47, photo page 48; for shed no. 4 extract page 82; for shed no. 5, conjunctivitis, gingivitis, ear infections, extract page 91, presented at hearing on 12.11.2014, on record in binder no. 3

(63) Extract reference Dr. E. Chisari page 35-37 and photo page 37 onwards, presented at hearing on 12.11.2014, on record in binder no. 3

(64) Extract reference Dr. E. Chisari page 36 and photo page 36 onwards, presented at hearing on 12.11.2014, on record in binder no. 3

(65) Extract reference Dr. E. Chiari page 49, presented at hearing on 12.11.2014, on record in binder no. 3

(66) Extract reference Dr. E. Chisari page 49, presented at hearing on 12.11.2014, on record in binder no. 3

(67) Extract Marshall report on Green Hill from January 2012, translation by Sara Cortassa, deposited at the hearing on 19.11.2014, on record in binder no. 4

(68) Extract email document PUNTO 9 email from 26.06.2012, page 13, translations by Sara Cortassa, deposited at the hearing on 26.11.2014, on record in binder no. 4

(69) Document 23 (email 6 October 2009 Henry, Rondot, Graziosi, telephone conference Marshall/Green Hill), page 33, translations by Sara Cortassa, deposited at the hearing on 26.11.2014, on record in binder no. 4

(70) Document 15 (weekly conference call 24 January 2012), page 22, translations Sara Cortassa, deposited at the hearing on 26.11.2014, on record in binder no. 4

(71) Document no. 20 (weekly conference call 7 May 2012), page 30, translations Sara Cortassa, deposited at the hearing on 26.11.2014, on record in binder no. 4

- (72) Extract reference E. Chisari page 49
- (73) Extract statement by Rossi page 98
- (74) Extract statement by Rossi pages 101, 102. Extract reference E. Chisari page 30 and photo page 1
- (75) Extract consultant to the defence Dr. Rueca, page 157, hearing on 26.11.2014
- (76) Extract statement consultant to the defence, Dr. Massenzio Fornasier (Veterinarian, specialist in Science and Medicine for Laboratory Animals; since 1989 he has worked at private research facilities in Italy in the pharmacological and toxicology sectors), pages 193 and 194, hearing on 26.11.2014
- (77) Extract Dr. E. Chisari, page 11, presented at the hearing on 12.11.2014, on record in binder no. 3
- (78) Extract Dr. E. Chisari, pages 46, 82, 90, presented at the hearing on 12.11.2014, on record in binder no. 3
- (79) Extract authorisation produced by defence, attached sub 7, presented at hearing on 29.10.2014, on record in binder no. 2A
- (80) Extract authorisation request produced by defence, attached sub 6, presented at hearing on 29.10.2014, on record in binder no. 2A
- (81) Extract in this sense consultant to the defence, Dr. M. Fornasier, pages 134 and 135, hearing on 26.11.2014
- (82) Document 13 (email 15 February 2012 (Rondot, Graziosi), page 19, translations Sara Cortassa, deposited at hearing on 26.11.2014, on record in binder no. 4
- (83) Among these, respiratory failure during anesthesia; abdominal haemorrhage (M7228287) with a note on the back "rupture of the liver with considerable abdominal haemorrhage, fractured rib and hematoma abdominal wall. Possible cause trauma"; respiratory failure, during surgery (sterilization); folder 7131224 died under anesthetic for "spaying", i.e. as in the Manual of Internal Procedures "ovarian hysterectomy. The dog loses all signs and reproductive ability"; respiratory failure during anesthesia; heart and respiratory failure during ovarian hysterectomy
- (84) Extract dates on folders puppies who died due to ingestion of sawdust between February 2010 and June 2012, with a considerable increase between 2011 and 2012
- (85) Extract translation S. Cortassa, hearing on 26.11.2014, binder no. 4

