



Animal welfare: European standards as a basis for reforming national legislation in Ukraine

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ABSTRACT: Nowadays, Ukraine faces numerous challenges in animal welfare, including ensuring animal welfare, keeping and veterinary care for stray animals, protecting them from cruelty, and preserving endangered species. These areas are important and create the need to improve national legislation and its application. The problem is also becoming more urgent within the framework of Ukraine's European integration vector, accompanied by the harmonization of national legislation with EU law and the ratification and implementation of European standards in the relevant area. The subject matter of the study necessitated the use of dialectical, systemic, structural-functional and informational approaches. The article aims to study the legal regulation of animal rights protection in Ukraine and analyze the animal treatment standards in foreign countries and international organizations.

Keywords: animals; animal protection; international standards; animal cruelty; animal rights.

Bem-estar animal: Padrões europeus como base para reformar a legislação nacional na Ucrânia

RESUMO: Atualmente, a Ucrânia enfrenta inúmeros desafios na área de bem-estar animal, incluindo as garantias e manutenção dos cuidados veterinários de animais perdidos, a proteção da crueldade e preservação de espécies ameaçadas de extinção. Estas áreas são importantes e criam a necessidade de melhorar a legislação nacional e a sua aplicação. O problema também se torna mais urgente no quadro do vetor de integração europeia da Ucrânia, acompanhado pela harmonização da legislação nacional com a legislação da União Europeia (EU), e consequentemente, pela ratificação e implementação das normas europeias dessa área relevante, no território nacional. O objeto do estudo exigiu o uso de abordagens dialéticas, sistêmicas, estrutural-funcionais e informacionais. O artigo visa estudar a regulamentação legal da proteção dos direitos dos animais na Ucrânia e analisar os padrões de tratamento animal em países estrangeiros e organizações internacionais da UE.

Palavras-chave: animais; proteção animal; padrões internacionais; crueldade animal; direito dos animais.

1. INTRODUCTION

Nowadays, human society considers animals not only as property, but also as family members, intelligent beings with a strong emotional attachment to and dependence on people. With this in mind, legislation is constantly changing and improving to ensure the protection of animals and protect them from cruelty. It should be noted that the solution to the problems of organizational and legal protection of animals began to intensify in the 1960s, gradually changing the vector from animal protection to the issue of their welfare. The European community has proved its intention to protect animals by adopting five major conventions: European Convention on the Protection of Animals during International Transportation (Council of Europe, 1968), the European Convention for the Protection of Animals of Farmed Animals (Council of Europe, 1976), the European Convention on the Protection of Animals Intended for Slaughter (Council of Europe, 1979), the European Convention on the Protection of Vertebrate Animals used for Experiments and Other Scientific Purposes (Council of

Europe, 1986) and the European Convention on the Protection of Domestic Animals (COUNCIL OF EUROPE, 1987).

Ukraine is closer than ever to joining the European Union. On 23 June 2022, the European Council announced its opinion on Ukraine's candidate status. Implementation of the Association Agreement and the possibility of maintaining the EU candidate status require changes in Ukrainian legislation, including legislation on animal rights. Today in Ukraine, the issue of animal protection is a rather topical one, as there are many cases where people have an unlawful nature, accompanied by physical violence and, therefore, cruelty, which is unacceptable in a modern democratic state governed by the rule of law. Animals cannot take care of themselves on their own, and this is the need for society to protect them. Thus, the Law of Ukraine, "On Protection of Animals from Cruelty" was adopted (Verkhovna Rada of Ukraine, 2006), which aims to protect animals from abuse and death due to cruel treatment.

Unfortunately, the number of animal cruelty cases in

Ukraine is increasing yearly. There are several economic, cultural and legal reasons for this, including gaps in the legislation governing animal protection, the legal regime of property applicable to animals and the inconsistency of regulations. Therefore, this situation requires special attention from legal scholars, who can work together to reduce the number of cases of aggression against animals. It is worth noting that several researchers, in particular M. Bekoff (2022), K. V. Borodata (2020), M. V. Golubey (2022), D. Maistro (2022), K. Mamak (2022) have studied the topic of animal rights protection. This article aims to study the legal regulation of animal rights protection in Ukraine and analyze animal treatment standards in foreign countries and international organizations.

2. METHODOLOGY

The methodological basis of scientific research is a system of approaches, principles and methods of scientific knowledge. The theoretical and methodological basis of the work includes a justification of the selected approaches, a description of the principles and an analysis of the selected research methods. The subject of the study has led to the use of dialectical, systemic, structural-functional and information approaches. By these approaches, the study is based on the terminological principle of systematicity, integrity, hierarchy, structurality, etc.

The approaches and principles are tactically embodied in the research methods. In designing the research structure, formal logic has become indispensable. The historical and legal and comparative legal methods were used to study the genesis of animal protection in the world and in the domestic territory and to study the development of this phenomenon.

