FOREIGN EXPERIENCE IN PROTECTING ANIMALS FROM CRUELTY

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The scientific work is devoted to international legal standards concerning the protection of animals from cruelty. The mechanisms of legal regulation of animal protection in domestic legislation are revealed, and shortcomings in regulatory acts are identified. Attention is focused on the problems of applying international regulatory documents in cases of cruelty and establishing an effective mechanism for such application. Emphasis is placed not only on strengthening responsibility for animal abuse, but also on the procedures for initiating criminal proceedings or administrative offenses. It should be noted that the implementation of measures to combat animal cruelty will have an extremely positive impact on the future society, since the roots of cruelty must be eradicated in any case. I would like to emphasize that the key causes of animal cruelty are the influence of negative psychological and social factors.

Attention is focused on the fact that one of the key problems within the framework of the topic under 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 or other entertainment events is impossible is obliged to provide this animal with proper conditions of detention, in accordance with the requirements of regulatory legal acts. It is important to note that more than 27 European countries have chosen the path of technology, banning the exploitation of wild live animals in circuses. A good example is a circus in Germany. The work of 15 programmers and technicians resulted in the possibility of reproducing original holograms of animals, which saved living creatures from exhausting, long and often cruel training. Croatia, Austria, Bulgaria, Denmark, Serbia, Macedonia, Estonia and Slovenia joined the international movement to ban the exploitation of animals in circuses, introducing a national ban on the use of animals in such entertainment establishments. Countries such as the Czech Republic, Sweden, Norway and Finland have established certain restrictions that significantly improve the conditions of animals in circuses.

Keywords: cruelty, violence, animal, legal regulation, animal protection, international legal standards.

The importance of protecting animals from cruelty has been officially recognized and approved at the international level. It is the European Convention for the Protection of Pet Animals of 1987 that emphasizes that the protection and humane treatment of animals is a direct duty of humanity, since there is a close natural relationship between them. It should be noted that harming animals negatively affects the existence of humans as a species, because everything in nature is interdependent. Cruelty to animals demonstrates a low moral level, a violation of public order.

This problem is certainly extremely important and has become the topic of many scientific works by both domestic and foreign specialists. Considering the works of Ukrainian scientists, it was in the dissertation of

I.I. Lobov, the publications of O.V. Bogatova, V.S. Miroshnichenko, O.O. Shumil and others that issues related to the protection of animals from cruel behavior were investigated. A significant part of the articles and monographs is devoted to the criminal law analysis of this issue, but it is important to emphasize that the legal regulation of the protection of wild animals from cruelty is mainly in the field of environmental law.

Our state is the second post-Soviet country, after Latvia, which in 2006 adopted the Law of Ukraine "On the Protection of Animals from Cruelty" (hereinafter referred to as the Law), which significantly limits human cruelty towards domestic, hunting, stray, agricultural animals, as well as animals used in scientific research and in the educational process, etc.

Article 1 of the Law defines an animal as a biological subject belonging to the fauna: agricultural, domestic, wild, including domestic and wild poultry, fur, laboratory, zoo, circus [1]. At the same time, the legislator defines animal cruelty as abuse of animals, in particular homeless animals, which caused torture, physical suffering, bodily injuries, mutilation or led to death, setting animals against each other and against other animals, committed for hooligan or selfish motives, abandoning domestic and farm animals to their fate, in particular, violating the rules for keeping animals [1]. It should be emphasized that all essential signs of cruelty are fixed at the legislative level, which makes it possible to identify the act in the event of a person violating regulatory requirements. The Law also defined the concept of humane treatment of animals - actions that meet the requirements for protecting animals from cruelty and provide for a benevolent attitude towards animals, promoting their welfare, improving the quality of their life, etc. [1]. It is worth noting that this list is not exhaustive, but it creates an idea of the distinction between humane treatment of animals and cruel treatment according to their essential characteristics [7, p. 225].

An important role in the process of legal regulation of the protection of animals from cruelty is played by the European Convention for the Protection of Pet Animals, despite the fact that it regulates only the protection of a certain type of animal (namely, pet animals). This Convention establishes a moral obligation of a person to protect and treat animals humanely, indicates the value of pet animals for society, as well as the fact that they are connected by particularly close ties. Article 3 of the European Convention stipulates that no one should cause unnecessary pain, suffering or distress to a pet. No one should abandon a pet. The latter obligation, unfortunately, is very often violated, given the number of homeless animals living on the streets [2].

Taking into account the processes of European integration, which involves the intensification of economic, political, and cultural relations, the introduction of the principles of the European regulatory framework into domestic legislation, our state, when developing a mechanism for legal regulation of the treatment of animals, has the opportunity to apply the provisions of the following regulatory acts: regarding wild animals (Convention on the Conservation of European Wild Fauna and Flora and their Natural Habitats of 1979); regarding companion animals (European Convention for the Protection of Pet Animals of 1992, Regulation No. 998/2003 of the European Parliament and of the Council of Europe on animal health requirements applicable to the non-commercial transport of pet animals); on animals used in agriculture (European Convention for the Protection of Animals during International Transport 1968, European Convention for the Protection of Farming Animals 1976, European Convention for the Protection of Animals kept for Slaughter 1979); on animals used for entertainment (European Commission Regulation on the health requirements for circus animals during transport between Member States, Council Directive on the keeping of wild animals in zoos); on animals used for scientific and industrial experiments (European Convention for the Protection of Vertebrate Animals used for Experimental or other Scientific Purposes 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).