- (86) Extract Manual of Internal Procedures, sheet 2002, produced by the Public Prosecutor at the hearing on 29.10.2014, sub attachment 10, on record in binder no. 2
- (87) Extract text Tedeschi, questioned at the hearing on 12.11.2014, page 17, on record in binder no. 3
- (88) Extract Dr. E. Chisari, page 61, presented at the hearing on 12.11.2014, on record in binder no. 3
- (89) Extract Dr. E. Chisari, page 23, produced at the hearing on 12.11.2014, on record in binder no. 3. Similarly Vassallo, Director ASL Brescia, questioned at the hearing on 12.11.2014, page 70, on record in binder no. 3
- (90) Extract Cinzia Vitiello, pages 171 and 172, hearing on 19.11.2014. For Caesarean sections see Dr. Ada Rossi, page 127, hearing on 12.11.2014 (typing error on original says 2019)
- (91) Extract text Tortelli (page 248 onwards), Faccin (pages 220 onwards), hearing on 12.11.2014, Zanetti (page 105 onwards), Fasoli (page 16) hearing on 19.11.2014
- (92) Extract date and time of the deaths in the folders, produced by the Public Prosecutor, attachment 1 on record in binder 2A bis and synoptic picture produced by the Public Prosecutor at the hearing on (date missing on original)
- (93) Extract communication from Dr. Francesco Vassallo to the Public Prosecutor in which he informs of possible transfer of animals to other structures to guarantee the necessary support, not available at an ordinary outpatient facility, attached sub no. 2 produced by Public Prosecutor, hearing on 29.10.2014, on record in binder no. 2. Extract witness statement Giachini Chiara which relates that the dogs who showed signs of disease after the seizure would be transferred in order to distribute the work load as well as to guarantee continued support, pages 224 and 225, hearing on 19.11.2014
- (94) Other than related by the Public Prosecutor at hearing on 12.11.2014, reference conference call on 31.01.2012 during which it emerged that the percentage of puppies who had died in their first week of life was 28.2%
- (95) Extract document no. 5 produced by the defence to the hearing on 29.10.2014, on record in binder no. 2A
- (96) Procedure N.G.N.R. 17512/2011
- (97) This is the case with nearly all the records compiled by Dr. Silini, apart from those dated 12.11.2007, 07.11.2007, 20.12.2005, 05.09.2005, 20.07.2005, 02.11.2004, 23.03.2004, record no. 20 (undated), 25.11.2003, 14.01.2003
- (98) This is the case from reports dated: 12.07.2004, 08.07.2004, 06.07.2004, 02.07.2003

(99) There were 41 between 09.12.2003 and 16.04.2007

(100) Point 7, email (Graziosi, Rondot) 10 April 2009 (page 11 translations by Sara Cortassa, on record hearing on 26.04.2014, binder no. 4):

Ghislaine,

On Wednesday Dr. Silini came to compile his periodic report on our colony (two a year). This report includes evaluation of the structure and of how we manage the animals (food, water, registration, accommodation) and the staff.

As usual, he didn't want to go into the sheds, so all was OK (as you know we are keeping more dogs than expected in some enclosures).

I would just like to stress that Dr. Silini asked for a list of the dogs who had died since the beginning of the month. Of course this list does not correspond to our paper register because in this register there are also the dogs MH which don't appear on the list of dogs died which is printed by the programme. He also asked about the dogs taken away the last time by the disposal company which does not correspond to the total dogs that the company has taken (MH).

Document 7, email 1 October 2008 (Rondot, Gotti, Graziosi)

Ghislaine,

I would just like to inform you that we have been battling with the health authorities lately. Dr. Silini comes every day with new requests, some of which are based on the documentation which should have been produced in previous years. My impression is that the new director is checking up on the work of Dr. Silini and has discovered that in previous years he didn't actually inspect anything so they are coming back to us every day and, from bad to worse, without being clear about what they want.

Document 8, email 14 November 2008 (Graziosi, Rondot, Gotti)

From: Renzo Graziosi

Hi Ghislaine,

I hope all is OK in the USA

Authority report: Dr. Silini came here to Green Hill several times this week. He seemed to be a bit concerned about the visit to ASL on Thursday afternoon by certain persons from the animal rights association "Dogs' Life". For this reason he is pushing us and the town (council) of Montichiari for the authorisation for which we are waiting. Luckily the mayor of Montichiari signed it in time.

He also came to compile a checklist on the health of the animals.

I spoke to Silini on the phone this morning: the meeting went without any particular problems but he said he wants to speak to me in person. I'll keep you informed.

Document 9, email 27 November 2008 (Rondot, Graziosi)

From: Ghislaine Rondot

Renzo,

Thanks for your report. Re. Fort Dodge I'd like to speak to you first. Since Jill has called them (I think) several times from USA, I just want to be sure they aren't looking for any other information

Let's talk about it before next week.