The comparative legal method was used to compare the legal provisions providing for liability for cruelty to animals within the Ukrainian State. The normative and dogmatic methods, in close connection with the methods of analysis and synthesis, allowed the author to analyze several legal acts. The method of terminological analysis and the method of operationalization of concepts were used in the process of selecting a single conceptual and categorical research apparatus. The classification method was used to study the legal framework of administrative, legal and criminal law regulation of animal protection against cruelty and to identify the main principles of animal protection. The methods of analysis and synthesis were used to study the content of legal protection of animals and to characterize the experience of individual countries in this area.

A number of articles related to the research topic were also analysed, such as: "Time to stop pretending we don't know other animals are sentient beings" (Bekoff, 2022), "Subjects of intellectual property rights" (Borodata, 2020), "The sentience shift in animal research" (Browning; Veit, 2022), "The legal status of animals in modern law" (Chorna; Mernyk, 2022), "Freedom, rights, and vaccine refusal: The history of an idea" (Colgrove & Samuel, 2022), "Consumers' motivations for adopting a vegan diet: A mixed-methods approach" (Ghaffari et al., 2022), "Protectability and turnover capacity of the animal breed as an object of intellectual property law" (Golubey, 2022), "Translating Across Difference: Affect, Animal Studies, and Anthropology" (Govindrajana et al., 2022), "Comparative aspect of the organizational and legal basis of animal protection in Ukraine and EU countries" (Kobzeva; Shein,

2021), "Criminal legal analysis of the crime of "cruelty to animals"" (Maistro, 2022), "Should violence against robots be banned?" (Mamak, 2022), "Palliative Animal Law: The War on Animal Cruelty" (Marceau, 2022), "Criminal law description of the crime "cruelty to animals" (Master, 2022), "Problematic aspects of animals as specific objects of civil rights" (Podvirna; Livchuk, 2020), "The European Union legislation on animal welfare: state of play, enforcement and future activities" (Simonin; Gavinelli, 2019), "Reassessing Animals and Potential Legal Personhood: Do Animals Have Rights or Duties?" (SODERBERG, 2022).

3. RESULTS AND CONSIDERATIONS

The European experience in the field of animal protection from cruelty gives grounds to conclude that the European Convention for the Protection of Domestic Animals No. 125 is crucial in establishing international legal standards for the treatment of domestic animals. Ukraine ratified the Convention by the Law "On Ratification of the European Convention for the Protection of Domestic Animals" on 18 September 2013, No. 578-VII (Verkhovna Rada of Ukraine, 2013). This international document sets out the rules that ensure the welfare of pets their owners keep for their needs and friendly companionship. An essential principle of animal treatment is that it is unacceptable to cause pain, suffering or torture to an animal.

In the international space, dozens of international legal acts are devoted to the protection of certain species of animals (biodiversity). This institution began to take shape in the 70s of the last century, when the first international treaties (regional and universal, interstate treaties and agreements within non-governmental organizations) were concluded to protect certain species of fauna.

Interestingly, it was the Council of Europe (CoE) that became the first international regional organization to develop a platform for pan-European cooperation, including in the field of animal protection. The Council of Europe has a specialized committee, the Committee of Experts on Animal Welfare, established in January 1977 and consists of senior civil servants and researchers, mainly qualified in veterinary medicine and related fields. On 20 January 1971, the Council of Europe's Consultative Assembly adopted Recommendation 621 on problems arising from using live animals for experimental or industrial purposes. It was this Recommendation that laid the foundation for the development of international standards for the treatment of animals in experiments. Ukraine only acceded to the European Convention for the Protection of Vertebrate Animals Used for Experiments and Other Scientific Purposes on 2 May 2017.

By the way, at the national level, a draft law on amendments to certain legislative acts of Ukraine on the regulation of the procedure for issuing permits in the field of the special use of flora and fauna was registered in 2018 to bring the legislative framework in line with the requirements of the laws of Ukraine "On Administrative Services" and "On the Permitting System in the Field of Economic Activity", but this draft has now been withdrawn (MASTER, 2022).

Currently, the system of international standards that regulate wildlife use in one way or another is extensive, so researchers propose various ways to classify it. Thus, according to the application level, the acts can be divided into

universal and regional. The Council of Europe has several conventions in force. It has developed recommendations from its main bodies on animal protection: The European Convention for the Protection of Animals during International Transportation (1968), the European Convention for the Protection of Vertebrate Animals Used for Experiments and Other Scientific Purposes (1986), the European Convention for the Protection of Domestic Animals (1987), etc.

The international legal regulation of animal treatment is based on animal welfare and protection principles. In science, these two concepts are distinguished. Thus, welfare means keeping animals in conditions where they can be free from disease, cope effectively with environmental adversity, and express various species-specific behaviors in conditions suitable for their care and use. This idea is reflected in the World Declaration of Animal Rights, which was adopted by the International League for Animal Rights on 23 September 1977. This concept was later used in the development of European conventions on the treatment of animals (HOPSTER et al., 2022).

