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Legal Status of Animals in Ukraine and Poland

Status prawny zwierząt na Ukrainie i w Polsce

The legal status of animals in the current world practice is a controversial issue. Studies aimed to clarify it are fulfilled periodically in different countries around the world. The movements for the prohibition of ill-treatment of animals and the conservation of biodiversity contribute to this process.

In this article the author aims to reveal the legal status of animals based on the practice of Ukraine and Poland and taking into account relevant examples from the legislation and practice of other countries. Based on the comparison conducted, the author will frame conclusions and outline future prospects on issues concerning the legal status of animals.

Historically, the law evolved to regulate social relations, that is relations between people in order to interact within a certain community. As a result, animals have got the status of things similar to other goods.

In Ukraine, at the national level, the legal status of animals is differentiated depending on their role in social production. According to Art. 179, 180 of the Civil Code of Ukraine, “animals are the special object of civil rights. They are

subject to the legal regime of things, except in cases established by law”¹. Thus, animals are clearly defined as objects.

Ukrainian researchers also analyze the phenomenon of animal rights through the prism of Ukrainian legal culture, which does not recognize animals as the subjects of law. Nevertheless, they note that legislation on this issue lags behind the practice of advanced states².

Animals as living beings can self-reproduce, have the nervous system, can independently and autonomously act, reacting to the influence of external factors, are part of the environment. Hence, it is obvious that dealing with them requires special legal regulation.

In accordance with the Law of Ukraine “On Environmental Protection”³, animals are the object of “protection and use”, which generally corresponds to the constitutional provisions on national wealth. In addition, these statements are specified in other legal acts.

Legislation on wildlife consists of the framework Law of Ukraine “On the Fauna” and the acts adopted in accordance with it. The cited law establishes a regime of property for animals as objects of civil rights (Art. 5). At the same time, legislative provisions aim not only at the protection, conservation and rational use of this resource. Certain provisions also regulate banning the cruel treatment of such animals.

As a general rule, the Civil Code allows the most extensive exercise of ownership on a particular thing. It permits use of all methods that are not expressly prohibited by law and are not harmful to other participants of civil transactions. At the same time in relation to animals, behavior that is considered cruel (“mockery of animals, including homeless, which caused torture, physical suffering, body harm, injury or death, incitement of animal to another animals, committed with hooligan or mercenary motives, the abandonment of domestic and farm animals to the fate, including violations of animal retention rules”)⁴ is prohibited. It could be assumed that the purpose of protecting animals from ill-treatment is pure humanism and the preservation of the mental health of the person, who may observe the consequences of such treatment. This conclusion might be deduced

¹ Civil Code of Ukraine of 16 January 2003 (as amended), <http://rada.gov.ua> [access: 19.06.2018].

² O. Vereyci, *To the Issue of the Rights of Animals in General Theoretic Consciousness*, “Legal Advisor” 2016, Vol. 6(90), <http://yurradnik.com.ua/stati/do-pitannya-pro-prava-tvarin-u-zagalno-teoretichnomu-rozuminni/> [access: 19.06.2018]; V.A. Vorona, *Ethical and Legal Aspects of Legislative Security and Protection of Animals*, “Young Scientist” 2016, Vol. 3(30), <http://molodyvcheny.in.ua/files/journal/2016/3/136.pdf> [access: 19.06.2018].

³ Law of Ukraine “On Environmental Protection” of 25 June 1991 (as amended), <http://rada.gov.ua> [access: 19.06.2018].

⁴ Law of Ukraine “On Protection of Animals from Brutal Treatment” of 21 February 2006 (as amended), <http://rada.gov.ua> [access: 19.06.2018].

from the principle of Art. 4 of the Law: “[c]ruelty to animals is incompatible with the requirements of morality and humanity, causing moral harm to a person”.

However, such a conclusion is erroneous, because the law refers to the benevolent attitude towards animals, the duty to care for them, the promotion of their good, as well as the humane methods of killing animals that exclude their dying sufferings, preventing the sensation of pain and fear. Thus, we can assume that the law protects the animal itself as a biological being, regardless of its relationship with the subjects of law. At the same time, the researchers argue that “the implementation of the specified normative legal acts into the current realities is lobbied rather by a generally humanistic orientation of law and is an attempt to strengthen the foundations of morality in society”⁵.