Ghislaine Rondot

From: Renzo Graziosi

Hi Ghislaine,

I have checked the procedure at Green Hill and there's nothing about quarantine. I've already told Bernard that we could both write a few lines about this. Next week we can discuss how to organise this.

We need to order the food to get through the Christmas period. I will do an order with the current suppliers while we think about what to do about the food.

Avrogadro is being shipped by Souleymane.

I met with Silini and Bernard. He reiterated his impression that "Dogs' Life" know a lot about us; things that only someone from her could know. We must take care what we say, especially in the office.

Fort Dodge asked me something interesting: they are undertaking an epidemiological study on the Parvo and Corona viruses. They are studying samples of faeces from all over Europe so they can learn about the spread of the various types of virus. They asked us to select 4 samples and send them to them. They will send them anonymously to the laboratory and pay for the tests. Let me know if I can go ahead.

Tomorrow I'm off and am going back to Pescara.

Following is the table with staff absences)

Renzo

Document 12. Weekly report 32 with attachments

From: Renzo Graziosi

Hi Ghislaine,

(omissis)

Report of the authorities of ASL:

- Even though Dr. Silini has not yet replied officially to our letter, Dr. Silini during his last visit told us that ASL did not have the requested document (authorisation for the electronic register) and he is firm in his opinion. I just want to remind you that we are two months behind with the registration and even if we want to push forward in this way to ask for the permit, it will probably take a long time. I spoke with Bernard about this problem and he will probably phone you soon.
- In order to demonstrate that he is carrying out his job in the correct manner, before a visit by the Regional Authorities, Dr. Silini told me he would like to take a glance at the sheds. Luckily, thanks to the last consignment the (number of) dogs should be in compliance with the law. Now we just need to pray for a cold day.

Document 13, email 16 February 2012 (Rondot, Graziosi)

From: Renzo Graziosi

Hi Ghislaine,

Silini has just left. Following is a report of the meeting:

Silini looked at the list without comment, but he he said he cannot do much to get a response. Furthermore, I don't think it would be very helpful for him to send a reminder about our letters since this could be viewed as a non-neutral attitude. His suggestion is to write again, mentioning all the current laws. The letter should be a bit naïve, asking whether there are other laws requiring the use of a microchip for laboratory animals. In my opinion, even if the authorities don't respond, this letter could be helpful for our lawyer should a future inspection by ASL reveal some problem or give rise to fines.

Regarding Stretti, he was very evasive and even though I asked him two or three time he avoided giving a response.

Silini is almost sure that a new letter would also be ignored because his feeling is that all the authorities are waiting for May when the new legislation will be debated. He also said that a lot of

people are hoping that the senate will approve the amendment so they don't have any more problems.

Silini as always was very courteous, seeking to support us.

Feel free to call me if you want a further meeting.

Thanks, Renzo

Extract, also email 18 June attached to minutes of hearing on 26.11.2004 page after no. 107 where we read: omissis Silini came to us unofficially omissis he will give us some useful indications about the arguments raised by Dogs' Life

(101) The minutes were produced by the defence at the hearing on 29.10.2014, on record sub attachment 24, binder no. 2

(102) Document 14, email 22 February 2012 (Bosetti, Rondot, Gotti, Bravi, Graziosi) translations S. Cortassa on record, hearing on 26.11.2014, binder no. 4

(103) The cd was produce by the Public Prosecutor, attached sub 8, at hearing on 29.10.2014, on record binder no. 2

(104) Extract attachment to email of 22 June 2010 addressed by Alberto FASOLI to Lawyer Rizzi, on record document no. 6, produced at hearing on 26.11.2014, in binder no. 4

(105) Extract E. Moriconi page 173, hearing on 12.11.2014

(106) Extract Document 4. Email 29 June 2012 (Bravi, Rondot) weekly report 26 with attachment:

omissis ASL Letters. Renzo has sent all the letters.

Giachini. Next week Giachini will come to inspect the dogs in each pen. Antonio has an extra 15 females in shed 5; he will move them on Monday after the delivery, spaces in the other sheds are all OK.

Point 8. Email (Rondot, Bravi) 27 June 2012:

From: Roberto Bravi

Ghislaine,

Giachini has been to inspect the consignment, he said that next week he'll come with one of his colleagues (please see attached file) to check that the space in the enclosures is in order for the dogs.