Animal protection in science is generally understood to mean the prevention of cruelty. Still, the regulatory frameworks of Ukraine and the Commonwealth of Independent States must contain this definition. Although the Law of Ukraine, "On the Protection of Animals from Cruelty", actively uses this concept, it does not define it, only providing general rules for treating animals that exclude cruelty.

It should be noted that international organizations are now paying more attention to the problem of protecting wildlife as part of the ecological network. For example, the International Organisation for Animal Health (OIE) is constantly lobbying to adopt new legislation in animal welfare and protection from cruelty. As part of its activities, the organization publishes a scientific journal where discussions on the most pressing animal welfare issues are held.

The International Union for Conservation of Nature drafted the International Covenant on Environment and Development (its 4th edition was adopted in 2010), which includes "respect for all forms of life" as one of its fundamental principles. To help farmers, the International Organisation for Standardisation has developed a new specification "Animal welfare management. General requirements and guidance for organizations in the food supply chain". This document meets the requirements of the World Veterinary Organisation and the recommendations of the International Terrestrial Animal Health Code. This document is intended to ensure the welfare of farm animals and proper conditions for their keeping (COLGROVE; SAMUEL, 2022).

In addition, most foreign countries have established an animal rights institutes, NGOs and specialized animal protection agencies. They are developing the latest regulations that set out the rules for animal treatment. As for Ukraine, unfortunately, we must state that our country is still the leader in ranking countries with cruelty to animals.

Undoubtedly, the treatment of animals in the European Union (EU) member states is no less well-defined and enshrined in law. This issue is regulated at the highest level, for example, in Austria, Germany and Finland. The Austrian Federal Animal Protection Act is particularly noteworthy. It is one of the strictest in the world in terms of the current

issue. The Austrian Animal Welfare Act incorporates animal welfare into the Austrian Constitution, which contains the following lines: "The state protects the life and welfare of animals due to the special responsibility of humans towards animals as their brothers". The law states that it is prohibited to chain dogs, to trade, use or possess training devices that cause pain to pets, to cut off the ears and tails of dogs, and to sell cats and dogs in pet shops. All 9 Austrian states have an independent animal ombudsman who deals with animal cruelty. Cruelty to animals is punishable by a fine of 2,000 to 15,000 euros.

To change their attitudes towards animals to an increasingly humane one, some European countries are enshrining their status at the constitutional level. In particular, Switzerland was the first country to enshrine the requirement for animal welfare. In 1994, a referendum changed the status of animals from "things" to "sentient beings". In 1999, the Swiss Constitution established the state's powers to ensure the welfare of animals kept on farms (Article 80 of the Federal Constitution of the Swiss Confederation).

The protection of animals, in addition to their physical protection, should include the prevention of any form of psychological stress and the preservation of the animal's social life and companionable behavioral relationships. Every animal should enjoy these two freedoms. To compensate for this aspect's lack of legal regulation, some EU member states had adopted fundamentally new modernization standards outside of EU directives and regulations (and a certain proportion of them entered into force before the EU became a full-fledged unit). For example, direct legislative provisions on animal welfare began to be formalized and transformed in Scandinavia (Norway (2002), Sweden (1988)), Benelux (Luxembourg (1983), Belgium (1986)), Germany (1998), Malta (2002) and the UK (2006). However, Switzerland can also be considered a pioneer in this area, as the Animal Welfare Act of 1978, which focuses on the comprehensive safety of animals, sets out clear definitions of physical and psychological health, along with the rationale for ensuring them (SIMONIN; GAVINELLI, 2019).

German legislation is the most progressive among other European countries in animal welfare and protection against cruelty. Today, the legal regulation of this federation is naturally and deservedly considered a benchmark, a model to follow. In 2002, Germany supplemented its Constitution with a provision on animal protection, providing a similar provision in the Treaty on the Functioning of the European Union.

Germany also has the Animal Protection Act of 1972 and the Dogs Ordinance, as well as a legally approved system of animal shelters. The Animal Protection Act establishes penalties in case of violations of animal welfare rules, as well as special taxation. German legal scholars even distinguish a separate branch of law - Animal Rights. Germany can also serve as a positive example of how to solve the problem of stray animals. The legislation stipulates that three mandatory conditions must be met: adopting regulations to limit animal reproduction; sterilization programs, animal registration, and the operation of shelters; and publicity and education to address the problem (BROWNING; VEIT, 2022).

The European Convention for the Protection of Domestic Animals plays an important role in the legal regulation of protecting animals from cruelty, even though it

regulates only the protection of a certain type of animal (namely, domestic animals). This Convention establishes a moral obligation of a person to protect and treat animals humanely, points out the value of pets for society, and that they have a particularly close bond. Article 3 of the European Convention states that no one shall cause unnecessary pain, suffering or distress to a domestic animal. No one shall abandon a pet. Unfortunately, the latter obligation is often violated, given the number of stray animals living on the streets (MAISTRO, 2022).