References on the special status of animals as a consequence of their biological origin can also be found in other acts. For example, the Law of Ukraine “On Veterinary Medicine”⁶ determines the tasks of the regulation the protection of the environment from the negative effects associated with the cultivation and circulation of animals. The same can be said about the principle of protection of animal welfare by providing a humane attitude to them throughout their lives. However, in our opinion, these mentions are peculiar language stamps.

The Ukrainian legislator provided for a special legal regime for animals in view of a number of circumstances. At the same time, the potential of animals to become a subject is not recognized. The legislation does not recognize them as a party of legal relationship even indirectly. Researchers note that “of course, it must be remembered that animals are determined by special features in terms of their biological existence and there are certain restrictions on the exercise of the right of ownership of certain animals. However, considering the animal as the object of material law in the context of responsibility for the harming them, it should be noted that, despite all the features mentioned above, one cannot step aside from the general legal identification of animals with things that are in civil circulation”⁷.

The current Ukrainian legislation also contains a number of provisions concerning the peculiarities of hunting, fishing, which provide for the deprivation of

⁵ O.A. Ustimenko, *To the Possibility of Perception of the Animal as the Subject of Civil Rights: Some General Theoretical Aspects*, “Legal Forum” 2014, No. 1, p. 499, http://nbuv.gov.ua/UJRN/FP_index.htm_2014_1_87 [access: 19.06.2018].

⁶ Law of Ukraine “On Veterinary Medicine” of 25 June 1992 (as amended), <http://rada.gov.ua> [access: 19.06.2018].

⁷ O.M. Spector, *Responsibility for Damage to the Animal as an Object of Property Law*, p. 432, <http://dspace.onua.edu.ua/bitstream/handle/11300/6602/Spektor%20nauk%20pra%2016.pdf?sequence=1&isAllowed=y> [access: 19.06.2018].

life, as well as an extensive system of norms for agriculture including the breeding of animals for the further use of animal raw materials.

Thus, we see, that in accordance with Ukrainian legislation, the animal always remains the object of treatment. Nowadays the legislation does not contain any legislative provisions that would allow – at least theoretically – to treat animals as subjects.

In the legislation of the Republic of Poland, we may find the next provisions in terms of specification of the status of animals: “[a]n animal, being a living being, capable of experiencing suffering, is not a thing. Man owes him respect, protection and care”, is stated in Art. 1 of The Animal Protection Act⁸. Art. 45 of the Civil Code of Poland specifies that “within the meaning of this code, only material objects are things”⁹.

In spite of such an optimistic beginning, the Act cited (as well as in Ukraine) primarily regulates the treatment of animals in order to prevent cruelty (Art. 5 contains the principle that “[e]ach animal requires humane treatment”). In the case of violation of these provisions concerning treatment “[t]he animal (...) may be temporarily removed from the owner or guardian (...) given to another legal person (...) or to a natural person” (Art. 7 of The Animal Protection Act). Thus, cannot be denied that the animal, although it is not an object, is a “tool” to be treated by other, so-called traditional subjects of law. Moreover, the need to comply with restrictions and prohibitions is addressed to “people using animals”.

The possibility of animals to obtain the legal status of subjects also is not disclosed in the laws “On the Protection of Animals Used for Scientific or Educational Purposes”¹⁰, “On the Organization of Breeding and Reproduction of Farm Animals”¹¹ etc.

The state of legal regulation in terms of animals’ possibility to become subjects is precisely formulated in the interpretation of one of the principles in Art. 4 of The Animal Protection Act: “the humane treatment of animals means treatment that takes into account the needs of the animal and provides care and protection for the animal”. In our opinion, this is the quintessence of the purpose of the Act and its contents. At the same time, the legislator himself has put a contradiction in this Act. In the same Article, he separated the animals from the things pointing

⁸ Ustawa z dnia 21 sierpnia 1997 r. o ochronie zwierząt (as amended), <http://prawo.sejm.gov.pl/> [access: 19.06.2018].

⁹ Ustawa z dnia 23 kwietnia 1964 r. – Kodeks cywilny (as amended), <http://prawo.sejm.gov.pl/> [access: 19.06.2018].

¹⁰ Ustawa z dnia 15 stycznia 2015 r. o ochronie zwierząt wykorzystywanych do celów naukowych lub edukacyjnych (as amended), <http://prawo.sejm.gov.pl/> [access: 19.06.2018].

¹¹ Ustawa z dnia 29 czerwca 2007 r. o organizacji hodowli i rozrodzie zwierząt gospodarskich (as amended), <http://prawo.sejm.gov.pl/> [access: 19.06.2018].

out that “[i]n matters not regulated in the Act the provisions concerning things shall apply to animals accordingly”¹². Thus, animals continue to belong both to things, and to “no-things”, depending on the context of legal regulation.