Point 16. Email (Bravi, Rondot) 25 June 2013:

Shed 5: this afternoon Giachini will be here, the dogs are all the right number in each box in case of check.

(107) Extract file "Visits and Communications (with) Authorities 2012", prepared by Green Hill (on record produced by Public Prosecutor, hearing on 26.11.2014, document no. 5, in binder no. 4).

In particular, on the last page of the document there is an account of two visits to the facility which occurred on 11 July 2012 (one week before seizure): the first is by Dr. GIACHINI, the second by Dr. Stretti and Regional Director Giorgio Puricelli.

The description of the visit of Dr. GIACHINI reports: "Unofficial visit to confirm the visit of Regional Director Piricelli"

(108) Shorthand minutes Dr. Chiara Giachini hearing 19 November 2014 page 247

(109) Shorthand minutes Dr. Chiara Giachini hearing 19 November 2014 page 225

(110) Document 17. Weekly conference call 7 February 2012, translation S. Cortassa on record hearing on 26.11.2014, in binder no. 4

(111) Point 9. Email (Rondot, Bravi) 20 June 2012, translation S. Cortassa on record hearing on 26.11.2014, in binder no. 4

(112) Point 12. Email (Bravi, Rondot, Fontanesi) 19 March

From: Roy Sutcliffe

Dear Patricia,

As you know we are waiting to receive some more dogs from Green Hill this week. As normal, because of the space limitations for keeping the dogs at Grimston, it will be necessary to euthanise the existing dogs in the days preceding the arrival of the new ones. Anyway, since you ordered urine (to be taken from the older dogs) which we are currently collecting - we're wondering whether some customers may re-order further urine in the near future. If this is the case, we should maybe consider keeping the two oldest dogs? Please let us know in the next 24-48 hours.

Yours sincerely

Roy

(113) Point 5, Email (Bravi, Graziosi and Rondot) 8 June 2012 translation S. Cortassa on record hearing on 26.11.2014, in binder no. 4

From: Roberto Bravi

Ghislaine,

OK, Renzo and I thought the same thing;

On Monday I'll speak with him and afterwards I'll let you know our plan

From: Ghislaine Rondot

Thanks Roberto.

I think we'll have to use aggression as the reason for euthanasia of some dogs with signs of Demodex.

(114) Point 7. Email (Graziosi, Rondot) 10 April 2009 translation S. Cortassa on record hearing on 26.11.2014, in binder no. 4

Ghislaine,

omissis

Breeding animals MF: yesterday I received the laboratory results of the samples taken on their arrival. They are all negative for Yersinia and Bordetella (*also the dog who was euthanized*). I will send an update to Roberto with this information

(115) Actual words, with reference to circus activities, Cass. Criminal Sentence no. 11606 of 06/03/2012, Ramacci

(116) The jurisprudence of the Supreme Court with sentence issued on 11 April 2013, no. 16497. On the first plea, formulated by the Public Prosecutor the applicant complained of the failure to comply with and erroneous application of various laws; it was deduced that whilst it can operate the exemption of art. 19 ter cit., is necessary, that the special rule contains, in addition to penalties (in this case art. 14 of D.L.vo cit.), also a precept which, though lacking in this case (the combination of art. 5 and Annex II of the D.L.vo no. 116 of 1992 contains only a recommendation of binding rules) expressly pointed out that these activities, notably covered by that provision of coordination, should be carried out in order to be exempted from penalties, under the special legislation itself

(117) Extract report of Dr. Renato Ignazio Massa, pages 3 and 4, hearing on 26.11.2014, on record binder no. 4

(118) Judgment Cass Pen Section III no. 5979/2012, goes on: For this reason the notion of "unbearable" must "come to encompass in its scope even those conducted that (...) are unbearable in the sense of a clear and overt incompatibility of same with the behavior of the animal species referred to as reconstructed by natural science, in effect understanding the concept of ethological characteristics employed by the regulations.

Finally, the same judgment adds that:

“Regarding a case of injuries identified by the regulations, it must be considered not necessary (to have) the onset of a state of real psychophysical alteration of the animal to qualify as a “disease”, unlike as is specified by Article 582 c.p., the onset of a disease in the body or in the mind is not specifically required. Moreover, such an occurrence, especially with regard to the mental state, would not be easily verifiable in an animal even if resorting to veterinary science”.