Given the processes of European integration, which involves the intensification of economic, political and cultural relations, and the introduction of the principles of the European regulatory framework into domestic legislation, Ukraine has the opportunity to apply the provisions of the following regulations when developing a mechanism for legal regulation of animal treatment:

- regarding wild animals (Convention on the Conservation of Wild Flora and Fauna and Natural Habitats in Europe, 1979);
- Companion animals (European Convention for the Protection of Domestic Animals 1992, Regulation (EC) No 998/2003 of the European Parliament and of the Council on animal health requirements applicable to the non-commercial carriage of domestic animals);
- in respect of animals used in agriculture (European Convention on the Protection of Animals during International Transportation of 1968, European Convention for the Protection of Farmed Animals of 1976, European Convention on the Protection of Animals Intended for Slaughter of 1979);
- for animals exploited for leisure purposes (European Commission Regulation on the health requirements for circus animals in transit between Member States, Council Directive on the keeping of wild animals in zoos);
- animals used for scientific and industrial research (European Convention for the Protection of Vertebrate Animals Used for Experiments and Other Scientific Purposes of 1986, Council Directive 2010/63/EU on the protection of animals used for scientific purposes, European Commission Recommendation on guidelines for the accommodation and care of animals used for experimental and other scientific purposes).

Since Ukraine gained its independence and to this day, the country has been on the path of European integration and participation in international processes. In this regard, Ukraine's cooperation with the European Union, particularly in environmental protection, is an important area of foreign policy. However, Ukrainian legislation still does not fully provide an effective legal mechanism for protecting animals in the state. Ukraine is the second post-Soviet country, after Latvia, to adopt the Law of Ukraine "On Protection of Animals from Cruelty" in 2006, which significantly restricts human cruelty to domestic, hunting, stray, farm animals, as well as animals used in scientific research and education, etc.

Article 1 of the Law defines an animal as a biological entity belonging to the fauna: Agricultural, domestic, wild, including poultry and wild birds, fur-bearing, laboratory, zoo and circus animals. At the same time, the legislator defines animal cruelty as abuse of animals, including stray animals, which cause torment, physical suffering, bodily harm, mutilation or death, setting animals against each other and

other animals, committed for hooligan or selfish reasons, leaving pets and farm animals to fend for themselves, including violation of animal husbandry rules. It should be noted that all the essential signs of cruelty are enshrined in law, which makes it possible to identify the act in case of violation of regulatory requirements by a person (UVAROVA, 2018).

The Law also defines the concept of humane treatment of animals - actions that meet the requirements for protecting animals from cruelty and provide for a friendly attitude towards animals, promoting of their welfare, improving their quality of life, etc. It is worth noting that this list is not exhaustive, but it gives an idea of the distinction between humane treatment of animals and cruelty based on their essential features.

Article 22 of the Law of Ukraine (the "Law") "On Protection of Animals from Cruelty" provides rules for the treatment of pets that exclude cruelty. In particular, when dealing with a pet, the person keeping it is obliged to: take care of the pet, provide it with sufficient food and constant access to water; enable the pet to make the necessary movements, to contact with its own kind; ensure the availability of a muzzle and leash necessary for walking the pet outside the place of its permanent keeping; ensure that the pet is wearing a collar with identifying marks; ensure timely provision of veterinary services to the pet (MAMAK, 2022).

However, the Law does not define what is meant by "torment" and "physical suffering" or how to distinguish between the two. There is no liability for cruelty to animals under the Law, nor does it have any reference to the Criminal Code of Ukraine (Verkhovna Rada of Ukraine, 2001) or the Code of Administrative Offences (Verkhovna Rada of Ukraine, 1984), which provide for such liability. Gaps and inconsistencies between the Law of Ukraine On the Protection of Animals from Cruelty and other legal acts create a wide scope for avoiding liability for criminal acts.

Based on the above, we propose that "cruelty to animals that caused suffering" should be understood as any actions directed at an animal accompanied by special physical pain or special physical suffering of the latter. "Physical suffering" should be regarded as a special condition of an animal in which it is deprived of normal living conditions or is kept in conditions that do not correspond to its biological, species and individual characteristics. Such suffering can include water and food deprivation for a long time, placing an animal in an inappropriate temperature regime (cold, heat), leaving it in conditions harmful to its health, etc (PODVIRNA; LIVCHUK, 2020).

We also consider it necessary to supplement Article 18. General rules for the treatment of animals that exclude cruelty of the Law of Ukraine "On Protection of Animals from Cruelty" with a reference provided to the Criminal Code of Ukraine and the Code of Administrative Offences of Ukraine. Ukrainian legislation provides two types of liability for animal cruelty: administrative and criminal. For cruelty to animals, the legislator provides for such types of administrative liability as fines, confiscation, and administrative arrest. The amount of the fine varies from 510 to 8500 UAH. In our opinion, this fine amount is insignificant, since, in most cases, it does not deter offenders but does not cause concern. In other countries, the amount of fines is much higher.