The researchers describe the state of recognizing animals as subjects of law as follows: “The philosophy of creating regulations can be summarized in the words «an animal is not a thing if that suits a human being»”¹³. It is also considered that “in Poland, the existing legislation is still considered by part of society that are not sufficient to protect the animals and the Polish people are demanding their exacerbation”¹⁴.

When discussing the equality of biological beings and the granting rights to animals it is noted that “people are not able to give a rational argument, why only because of the species *homo sapiens* is to occupy a better position in the biosphere and thus have more rights”¹⁵. We agree that at the moment the role of animals in society, the legal form and ethics of dealing with them are determined by the benefit of mankind, and not by the welfare of the animals themselves, taken separately.

The possibility of animals to be subjects is closely connected with the question of their ability to think and make conscious decisions. Thus, it is unlikely that the granting of rights to animals in the usual legal sense and in the context of formal legal logic is currently possible.

Researchers agree with the above-mentioned point. Since the usage of the existing civil law constructs for animals is problematic if not impossible, they propose to introduce a “functional subjectivity”: “[f]unctional subjectivity would constitute a legal structure *sui generis* – it would give the animals a substantive legal status, but not a civil law status”¹⁶.

¹² Ustawa z dnia 21 sierpnia 1997 r. o ochronie zwierząt...

¹³ M. Weryński, *Zwierzę nie jest rzeczą. Czyżby?*, 4 March 2017, <http://prawo.gazetaprawna.pl/artykuly/1022841,zwierze-nie-jest-rzeczka-czyzby.html> [access: 19.06.2018].

¹⁴ M. Bednarczyk, *The Laws Protecting Pets in Poland*, „Zeszyty Naukowe Uniwersytetu Przyrodniczo-Humanistycznego w Siedlcach. Seria: Administracja i Zarządzanie” 2017, nr 113, p. 130, https://repozytorium.uph.edu.pl/bitstream/handle/11331/1412/Bednarczyk.M.The_laws_protecting_pets_in_Poland.pdf?sequence=1 [access: 19.06.2018].

¹⁵ *Podmiotowość Prawna Zwierząt*, <http://druzynag.pl/blog/2017/02/15/podmiotowosc-prawna-zwierzat/> [access: 19.06.2018].

¹⁶ A. Zbarszewska, *Jan Białocerkiewicz, Status prawny zwierząt. Prawa zwierząt czy prawna ochrona zwierząt*, Toruń 2005, p. 319, https://repozytorium.amu.edu.pl/bitstream/am/10593/5424/1/20_Przeg%C4%85d%C5%9Bmiennictwa_Anna_Zbarszewska_256-259.pdf [access: 19.06.2018].

Another approach is revealed by the concept of biojurisprudence as a shift from consumer anthropocentrism¹⁷. In fact, we cannot deny the special nature of animals. Animals by definition cannot have a personality, at least similar to the human's. At the same time, the animals have already "overgrown" the existing legal regime, when they are treated as property. Thus, the approach on which animals could be recognized as a special kind of subject (*sui generis*) sounds grounded. And the wording of the list of rights and their guarantees should correspond to this regime. Researchers also stress on the necessity of more logical solution: "[i]t is impossible not to be a thing while being treated like a thing. If we already recognize the status of an animal as a non-subject, then we must take another step (...)"¹⁸.

At present, researchers characterize the effectiveness of the provisions of The Animal Protection Act as: "(...) in matters not regulated in the act to animals, the provisions concerning things shall apply accordingly. Animals are therefore still legal subjects of the law, however, exceptional, for which a special legal regime applies, resulting from man's obligations to them of respect and care"¹⁹. As A. Sulikowski noted: "(...) due to the needs of the construct, which is the legal relationship, animals must remain objects"²⁰.

Of course, we can try to apply mechanism of representation that is used for people who are not capable of formulating and expressing their own will for some reason. However, such a solution does not seem to be unequivocal in view of the large variety of animals and their role (from the laboratory to home, from domestic to wild). And the mechanism that will be evident in relation to the city pet – an individualized animal in the zoo, will not be applicable for the variable population of agricultural animals.

Obviously, the mechanistic equalization of animals to men (in the dimension of rights) is not only impossible but actually unnecessary. Also, the status of specific groups of animals, as well as the volume of their hypothetical rights, will obviously be different.