(119) Extract Cass. Pen, Section 3, Judgment no. 32837 of 27/06/2013, Prota

(120) Ref. consultant to the defence E. Moriconi, page 3, report at hearing on 12.11.2014, on record in binder 3.

(121) E. Moriconi, page 4, report at hearing on 12.11.2014, on record in binder 3.

(122) *(missing from text)*

(123) Moriconi, pages 21, 22 report at hearing on 12.11.2014, pages 50, 51, 83

(124) Extract report Dr. E. Chisari and others, at hearing on 12.11.2014, on record in binder 3

(125) Moriconi, pages 24, 35 onwards, ref. hearing on 12.11.2014, on record in binder 3

(126) From the report of Dr. E. Moriconi in the paragraphs relating to behavioral visits to dogs in foster care

(127) The dogs displayed different expressions of anguish: stereotypical movements, like inexhaustible pacing backwards and forwards on the same trajectory or other activities such as chasing their tails, expressing stress and emotional tension”. (Dr. Chisari, page 73). “at the entrance to the pens, some intimidated subjects displayed active submission, expression of a lack of socialisation with humans or fear” (Dr. Chisari page 26).

“When I entered into the pen, the animals let me manipulate them without any resistance, without fuss and without attempting to escape. When I left the cage the animals started jumping to get our attention”. (Dr. Scarcella page 83)

“On opening the gate, however, all the beagles definitely change their expression. A lot of them urinate, put their tails between their legs, stay immobile and flee under the bench, displaying signs of submission. With the door open only a few come out and all are frightened and submissive during the visit the dogs barked only when the bell rang and they repeated almost mechanically the same behaviour: excitement, elation, movements, jumping up at the gate but on opening a sudden stop, urination, trembling and eyes wide in a state of servility and subjection. Coming out and closing the gate leads to them recommence the jumping, barking, “calling”. (Dr. Funes page 90)

(128) In the video of the State Forestry Corps at 23 minutes and 29 seconds one sees a female circling in a pen, always following the same path so that the sawdust on the floor has been moved

by her paws, the route followed indicated by the lack of material, which has accumulated around the edges (female no. 7166036)

(129) Extract report Dr. E. Chisari and others, page 50, at hearing on 12.11.2014, on record, binder no. 3

(130) Extract report E. Chisari, ref. pages 50, 51 and 83

(131) Extract report Dr. E. Moriconi pages 27, 28, 44

(132) The five freedoms for protection of well-being of animals are: freedom from hunger and thirst and from bad nutrition, freedom from environmental discomfort, freedom from pain, freedom to express species-specific natural behaviour, freedom from fear and anguish (extract report Dr. E. Moriconi)

(133) Extract statement of Rueca page 177, shorthand record on 22.12.2014

(134) Extract report consultant Rueca-Fornasier, page 38

(135) Extract report of Rueca page 148 shorthand record on 22.12.2014

(136) Extract parts indicated in the Manual of Internal Procedures, translation Sara Cortassa, deposited at hearing on 26.11.2014 (presume 2014; original states 2015)

(137) 12 dogs eliminated with illnesses attributable to demodicosis, distinguished by the following tags: M 7314116, M 7300310, M 7294662, M 7300727, M 7306041, M 7300743, M 7396121, M 7306113, M 7300603, F 7304137, F 7305702, M 7298951

(138) Demodectic mange

(139) Diarrhoea, suspected parvovirus

(140) Acute diarrhoea with presence of blood

(141) This dog had more than one serious identifiable complaint which contributed to his death

(142) Rectal prolapse, sutured

(143) Conjunctivitis. Moderate; easily treatable

(144) Respiratory infection. The dog has mild signs like cough, sneezing or nasal secretions