For example, Austria has established itself as a country where animals are respected and protected since 2004. The Austrians equate most actions that can make an animal feel uncomfortable with cruelty. Putting an animal in captivity (including in a pet shop window), causing physical pain and creating conditions that can frighten an animal - all of these are cruelty, which is enshrined in law and is punishable by inevitable punishment. The minimum fine for violating animal rights is \$2,420, and in case of severe violence - up to \$18,160.

In the UK, in the event of cruelty to animals, such an animal is subject to confiscation, and the owner is entered into a special register, which prohibits him from further owning any animals and is subject to a fine of £20,000. In these countries, cases of animal cruelty are rare, and people who have committed this offense at least once have no desire to repeat it. Of course, a large amount of fines is not the main deterrent, as society's general attitude towards animals, the perception that they are also living beings and the cultivation of love for them in people from an early age also play a significant role. Regarding the Ukrainian mentality, we believe that a comprehensive approach should be taken by increasing administrative liability and introducing special classes and courses into the curriculum of kindergartens and schools (CHORNA; MERNYK, 2022).

The minimum criminal penalty is arrest for up to six months, and the maximum is imprisonment for five to eight years. The current version of Article 299 of the Criminal Code of Ukraine is thanks to the Association Agreement with the EU, as one of the requirements of the European community was to bring legislation, including that relating to animal protection, into line. For Ukraine, making cruelty to animals a serious crime is an important step toward animal protection. However, compared to the legislation of other European countries, this provision could be more effective. For example, in the UK, the sanction for cruelty to animals can be imprisonment for up to 12 years. France guarantees animals proper care, and failure to do so may result in imprisonment for up to 2 years.

Ukraine is still gradually ratifying and implementing international animal protection standards. For example, a major progress was made when the Government approved on 16 November 2011, taking into account the European Convention on the Protection of Animals during International Transportation, the Resolution "On Approval of the Rules for the Transport of Animals", which establishes uniform requirements for the transport of wild, domestic and farm animals. The adopted rules will ensure humane treatment of animals during transportation and prevent cases of cruelty to them (SODERBERG, 2022).

The most discussed issue is the European Convention for the Protection of Domestic Animals, which Ukraine ratified on 18 September 2013, but implementation into national legislation is still ongoing. This convention aims to ensure the protection of pets and their humane treatment. The document defines the basic principles of animal welfare, the principles of their maintenance, breeding and training, establishes restrictions on the use of animals for commercial purposes, and measures that may be applied to stray animals, in particular, to reduce their number. At the same time, the convention provides for developing information and educational programs in pet protection and multilateral

consultations between countries in this area (BORODATA, 2020).

Also, in 2017, Ukraine joined the European Convention on the Protection of Vertebrate Animals Used for Scientific Purposes (although this document was adopted in 1986) and so far, there has yet to be any practical progress in its implementation. The reason for this is the absence of a strategy for improving the legal regulation of animal welfare relations, which would be aimed at consistently solving practical problems. This leads to contradictory legal acts and, as a result, ignorance or nihilism of the population regarding animal protection.

On 15 July 2021, the Verkhovna Rada supported Bill 2351, which introduces European standards for the treatment of animals in Ukraine. Animal rights activists have been insisting on its adoption for a long time. The document aligns Ukrainian legislation with several EU directives related to the European Convention for the Protection of Animals.

Although Ukraine ratified this convention in 2013, its provisions have yet to be implemented into Ukrainian law. In the explanatory note to the draft law, its authors say that the current article of the Administrative Code of Ukraine on animal cruelty has not been in force for many years due to inconsistencies in the legislation. For example, one of the articles of the law "On the Protection of Animals from Cruelty" prohibits dolphinariums from using any water other than seawater, but in practice, this ban has not been enforced (KOBZEVA; SHEIN, 2021).

All dolphinariums in Ukraine violate this article. However, it is impossible to find them because there is no sanction for their violation in Article 89 of the Code of Administrative Offences. In addition, several important norms have just been mentioned in Ukrainian laws. For example, in the Czech Republic, the law on animal rights explicitly prohibits the media from showing the killing of animals, while in Ukraine, no such prohibition has been written. It was the purpose of the draft law to correct various inconsistencies and introduce some new prohibitions on the treatment of animals (GOVINDRAJAN et al., 2022).

The document adopted by the Rada includes a ban on killing animals to regulate their numbers (by poisoning, euthanasia, etc.) and cruel treatment of stray animals. The law also prohibits using animals in advertising for entertainment and food establishments and keeping predatory or rare animals in non-specialized establishments or at home, including poisonous snakes and birds of prey. In addition, the new rules prohibit begging and providing photo services with wild animals - except in circuses, zoos and dolphinariums. According to the new rules, leaving an animal in a closed car interior is forbidden without a person in it when the air temperature is more than +20°C and less than +5°C. It is also forbidden to leave a pet tied up if the length of the tether is less than 20 meters - except for guard dogs, for which the tether must be at least 10 meters (SYNOVERSKA, 2019).