Similarly, one can recollect the difference in the scope of the rights of people depending on their citizenship, or the rights of legal entities, depending on their

¹⁷ R. Tokarczyk, *Naukowa recepcja koncepcji biojurysprudencji*, <http://www.romantokarczyk.pl/juris/nrbio.pdf> [access: 19.06.2018].

¹⁸ *Podmiotowość Prawna Zwierząt...*

¹⁹ M. Mozgawa, M. Budyn-Kulik, K. Dudka, M. Kulik, *Prawnokarna ochrona zwierząt – analiza dogmatyczna i praktyka ścigania przestępstw z art. 35 ustawy z 21.08.1997 r. o ochronie zwierząt*, <https://www.iws.org.pl/prawo-w-dzialaniu/numery-archiwalne/tom-9-sprawy-karne> [access: 19.06.2018].

²⁰ A. Sulikowski, *Posthumanizm a prawoznawstwo*, Opole 2013, p. 198, <https://repo.uni.opole.pl> [access: 19.06.2018].

organizational and legal form. In addition, the subjective right as a legal construct may be limited, narrowed by the law, etc. Thus, fears about certain types of human activities seem premature. "(...) There is a real risk that the protection of animals does target minority practices (such as Muslim ritual slaughter or indigenous seal and whale hunting), although these practices in numerical terms are insignificant in comparison with the majority's «normal» massive use and killing of animals"²¹.

In addition, even in the current international legal regulation, the possibility of such an imbalance of interests is usually taken into account. For example, The Treaty on the Functioning of the European Union states: "In formulating and implementing the Union's agriculture, fisheries (...), the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the EU countries relating in particular to religious rites, cultural traditions and regional heritage"²².

Discussing granting to animals the legal rights, it is necessary to elaborate the mechanism of their real implementation. Currently, in some countries, specially designated officials act to protect the basic rights of animals (The ARS Animal Welfare Ombudsman in the USA²³, Animal Welfare Ombudsman in Austria²⁴, etc.).

The very fact of the representation or inability to participate in litigation cannot be a hindrance to the recognition of animals as the subjects *sui generis*. Some analogy can be deduced from the situation with those people who need care and do not express their own will on their own (minor, unconscious, missing, etc.). The granting of the rights only to subjects who are capable of making conscious autonomous decisions as an argument is also superficial. If we agree with such a statement, such a conclusion also challenges the concept of a legal entity who cannot think at all because they are legal fictions.

The solution to this contradiction is possible due to the linkage of the right and the person's capabilities exercisable in reality. The scope of rights is not the innate trait of a subject, but only the characteristic that can be formulated by society in specific historical conditions and taking into account the needs and

²¹ A. Peters, *Liberté, Égalité, Animalité: Human-Animal Comparisons in Law*, "Transnational Environmental Law" 2016, Vol. 5(1), p. 23, http://www.mpil.de/files/pdf4/Peters_Human-Animal_Comparisons2.pdf [access: 19.06.2018].

²² The Treaty on the Functioning of the European Union, Art. 13 (consolidated version), https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_2&format=PDF [access: 19.06.2018].

²³ <https://www.ars.usda.gov/docs/ombudsman/> [access: 19.06.2018].

²⁴ <https://www.bmnt.gv.at/english/agriculture/Productionandmarkets/Animal-production-in-Austria/Animal-Welfare-Act.html> [access: 19.06.2018].

possibilities. As an example of the above-mentioned situation, the struggle for the rights of women and Afro-Americans can be mentioned. In certain historical conditions they are also regarded as objects.

Similarly, the law tends to change, adapting to the degree of awareness of the society of certain regularities. For example, qualification of the inhuman treatment of people (the protection of which is currently the only commonly recognized “right” of animals) also changed its content. The European Court of Human Rights noted that: “(...) having regard to the fact that the Convention is a «living instrument which must be interpreted in the light of present-day conditions» (...), the Court considers that certain acts which were classified in the past as «inhuman and degrading treatment» as opposed to «torture» could be classified differently in future”²⁵.

Legal regulation is an artificially created tool that is designed to reflect objectively existing social patterns. Therefore, theoretically, it can regulate some aspects of animals’ life in human society. But practice differs from theory. International legislation mostly protects animals from cruel or inhuman treatment (European Convention for the Protection of Animals for Slaughter²⁶, European Convention for the Protection of Pet Animals²⁷).