(145) Dog died of a cause for which there are no clear signs

- (146) Diagnosis of respiratory defect in the weak puppies, usually younger than 2-3 weeks. Probably caused by systemic infection or aspirations conditions weakened
- (147) The dog had diarrhoea. Weight loss. Chronic liquid diarrhoea usually in dogs after 6 months
- (148) Extract report Dr. E. Moriconi page 132, hearing on 22.12.2014
- (149) Like, for example, the five dogs listed on page 57 of the report by Dr. E. Moriconi, deposited at hearing on 22.12.2014
- (150) Extract page 76 report Dr. E. Moriconi, deposited at hearing on 22.12.2014
- (151) These dogs are mentioned on page 94, report Dr. E. Moriconi, deposited at hearing on 22.12.2014
- (152) They are distinguished by the following tags: M 7314116, M 7300310, M 7294662, M 7300727, M 7306041, M 7300743, M 7396121, M 7306113, M 7300603, F 7304137, F 7305702, M 7298951
- (153) In the report signed by the veterinary auxiliaries of Public Prosecutor who carried out the inspection on 18.07.2012 we read on page 35 "as already stated this dermatitis is treatable".
- (154) Extract report Dr. E. Moriconi, 25.02.2013, page 72, at hearing on 12.11.2014, on record binder no. 3
- (155) Extract report E. Moriconi, pages 8, 9, 10 shorthand record, hearing on 22.12.2014
- (156) Extract report E. Moriconi, page 11, shorthand record, hearing on 22.12.2014
- (157) Extract report signed by veterinary auxiliaries of Public Prosecutor who carried out the inspection on 18.07.2012 at page 35. Extract page 47 where there is mention of the benzoyl peroxide-based shampoo, a highly poisonous substance with disinfectant and not acaridae properties
- (158) During the course of the inspection no instruments for so-called skin scraping were found, or rather sterile scalpel blades and slides (extract E. Chisari, page 14). Extract also statement Moriconi pages 30 and 31 shorthand record, hearing on 22.12.2014
- (159) Extract single comments on the tables of dogs and tables of therapies and conclusions page 35, from which second report of Dr. E. Moriconi, deposited at hearing on 22.12.2014 on record binder no. 4
- (160) Extract from the point apart from as set forth in relation to Chapter A) also as referred to by consultant to the defence Dr. Rueca, page 13, shorthand minutes, hearing on 22.12.2014

(161) Ref. the following cases on pages 38 and onwards, the report of technical consultant Dr. Moriconi: M 7240619, F 7248156, F 7247664, M 7247079, M 7252404, F 7262370, M 7262272, M 7286945, M 7333625, F 7262329, F 7240121, M 7251912, F 7251173, M 7236808, M 7236999, F 7251165, M 7245203, F 7242999, F 7240881, M 7236417, M 252064, F 7233493, M 7236425, F 7240848, M 7250416, F 7250416, M 7335695, M 7252480, F 7233604

(162) Extract statement E. Moriconi, page 35, shorthand minutes, hearing on 22.12.2014

(163) According to Moriconi the parvovirus if diagnosed promptly can be cured with a success rate of over 50% (extract page 38, statement E. Moriconi, hearing on 22.12.2014). On the contrary, as documented by the dog tables and treatment tables, on all the animals affected by suspected parvovirus, the disease always took a rapid course, without any treatment being embarked on. This rather unusual fact was put for comment to the consultants to the defence, without any reasonable explanation (extract page 57, shorthand minutes, hearing on 22.12.2014)

(164) Extract relating to the signature of the veterinary auxiliaries of the Public Prosecutor who carried out the inspection on 18.07.2012, pages 14, 15, 36

(165) The dogs were marked with the following tags: F 7228678, F 7235348

(166) Ref. the following cases, page 74 of Dr. Moriconi's report: Dog F 7334613 BSGH 3, Dog F 72499870 BSGH, Dog Microchip 3802600 40891998

(167) Ref. the following cases, page 75 of Dr. Moriconi's report. Cases of recovery post-fostering DIARRHOEA Dog 7328222 BSGH; DIARRHOEA Dog 7338431 BSGH; DIARRHOEA chip 3802600010181800

(168) Ghislaine, On Wednesday Dr. Silini came to compile the periodic report on our colony (two a year). This report includes evaluations of the buildings and of how we manage the animals (food, water, registration, accommodation) and the staff. As usual he didn't want to go in the sheds so all was fine (as you know we are keeping more dogs than anticipated in some enclosures). I would just like to highlight that Dr. Silini asked for a list of the dogs who had died since the beginning of the month. Of course this list does not correspond with our paper register because on this register there are the MH dogs also, who do not appear on the list of deceased dogs printed by the programme. He also asked about the dogs taken away last time by the disposal company, which don't correspond to the actual dogs that the company has taken (MH). Animals for breeding MF: yesterday I received the laboratory results of the samples taken on their arrival. They are all negative for Yersinia and Bordetella (also the dog who was euthanised). I will send an update to Roberto (original says Roberta) with this information.