In this case, the animal - even if tied - must be able to hide in a room or building at a temperature of more than +20°C or less than 0°C. The new law also prohibits leaving pets unattended in public places, like bus stops, shops, etc. According to the document, a person can be held administratively liable for animal cruelty from age 14 and criminally liable from age 16.

It is worth noting that animals are often used as test subjects for cosmetics and products we use daily. Hand

cream, mosquito spray and even toilet paper are tested on animals. To conduct a particular type of research, animals are often specially bred or caught in the wild. Videos of these experiments are striking in their cruelty, because testing cosmetics or other products is not limited to applying a cream to the skin; it also involves injections, forced injection of components under the skin, into the stomach, etc. Today, there is a solution to limit the number of such cruel experiments.

First of all, we should refrain from buying such products from companies that conduct animal testing. The website, www.peta.org, is an information portal of People for the Ethical Treatment of Animals (PETA). This site contains complete information about a cosmetics manufacturer, indicating whether it is cruelty-free (GOLUBEY, 2022).

Many countries are paying attention to prohibiting and refusing to test cosmetics on animals. England was the first country to ban animal testing to test the suitability of cosmetics and other household products in 2002. As for the European Union, in 2004, it banned the testing of finished cosmetic products on animals. In 2009, EU countries introduced a ban on advertising cosmetics that have been tested on animals. The ban on the sale of animal-tested products in the EU, in general, was a great achievement. Still, the big disadvantage of this ban is that it affects only new products on the market, leaving out old ones that have already established themselves in the European market.

Fortunately, thanks to the fruitful work of many laboratories worldwide, alternatives to cosmetics testing have been developed. These alternatives either minimize the harmful effects or eliminate the use of animals in experiments altogether. These include: protein membrane tests; clinical trials on volunteers; computer modeling; medical imaging (testing the effect of drugs on metabolism by micro dosing); *in vitro* tests on human skin models, etc (BEKOFF, 2022).

Unfortunately, Ukraine hardly ever uses the experience of foreign countries in alternative means of testing cosmetics and household chemicals. It is necessary to develop an effective mechanism for controlling cosmetic and chemical experiments by establishing the relevant responsibilities of representatives of the State Environmental Inspectorate and public environmental inspectors, including special accounting and reporting on animal experiments. It is also necessary to enshrine the prohibition of product testing at the legislative level, and to develop models of local acts for state and non-state institutions that conduct testing.

The next problem within the scope of this study is the use of animals and their exploitation in circuses. According to Article 25 of the Law “On the Protection of Animals from Cruelty”, a person who keeps an animal whose use in circus, sports and other entertainment events is impossible is obliged to provide the animal with conditions of detention by the requirements of this Law. It should be noted that more than 27 European countries have opted for technology and banned the exploitation of wild live animals in circuses. The most successful example is the Roncalli circus in Germany. The work of 15 programmers and technicians made it possible to recreate original animal holograms and saved live animals from exhausting long and often cruel training.

Countries such as Croatia, Austria, Bulgaria, Denmark, Serbia, Macedonia, Estonia, and Slovenia joined the marathon to ban the use of animals in circuses by adopting national bans on the use of animals in such entertainment

venues. Countries such as the Czech Republic, Sweden, Norway and Finland have developed certain restrictions that make life much easier for animals in circuses (GHIAFFARI et al., 2022).

The ban on the use of wild animals in circuses has also been adopted at the city level; in particular, in the summer of 2017, the city of New York introduced such a ban. It is worth noting that not only individual states and cities, but also circuses themselves are concerned about the problem of animal cruelty. In particular, Circus Smirkus, Cirque du Soleil, Flying Fruit Fly Circus, Circus Vargas, 7 Fingers Circus have all independently refused to use animals. It is worth noting that these circuses have not lost their audience; on the contrary, certain technical innovations and the diligence of acrobats have led to an increase in the circuses’ audience (VINNARI; VINNARI, 2022).

It is worth recalling that in 2018 the Ministry of Ecology and Natural Resources submitted a draft law to the Cabinet of Ministers on amendments to the legislation on protecting animals from cruelty. This particular draft law proposes to ban the use of wild animals in the circus. The draft law establishes a five-year transition period to develop a mechanism for transferring animals to nature reserves and other relevant institutions and to establish the regime for their further living.

Ukrainian cities have also contributed to the prohibition of animal exploitation in circuses. For example, Chernivtsi and Kyiv have banned traveling circuses with animals on their territories. The Executive Committee of the Lviv City Council adopted a decision “On Humane Treatment of Animals”, which states that exploiting animals in circuses and dolphinariums is unacceptable.

As for the situation in our country, the relevant legislation is still in its infancy. Of course, the legislative heritage contains ratified acts of international law, the Law of Ukraine “On the Protection of Animals from Cruelty”, legal liability rules, local acts regulating this area, and a draft law with important provisions on this issue being considered. However, a comprehensive approach to legislative improvement of this problem is needed. The situation requires not only the introduction of a new version of Article 299 of the Criminal Code and the criminalization of unlawful acts listed in the Code of Administrative Offences, but also the introduction of an effective mechanism to ensure the protection of animals in real life, not on paper (MARCEAU, 2022).