At the moment, the Universal Declaration of Animal Rights can be presented as an example of a detailed specification of animal rights. Unfortunately, this list has not been introduced in legislative practice, and especially in practice of its application²⁸.

As similar steps in recognizing animals as special subjects, or “non-objects” at the national level we may mention the Swiss Civil Code, in Art. 641a, that states: “(...) [a]nimals are not objects. Where no special provisions exist for animals, they are subject to the provisions governing objects”²⁹. German Civil Code (Art. 90a) contains similar provisions³⁰. Legislators try to stress on the “different” nature of animals in relation to other objects. However, these norms can also be considered mostly declarative.

²⁵ Selmouni v. France, No. 25803/94 ECHR, 1999, <http://hudoc.echr.coe.int/eng?i=001-58287> [access: 19.06.2018].

²⁶ European Convention for the Protection of Animals for Slaughter, <https://www.coe.int/en/web/conventions/full-list/> [access: 19.06.2018].

²⁷ European Convention for the Protection of Pet Animals, <https://www.coe.int/en/web/conventions/full-list/> [access: 19.06.2018].

²⁸ Universal Declaration of Animal Rights, <http://www.esdaw.eu/unesco.html> [access: 19.06.2018].

²⁹ Swiss Civil Code of 10 December 1907 (as amended), <https://www.admin.ch/opc/en/classified-compilation/19070042/201801010000/210.pdf> [access: 19.06.2018].

³⁰ German Civil Code of 18 August 1896 (as amended), https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p0272 [access: 19.06.2018].

One of the most recent countries that introduced (in 2018) amendments to its Civil Code that legally turn animals into subjects is the Slovak Republic. The introduced revision of the relevant provisions, that came into force on September 1, 2018, is the following: “[a] living animal has a special meaning and value as a living creature that is able to perceive its own senses and has a special position in civil relations. The living animal is subject to provisions on movable property; this does not apply if it is contrary to the nature of a live animal as a living creature” (p. (3) para. 119 of Civil Code)³¹.

Practice actually deprived of the possibility to recognize new subjects, which are not listed in a particular legal act. As an example, in one of the well-known cases in the United States, attempts to protect the rights of animals resulted in the following position of the court: “Similarly, petitioner’s argument that the word «person» is simply a legal term of art is without merit”³². The purpose of this and similar lawsuits were formulated by the lawyer S. Wise as follows: “Our goal is to persuade one of the US high courts to change the legal status of some other animal than the man in the same way that Lord Mansfield changed the status of James Somerset – recognizing him as a subject with personal freedoms under the *Habeas Corpus Act*”³³.

In Ukraine, in such cases, an animal is considered exclusively as an object of law. In the case about a contract for sale of a kitten the court stated: “According to the terms of the contract, the buyer (defendant) is obliged to castrate a purchased cat (...)”. Failure to comply with this obligation led to the court’s decision: “To oblige PERSON_5, INFORMATION_4, to fulfill the terms of the contract and to castrate the purchased cat (...)”³⁴. The court decision does not contain any references to the animal treatment requirements. In the current legal system of Ukraine this is quite logical, but it does not correspond to the concept of guaranteeing the rights of animals and care for their probable prosperity.

The world’s practice contains some examples of the court’s steps outside the established order. In the case of the chimpanzee Cecilia (Argentina) the court ordered: “Declare chimpanzee Cecilia, who lives in the Province of Mendoza zoo, a non-human legal person”. The judge *inter alia* stated that “(...) I consider that

³¹ Civil Code of the Slovak Republic, n. 40/1964 (as amended), <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1964/40/> [access: 9.02.2019].

³² J. Webber, *Matter of Nonhuman Rights Project, Inc. v Lavery* 2017 NY Slip Op 04574 [152 AD3d 73], June 8, 2017, http://genius.it/12199549/www.nycourts.gov/reporter/3d-series/2017/2017_04574.htm [access: 19.06.2018].

³³ M. Mountain, *Czy nadejda czasu, w których sądy uznają zwierzęta za podmioty prawne?*, <http://mediumpubliczne.pl/2016/10/nadejda-czasy-ktorych-sady-uznaja-zwierzeta-osoby-prawne/> [access: 19.06.2018].

³⁴ Decision of the Chervonozavodsky Rayon Court of Kharkiv, Case No. 646/4670/15-c, <http://reyestr.court.gov.ua/Review/49761989> [access: 19.06.2018].

the *habeas corpus* action is the applicable procedure, adjusting the interpretation and decision to the specific situation of an animal deprived of his essential rights while these are represented by the essential needs and conditions of the existence of the animal in whose favor the action is presented”³⁵.