In 2019, Bill No. 2351 was introduced on the implementation of the provisions of certain EU agreements and directives in the field of animal and plant protection, which provides for increased liability for cruelty. The main goal of this bill is to implement the humane principles of animal treatment, which are specified in international treaties to which Ukraine is a party. The Deputy Chairman of the Verkhovna Rada Committee on Environmental Policy and Nature Management noted that Article 89 of the Code of Ukraine on Administrative Offenses, which provides for punishment for animal cruelty, is practically ineffective, as it is not consistent with the Law of Ukraine "On the Protection of Animals from Cruelty" [3].

The above-mentioned draft law provides for amendments to the Law "On the Protection of Animals from Cruelty", namely an amendment prohibiting the keeping of bears, tigers, lions and other wild animals near public catering establishments, hotels, other places where the demonstration of wild animals is unacceptable, as well as in private homes and private yards, since only zoos have the right to keep these animals [3].

It also provides for a reduction in the age from which a person can be held criminally liable for cruel treatment, namely to 14 years. Criminal liability will increase in certain cases, and acts that are currently administrative will be criminalized [3].

The draft law contains provisions according to which the investigator will be obliged to order an examination of the causes of the animal's death, and not simply destroy the corpse. The draft law also provides for changes to: banning begging with animals, raising standards for the treatment of farm animals, banning euthanasia as a method of regulating the number of animals, etc. [3].

Given the increasing incidence of cruel killing of animals, back in 2017, amendments were made to the Criminal Code of Ukraine in the part that regulates the cruel treatment of animals (Article 299 of the Code). Actions where an animal was mutilated or killed, setting one animal on another, and publicly calling for cruel treatment of animals are punishable by arrest for a term of up to six months or restriction of liberty for a term of up to three years. The previous version provided for such actions to be punishable by a fine or arrest for a term of up to six months. The same actions in the presence of a minor or underage person, or committed repeatedly, or committed by a group of persons, are punishable by imprisonment for a term of five to eight years [4].

Ukraine ratified the provisions of the European Convention for the Protection of Pet Animals in 2014, but the legislation has not undergone any significant changes in this regard. This attitude of the legislator to this topic raises many questions, because due to significant gaps in the current legislation on the protection of animals from cruelty, there are problems with the practical application of the norms contained in the Law of Ukraine "On the Protection of Animals from Cruelty", in the articles of the Criminal Code and the Code of Administrative Offenses [7, p. 225]. It is worth noting that animals are often used as objects for testing cosmetics and products that we use in everyday life. Hand cream, mosquito spray and even toilet paper are tested on animals. For certain types of research, animals are often specially bred or stray animals are caught. Videos of these experiments are striking in their cruelty, because testing of cosmetics or other products is not limited to applying cream to the skin, it is injections, forced introduction of components under the skin, into the stomach, etc. Now there is a solution to limit the number of such cruel experiments.

First of all, you should refrain from buying such products from companies that conduct research on animals. There is a website that is an information portal - People for the Ethical Treatment of Animals. This website contains complete information about a particular cosmetics manufacturer, indicating whether it is (cruelty-free) or not.

Currently, a large number of countries pay attention to the ban and refusal to test cosmetics on animals. The first country that banned animal testing in 2002 to test the suitability of cosmetics and other household products was

England. As for the countries of the European Union, back in 2004 a ban on testing finished cosmetic products on animals was introduced. In 2009, EU countries introduced a ban on advertising cosmetics that have been tested on animals. A major achievement was the ban on the sale of products tested on animals in the EU in general, but a major disadvantage of this ban is that it affects only new products on the market, bypassing old ones that have already established themselves on the European market.

Fortunately, thanks to the fruitful work of many laboratories around the world, alternatives have been developed for testing cosmetics. These alternative means either minimize the harmful effects or completely eliminate the participation of animals in experiments. Such means include: tests using protein membranes; clinical trials on volunteers; computer modeling; medical imaging (checking the effect of drugs on metabolism by microdosing); in-vitro tests on human skin models, etc. [7, p. 226].

Unfortunately, Ukraine hardly uses the experience of foreign countries regarding alternative means for testing cosmetics and household chemicals. In the author's opinion, it is necessary to develop an effective mechanism for controlling cosmetic and chemical experiments by establishing the relevant duty of representatives of the State Ecological Inspectorate and public ecological inspectors, in particular, special accounting and reporting on animal experiments.

The next problem within the scope of the researched topic 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 specified animal with conditions of detention in accordance with the requirements of this Law [1]. It should be noted that more than 27 European countries have made a choice in favor of technology, prohibiting the exploitation of wild live animals in circuses. The most successful example is the Kopsaii circus in Germany. The work of 15 programmers and technicians made it possible to recreate the original holograms of animals and saved live animals from exhausting, long and often cruel training [7, p. 226].