The first step towards establishing such a mechanism should be establishing the appropriate responsibilities of representatives of the State Environmental Inspectorate and public environmental inspectors to control and supervise animal research to avoid animal cruelty cases. It is also worthwhile to fund and support programs that promote and implement humane treatment of animals and prohibit the operation of circuses, dolphinariums, zoos and other captive animal facilities where the rules for protecting animals from cruelty are violated.

It is worth paying attention to strengthening responsibility for animal cruelty and opening criminal proceedings or proceedings on administrative offenses. After all, people often simply turn a blind eye to the killing or abuse of animals, while animals are defenseless. Some people treat animals as property and forget they are living beings capable of experiencing physical pain and emotional suffering.

However, legal trends and social movements in animal protection and cruelty prevention, in particular, give grounds to note positive dynamics and assert that society is moving in the right direction.

4. CONCLUSIONS

Thus, the legal acts of the European Union (EU) regulate animal protection through several directives and regulations that constantly expand the essence of the organizational and legal framework and improve practical protection mechanisms. These documents aim to ensure the welfare of animals, reduce or avoid unnecessary suffering and pain, counteract arbitrary and inhumane treatment of animals, etc. Taking into account the experience and national legal systems of specific EU Member States, it can be argued that liability for improper implementation and compliance with regulations varies widely, and various penalties (from fines to imprisonment) are applied in fact in the presence of any actions that conceptually contradict established trends and normative genesis.

There are reasons to believe that over time, animal protection in the classical sense will become an integral attribute of the EU legal status institution, and this will be accumulated and stimulated at least by the rapidly evolving views and innovative economic activities of EU member states. EU legal acts primarily regulate people's actions to prevent animals from being treated cruelly with intent and without a proper or legal reason. Ukraine has recently embarked on the path of a country that intends to take care of the welfare of not only humans but also animals, compared to other countries in the world. Thus, the first commitments to bring its legislation in line with European standards in this area were made by our country only in 1995. However, not all European conventions to protect animals from cruelty have been ratified by Ukraine.

The Ukrainian legislature has developed several national legal acts covering some aspects of the right of animals to protection. In particular, the Law of Ukraine "On the Protection of Animals from Cruelty" is a special norm in this area, which contains both positive and negative aspects. Ukraine's Administrative and Criminal Codes provide liability for animal cruelty, keeping them in inappropriate conditions, etc.

As we can see, Ukraine is taking gradual steps in animal protection, but this needs to be improved by the need for a comprehensive approach to animal rights protection. There currently needs to be comprehensive programs promoting the humane treatment of animals. The Law "On Protection of Animals from Cruelty" is mostly declarative, although the amendments to the Code of Administrative Offences and the Criminal Code of Ukraine signal that Ukraine is stepping up its efforts to protect animals.

Thus, despite the positive developments, the legal framework and law enforcement in Ukraine in the context of animal protection needs to be improved. Ukraine should fully engage in the international fauna protection process to improve state policy effectiveness in this area. Given that Ukraine has signed the Association Agreement with the EU, which provides for the intensification of political, security, economic and cultural relations, including, above all, the harmonization of domestic legislation with the European legal framework, I consider it necessary to further develop and improve the current legislation in this area.