This is an example of the casual application of norms, which aimed at achieving a specific goal – to extend the provisions of a legal act to a particular animal. However, this example, along with a number of other attempts, inevitably brings us to the need for clarification, or even rethinking of the status of animals in legal orders.

More trivial cases of animals’ recognition as the subjects of law occur when the owner wants to make wills in favor of the beloved animals. In reality, for this purpose, the mechanism of trust, which is completely legal in the countries of common law, is used. Lawyers state that “(...) there’s a trustee, who controls the money and decides when and how it gets paid out; a caretaker, who actually looks after the pet and asks for money from the trustee to pay bills and related expenses; and an enforcer, who makes sure that the trustee and caretaker aren’t mishandling the funds or appropriating them for personal use”³⁶. Thus, we should distinguish the desired situation from reality. Thus, when an average citizen considers the pet to be his “heir”³⁷, for a lawyer the situation is different.

As was noted by A. Peters, always keep in mind the goal: “(...) the normative question is not so much whether animals «deserve» rights (...). The proper normative question rather seems to be whether animals need rights (...)”³⁸.

Summing up, we should note that the legal status of animals currently awaits the potential changes. It is evident that under the current level of development of society, the identification of all animals with ordinary property, as we see in Ukraine, is somewhat outdated. At the same time, legislators of different countries have not yet dared to fully formulate the legislative concept of the animal as a subject of law. Some states take small steps to recognize animals as “something special”, not identical to things, as is the case of Poland. However, the adoption of acts describing strange, sometimes partly utopian ideas of the theorists, is not the case at this time.

³⁵ Tercer Juzgado de Garantías, Judicial Power Mendoza. File No. P-72.254/15 “presented by A.F.A.D.A about the chimpanzee “Cecilia” – non human individual” http://www.nonhumanrights.org/content/uploads/2016/12/Chimpanzee-Cecilia_translation-FINAL-for-website.pdf [access: 19.06.2018].

³⁶ E.J. Fox, *What Happens When Someone Leaves Millions to a Pet? The Ins and Outs of Spending a Fortune on a Beloved Animal*, 9 September 2015, <https://www.vanityfair.com/news/2015/09/pet-will-fortune> [access: 19.06.2018].

³⁷ J. Burchette, *The 10 Biggest Inheritances Ever Left to Pets*, <https://www.everplans.com/articles/the-10-biggest-inheritances-ever-left-to-pets> [access: 19.06.2018].

³⁸ A. Peters, *op. cit.*

The approach that recognizes animals as special subjects with a set of specific rights (interests) is promising in uncovered conditions. It can be introduced by providing animals with so-called rudimentary rights. Especially when this is the very first step that allows to legally distinguish animals from other types of property. And in our opinion, this possibility can be embodied in recognizing animals as *sui generis* social actors.

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Abstract: The article deals with the analysis of animals' legal status via examples of Polish and Ukrainian legislation. The examples of inaccurate usage of legal terminology in this sphere (concerning subjects and objects) are analyzed. Legislative attempts to assign the status of subjects of law to animals in Ukraine and Poland are discovered. Remarkable examples from world judicial practice are revealed. Historical parallels are shown. There is drawn a conclusion of possible solutions taking into account the present understanding of the nature of law and the aim of proposed changes in legal regulation is defined.

Keywords: legal status of animals; animal rights; treatment of animals

Streszczenie: W artykule przeprowadzono analizę statusu prawnego zwierząt w ustawodawstwie ukraińskim i polskim. Uwzględniono przypadki niewłaściwego posługiwania się terminologią prawniczą w zakresie rozgraniczenia pojęć przedmiotu i podmiotu prawa. Podkreślono, że w obu porządkach prawnych ustawodawca przyjmuje rozwiązania zmierzające do nadania zwierzęciu statusu podmiotu prawa. Na tle powyższych rozważań przedstawiono możliwości rozwiązań tego problemu, biorąc pod uwagę charakter prawa i cel przyznania zwierzętom statusu podmiotu prawa. W opracowaniu zamieszczono także analizę adekwatnych dla podjętego tematu przykładów pochodzących z innych porządków prawnych oraz badania prawnoporównawcze w perspektywie historycznej.

Słowa kluczowe: status prawny zwierząt; prawa zwierząt; traktowanie zwierząt