(169) From Ghislaine Rondot: Let's hope it's not too hot!

Ghislaine Rondot from: Roberto Bravi

Ghislaine,

Giachini has been to check up on the shipments, he said that next week he'll come her with his colleague (details in the attached file) to check whether the space in the enclosures is right for the dogs

(170) From: Ghislaine Rondot

OK, please make sure no females undergo operations!!!!

Ghislaine Rondot

From: Roberto Bravi

Ghislaine, OK; I forgot to tell you that this Friday we will finish the graduation of the Fort Dodge dogs and next Monday Ivan will register it in Cedric

From: Ghislaine Rondot

Thanks. I've had another idea for the shipment, we can talk about it the next time I come

Ghislaine Rondot

From: Roberto Bravi

Good afternoon Ghislaine

I want to update you on a few things

Temperature

It's very hot here, in all the sheds the temperature is 30 degrees C with humidity of around 60%; in shed 3 it's 1 degree C less with the coolers but 5% higher humidity

- Shed 3: with the high temperature we have problems with the bitches, they don't want to stay with their litter (puppies); we have reduced the litter to a minimum and the employees keep the bitches with the litter for a few minutes from the first week of life to allow for lactation; currently there is no negative impact on the puppies.

Shed 4: this morning we found 3 dogs from December with slight symptoms of demodes (dogs per aptuit, week 28); there were 4 dogs per pen (Dario two Fridays ago changed from 3 to 4 dogs per pen in some pens because Antonio needed to put some dogs in shed 4 to create space and we didn't have sufficient shipments to do that we could remove some dogs from shed 4); after yesterday's consignment, this morning we were able to move 40 dogs into shed 1 (including those with symptoms of demodes) plus 15 mbk into shed 5 and Dario was able to re-establish the correct number of dogs per pen.

The dogs with the symptoms were well yesterday, this morning when Dario arrived they were all sweating and had a very high temperature.

With this change in shed 1 we think that those dogs (shipment per aptuit) will recover well in a few days, the symptoms are slight.

- Shed 5: from today momy starts work at 6 and finishes are 13.30, as in previous years it's better for the couplings
- Shed 1: it's hot but no particular signs
- Shed 2: we moved 70 dogs to shed 3, after next Tuesday's shipment we will move all the other puppies from March to shed 2.

Health situation in shed 3

The situation is stable, no deaths since Monday, no good puppies have succumbed to illness, the dogs with blood in their faeces haven't lost weight and are growing normally; some of the dogs from last week are in the infirmary in decent health. I'll keep you informed should the situation deteriorate.

Meeting ref. shipments (Angelo, Ivan, Sara, Roberto, Renzo, Dario, Luigi)

Shipments of the next two weeks:

Sara will be on holiday next week, we talked about the shipments and the documents;

Tomorrow we will finish checking the old microchips inserted in the dogs at GH and next Monday we will give them to ASL; next Tuesday we will have a delivery with ½ old chips and ½ new chips and we need ASL to give us the possibility to insert in the canine register the old chips; we will be able to do it all in time.

Reducing to a minimum the unsaleable dogs at GH:

Starting this week each week the responsible (person) in each shed will send Renzo a list of the unsaleable dogs;

We will do a list each week and send it to you

Shed 5: Antonio will do a list of *dba* and deceased

Shed 3: Cinzia will do a list of dogs who are not suitable for moving before they have grown

Shed 4: Dario will do a list of grade 2

Sheds 1-2: Luigi will do a list of *dba* and deceased

With this list Renzo will check which dogs are OK for donation, which for B&K and which can be moved. We will have a big job the first time, but then if we keep the lists updated we will have just a small amount of work every week and we will be able to have less unsaleable dogs compared to now at Green Hill.

Wrong castrations

We have changed the procedure to avoid these errors:

To avoid repeating the same error (also for the dates of the other dogs shipped) Sara must specify the range of dates on the checklist and the people who pick the dogs must check if the date written by Sara is the same as the date of birth of the chosen dog

Temperature:

We thought about contacting some representatives to get the cost of a geothermal system; our plumber came this morning to repair some pipes and he told us that nowadays there are new technologies for creating this system at a reduced cost, with reduced maintenance costs and excellent results which would allow a pleasant temperature in the sheds;

(171) From: Ghislaine Rondot

Roberto, Take care that everything is clean. These photos are for the customers!