Countries such as Croatia, Austria, Bulgaria, Denmark, Serbia, Macedonia, Estonia and Slovenia have joined the marathon of banning the use of animals in circuses by adopting a national ban on the use of animals in such entertainment establishments. Countries such as the Czech Republic, Sweden, Norway and Finland have developed certain restrictions that significantly facilitate the life of animals in circuses [5].

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 established such a ban. It is worth noting that the problem of cruel exploitation of animals is concerned not only with individual states and cities, but also with circuses themselves. In particular, international circuses have independently abandoned the use of animals. It is worth noting that these circuses have not lost their spectators; on the contrary, certain technical innovations and the diligence of acrobats have become the reason for the increase in the audience of circuses [6, p. 349-352].

It is worth recalling that in 2018, the Ministry of Ecology and Natural Resources submitted a bill to the Cabinet of Ministers on amendments to the legislation on the protection of animals from cruelty. This bill proposes to ban the use of wild animals in circuses [7]. The norms of the bill establish a transition period of five years to develop a mechanism for transferring animals to nature reserves, other relevant institutions and to consolidate the regime of their further residence [8].

Ukrainian cities have also made their contribution to prohibiting the exploitation of animals in circuses. For example, Chernivtsi and Kyiv banned mobile circuses with animals on their territories. The Executive Committee of the Lviv City Council adopted a resolution "On the humane treatment of animals", which states that the exploitation of animals in circuses and dolphinariums is unacceptable [9; 10].

Thus, the problem of legal regulation of the protection of animals from cruelty is quite

important in many aspects. First of all, this is a natural aspect, because, as the author noted above, everything in nature is in direct interrelation. Secondly, a humane attitude towards animals is one of the decisive factors for the formation of a healthy worldview of present and future societies, because any violence is always negative, regardless of its object. Thirdly, every animal is a living being that also needs protection, like a person. Thus, the situation in our state, the relevant legislation on is only at the stage of formation. Of course, the legislative acquis contains ratified acts of international law, the Law of Ukraine «On the Protection of Animals from Cruelty», norms of legal liability, local acts that regulate in this area, a draft law with important norms on this issue is being considered. But a comprehensive approach to the legislative improvement of this problem is needed. The situation requires not only the implementation of a new version of Article 299 of the Criminal Code and the criminalization of illegal actions that are in the Code of Administrative Offenses, but also the implementation of an effective mechanism to ensure the protection of animals in real life, and not on paper.

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ЗАРУБІЖНИЙ ДОСВІД ЗАХИСТУ ТВАРИН ВІД ЖОРСТОКОГО ПОВОДЖЕННЯ

Наукова праця присвячена міжнародним правовим стандартам, що стосуються захисту тварин від жорстокого ставлення. Розкрито механізми правового регулювання захисту тварин у вітчизняному законодавстві, а також ідентифіковано недоліки в нормативних актах. Акцентовано увагу на проблематиці застосування міжнародних нормативно-правових документів у випадках жорстокого поводження та налагодженні ефективного ме-

ханізму такого застосування. Наголошено не лише на посиленні відповідальності за знущання над тваринами, а й на процедурах відкриття кримінальних проваджень або адміністративних правопорушень. Слід зауважити, що впровадження заходів з протидії жорстокому поводженню з тваринами матиме надзвичайно позитивний вплив на майбутнє суспільство, оскільки коріння жорстокості необхідно викорінювати в будь-якому випадку. Хочу підкреслити, що ключовими причинами жорстокого ставлення до тварин є вплив негативних психологічних та соціальних факторів.

Зосереджено увагу на тому, що однією з ключових проблем у рамках досліджуваної теми є використання тварин та їх експлуатація в цирках. Відповідно до статті 25 Закону «Про захист тварин від жорстокого поводження», особа, яка утримує тварину, чиє використання в циркових, спортивних чи інших видовищних заходах є неможливим, зобов'язана забезпечити цій тварині належні умови утримання, відповідно до вимог нормативно-правових актів. Важливо відзначити, що понад 27 країн Європи обрали шлях технологій, заборонивши експлуатацію диких живих тварин у цирках. Показовим прикладом є цирк у Німеччині. Результатом роботи 15 програмістів і техніків стала можливість відтворення оригінальних голограм тварин, що врятувало живих істот від виснажливих, тривалих і часто жорстоких тренувань. До міжнародного руху з заборони експлуатації тварин у цирках приєдналися Хорватія, Австрія, Болгарія, Данія, Сербія, Македонія, Естонія та Словенія, запровадивши на національному рівні заборону використання тварин у подібних розважальних закладах. Такі країни, як Чехія, Швеція, Норвегія та Фінляндія, встановили певні обмеження, які значно покращують умови утримання тварин у цирках.

***Ключові слова**: жорстоке поводження, насилля, тварина, правове регулювання, захист тварин, міжнародно-правові стандарти.*