5. REFERENCES

- BEKOFF, M. Time to stop pretending we don't know other animals are sentient beings. **Animal Sentience: An Interdisciplinary Journal on Animal Feeling**, v. 6, n. 31, e404, 2022. <https://doi.org/10.51291/2377-7478.1699>
- BORODATA, K. V. Subjects of intellectual property rights. **Bulletin of the Vasyl Stus DonNU Student Scientific Society**, v. 2, n. 12, p. 157-161, 2020.
- BROWNING, H.; VEIT, W. The sentience shift in animal research. **The New Bioethics**, v. 28, n. 4, p. 299-314, 2022. <https://doi.org/10.1080/20502877.2022.2077681>
- CHORNA, A. O.; MERNYK, A. M. The legal status of animals in modern law. In: **Modern science: Innovations and prospects**. Stockholm: SSPG Publish, 2022. 459p.
- COLGROVE, J.; SAMUEL, S. J. Freedom, rights, and vaccine refusal: The history of an idea. **American Journal of Public Health**, v. 112, n. 2, p. 234-241, 2022. <https://doi.org/10.2105/AJPH.2021.306504>
- COUNCIL OF EUROPE. **European convention on the protection of animals during international transportation**. 1968. Available on: <https://ips.ligazakon.net/document/MU68K14U>
- COUNCIL OF EUROPE. **European convention for the protection of farmed animals**. 1976. Available on: <https://eur-lex.europa.eu/EN/legal-content/summary/european-convention-for-the-protection-of-animals-kept-for-farming-purposes.html>
- COUNCIL OF EUROPE. **European convention on the protection of animals intended for slaughter**. 1979. 7p. Available on: <https://rm.coe.int/1680077d98> (European Treaty Series, 102)
- COUNCIL OF EUROPE. **European convention on the protection of vertebrate animals used for experiments and other scientific purposes**. 1986. Available on: https://zakon.rada.gov.ua/laws/show/994_137#Text
- COUNCIL OF EUROPE. **European convention on the protection of domestic animals**. 1987. Available on: https://zakon.rada.gov.ua/laws/show/994_a15#Text
- GHAFFARI, M.; RODRIGO, P. G. K.; EKINCI, Y.; PINO, G. Consumers' motivations for adopting a vegan diet: A mixed-methods approach. **International Journal of Consumer Studies**, v. 46, n. 4, p. 1193-1208, 2022. <https://doi.org/10.1111/ijcs.12752>
- GOLUBEY, M. V. Protectability and turnover capacity of the animal breed as an object of intellectual property law. **Journal of Civil Studies**, v. 45, p. 358-361, 2022. Available on: <https://nubip.edu.ua/sites/default/files/u189/zbirnik.pdf>
- GOVINDRAJAN, R.; ZHANG, Q.; STEWART, M. K. Translating across difference: Affect, animal studies, and anthropology. **Disclosure: A Journal of Social Theory**, v. 30, n. 1, a9, 2022. <https://doi.org/10.13023/disclosure.30.08>
- HOPSTER, J. K. G.; ARORA, C.; BLUNDEN, C.; ERIKSEN, C.; FRANK, L. E.; HERMANN, J. S. STEINERT, S. (2022). Pistols, pills, pork and ploughs: The structure of technomoral revolutions. **Inquiry: An Interdisciplinary Journal of Philosophy**, v. 1, p. 1-33, 2022. <https://doi.org/10.1080/0020174X.2022.2090434>

- KOBZEVA, T. A.; HEIN, D. S. Comparative aspect of the organizational and legal basis of animal protection in Ukraine and EU countries. **Analytical and Comparative Jurisprudence**, v. 3, p. 260-264, 2021.
- MAISTRO, D. Criminal legal analysis of the crime of “cruelty to animals”. Scientific Works of National Aviation University. **Air and Space Law**, v. 3, n. 64, p. 192–198, 2022. <https://doi.org/10.18372/2307-9061.64.16891>
- MAMAK, K. Should violence against robots be banned? **International Journal of Social Robotics**, v. 14, n. 4, p. 1057-1066, 2022. <https://doi.org/10.1007/s12369-021-00852-z>
- MARCEAU, J. Palliative animal law: The war on animal cruelty. **Green Criminology and the Law**, v. 1, p. 217-233, 2022. Available on: <https://harvardlawreview.org/forum/vol-134/palliative-animal-law-the-war-on-animal-cruelty/>
- MASTER, D. M. Criminal law description of the crime “cruelty to animals” (Article 299 of the Criminal Code of Ukraine). **International Youth Scientific Legal Forum**, v. 1, p. 208-210, 2022.
- PODVIRNA, O. V.; LIVCHUK, S. Y. Problematic aspects of animals as specific objects of civil rights. In: **Science, trends and perspectives**. Tokyo: International Science Group, 2020. 432p.
- SIMONIN, D.; GAVINELLI, A. The European Union legislation on animal welfare: state of play, enforcement and future activities. **Animal welfare: From science to law**, v. 1, p. 59-70, 2019.
- SODERBERG, B. Reassessing animals and potential legal personhood: do animals have rights or duties? **Vermont Journal of Environmental Law**, v. 24, a171, 2022.
- SYNOVERSKA, T. I. International and national legislation in the field of animal protection from cruelty. **Journal of the Kyiv University of Law**, v. 1, p. 257-262, 2019.
- UVAROVA, N. V. To the problem of criminal liability for animal cruelty. **Scientific Bulletin of the Dnipropetrovsk State University of Internal Affairs**, v. 4, p. 138-140, 2018.
- VERKHOVNA RADA OF UKRAINE. **Code of Laws on Administrative Offenses**. 1984. Retrieved from: <https://zakon.rada.gov.ua/laws/show/80731-10#Text>
- VERKHOVNA RADA OF UKRAINE. **Criminal codex of Ukraine**. 2001. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2341-14#Text>
- VERKHOVNA RADA OF UKRAINE. **Law of Ukraine “On the Protection of Animals from Cruelty”**. 2006. Retrieved from: <https://zakon.rada.gov.ua/laws/show/3447-15#Text>
- VERKHOVNA RADA OF UKRAINE. **The Law “On the Ratification of the European Convention on the Protection of Domestic Animals”**. 2013. Retrieved from: <https://zakon.rada.gov.ua/laws/show/578-18#Text>
- VINNARI, E.; VINNARI, M. Making the invisibles visible: Including animals in sustainability (and) accounting. **Critical Perspectives on Accounting**, v. 82, p. 102-324, 2022. <https://doi.org/10.1016/j.cpa.2021.102324>

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