From: Roberto Bravi

Ghislaine,

OK, tomorrow I'll take the photos

I'll send you the photos before Thursday so that you can decide if you don't like them and want others

Thanks,

Roberto

From: Ghislaine Rondot

Ciao Roberto,

Bernardo should do a power point presentation on our socialisation

We don't want to show the procedures we use for socialising our animals, however, it would be good if we could have some photos of the puppies handled by the technicians during the observation, palpation, socialization: e.g. observation on the table, looking at the teeth, stroking the dogs!

If you could send me some different photos, I'd prefer to avoid those showing how we hang the animals. We need general photos which show nothing of our procedures

Can you let me have them for Thursday?

Thanks

Ghislaine Rondot

(172) From: Ghislaine Rondot

Roberto, we'll talk about it. I don't want there to be any direct contact without my knowledge!

Ghislaine Rondot

From: Roberto Bravi

Ghislaine,

During the safety briefing Ken asked me if in future I have any information about the activists or the protests to send it to him immediately because after 28 April he will be in close collaboration with the FBI against the activists and he would like the FBI to be informed promptly about what is happening against us and whether the Italian police force are collaborating or not; he would also like you to send him the ID of any new employees so that we can check with the FBI whether they are activists or have friends who are activists.

(173) Extract pages following 107, shorthand minutes, hearing on 19.11.2014

(174) From: Roy Sutcliffe

Dear Patricia,

As you know, we are awaiting some more dogs from Green Hill this week. Normally, due to the limited space for keeping the dogs at Grimston, it will be necessary to euthanize the existing dogs in the days before the arrival of the new ones. Anyway, from the moment that you ordered urine (to be taken from the oldest dogs) which we are currently collecting – we are asking ourselves whether some customers could re-order more urine in the near future. If this were the case, maybe we should consider keeping the two oldest dogs? Please let us know in the next 24-48 hours.

Furthermore – it's very important to know the sex, age and weight of the dogs because it is possible that we have a shipment this week and can make best use of the space available. We would be very grateful if Sara could send an email to Liz with this data as soon as possible.

Yours sincerely

Roy

(175) Great!!!

Ghislaine Rondot

From: Roberto Bravi

- Shed 1: Luigi has done an updated list re. bathing with demodex; we began with 100 dogs (70 not saleable because of demodex), to date we have got back 42 dogs (the skin is OK) since starting the bathing the other 30 are almost saleable
- Puppies in shed 2 have arrived in shed 3: all in good health
- Puppies in shed 3: 1 died on Saturday night (90 days, outside of the new vaccination programme), all the other dogs are in really good health (except 1 who has been sick for two months)

On Tuesday we will call for the test results

- Shed 4: all the dogs are well, the puppies without fur in shed 3 have almost completely recovered; no symptoms of demodex
- Shed 5: this afternoon Giachini is coming, the dogs are all the right number in each pen in case of check

(176) Ghislaine,

I just want to inform you that lately we have been fighting with the health authorities. Dr. Silini comes every day with new requests, some of which are based on the documentation that should have been produced in past years. My impression is that the new director is checking up on Dr. Silini's work and has realised that in past years he didn't actually check anything so now they are coming to us every day with new requests and, worse still, without being clear on what they want

(177) Ref. also an email in which even at another site, destination of the dogs bred, euthanasia was practiced for reasons of space

Point 12. Email (Bravi; Rondot, Fontanesi) 19 March 2012

From: Roy Sutcliffe

Dear Patricia

As you know, we are awaiting some more dogs from Green Hill this week. **Normally, due to the limited space for keeping the dogs at Grimston, it will be necessary to euthanise the existing dogs in the days before the arrival of the new ones.** Anyway, from the moment that you ordered urine (to be taken from the oldest dogs) which we are currently collecting – we are asking ourselves whether some customers could re-order more urine in the near future. If this were the case, maybe we should consider keeping the two oldest dogs? Please let us know in the next 24-48 hours.

(178) Extract Point 10, Email Table Socialization and page and Point 5.2 standard procedure for socialization, in Procedures Manual page 1984

(179) Extract on point in statement Cinzia Vitiello, pages 136, 138, shorthand minutes on 19.11.2014

