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## Criminal liability for cruelty to animals under the legislation of Ukraine: features of theory and practice

### Кримінальна відповідальність за жорстоке поводження з тваринами за законодавством України: особливості теорії та практики

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#### Abstract

The study aimed to determine the characteristics of criminal liability for cruelty to animals. The object of the study is social relations arising in the field of morality protection. We used the following general scientific methods: dialectical, historical, descriptive, methods of scientific analysis and generalization. In addition to general scientific methods, we also used special methods: comparative legal and statistical. Having performed a retrospective analysis of criminal liability for cruelty to animals, we identified four historical stages in the formation and development of criminal legal standards for cruelty to animals. Having investigated the reasons for the social conditioning of criminalization for cruelty to animals, the authors identified a range of problems in the field of humane treatment of animals that require immediate solutions: the use of animals in scientific experiments, the manufacture of clothing from leather and animal fur, the

#### Анотація

Метою дослідження стало визначення особливостей кримінальної відповідальності за жорстоке поводження з тваринами. Об'єктом дослідження є суспільні відносини, що виникають у сфері захисту моральності. Предметом дослідження є кримінальна відповідальність за жорстоке поводження з тваринами. Нами було використано наступні загальнонаукові методи: діалектичний, історичний, описовий, метод наукового аналізу та узагальнення. Крім загальнонаукових методів, ми використовували також спеціальні методи: порівняльно-правовий і статистичний. Здійснивши ретроспективний аналіз кримінальної відповідальності за жорстоке поводження з тваринами, ми виділили чотири історичні етапи формування та розвитку кримінально-правових стандартів щодо жорстокого ставлення до тварин. Дослідивши причини соціальної обумовленості криміналізації за жорстоке поводження з тваринами, було виявлено низку проблем у сфері гуманного ставлення до тварин, що потребують негайного

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activities of dog hunters and the use of animals in circuses. Factors affecting the cruelty of a person have been also identified. The delimitation of *corpus delicti* from an administrative offense is carried out according to several main criteria: the degree of public danger and consequences. International experience in the context of criminal liability for cruelty to animals is diverse.

**Keywords:** cruelty to animals, cruelty, criminal liability, international experience, delineation of offenses.

## Introduction

Hunting is a widespread practice among human communities (Barbosa de Lima, de Oliveira Rebouças & Batista Santos, 2021). At the same time, humane treatment of animals is an obligation in most countries. This testifies both to the high moral values of society and to the sense of responsibility towards the environment. Unfortunately, the idea of protecting animals, which found its expression both in public speeches of citizens and in the clear steps of the domestic legislator, has not yet found its expression. Almost every day, social media posts containing signs of cruelty to animals are posted. Children with an immature psyche, taking an example, perceive violence against fauna as a common thing, which in the future often leads to serious problems. The focus on cruelty to animals is not accidental. Since 2017, the rate of registered crimes against animals has almost doubled. In addition, the reasons for the prevalence of this phenomenon include the lack of legislative regulation of this crime (Bayrachnaya, Nadochiy, Isaev & Surenovna, 2018). Although cruelty to animals is common throughout the world, its true extent is largely unknown. (Glanville, Ford & Coleman, 2019). Therefore, research on criminal liability for cruelty to animals is important and relevant. The study aimed to determine the characteristics of criminal liability for cruelty to animals. The object of the study is social relations arising in the field of morality protection. The subject of the study is the criminal liability for cruelty to animals.

вирішення: використання тварин в наукових дослідах, виготовлення одягу з шкіри та хутра звірів, діяльність догхантерів та використання тварин в цирках. Також визначено чинники, що впливають на жорстокість особи. Відмежування складу злочину від адміністративного правопорушення здійснюється за декількома основними критеріями: ступінь суспільної небезпеки та наслідки. Міжнародний досвід особливостей кримінальної відповідальності за жорстоке поводження з тваринами є різноманітним. Зокрема, українське законодавство істотно відрізняється покаранням та віком суб'єкта злочину. Суворість покарання в майбутньому забезпечить не лише меншу кількість випадків жорстокого поводження з тваринами, а й дозволить максимально наблизити вітчизняне кримінальне законодавство у сфері захисту тварин до європейського.

**Ключові слова:** жорстоке поводження з тваринами, жорстокість, кримінальна відповідальність, міжнародний досвід, відмежування правопорушень.

## Theoretical framework

The study's theoretical framework is the scientific works of domestic and foreign scientists who reveal the essence of cruelty to animals. In particular, according to Sinclair L, Lockwood R., cruelty to animals is a widespread phenomenon entailing serious consequences both for animal welfare and for individual and public welfare (Sinclair & Lockwood, 2005).

R. Lockwood and P. Arkow note that acts of violence against animals in many cases are modeled on the same dynamics of power and control, which often denotes a trajectory of intimate partner violence, sexual violence, child abuse, and other violent antisocial behavior behaviors (Lockwood and Arkow, 2016).

R. Osokin and A. Chibizov reveal the essence of cruelty to animals in more detail. They define them as beatings, torture, destruction of habitats, violation of zootechnical, zoohygienic, veterinary and sanitary rules, other actions (inaction) that entail injury, exhaustion from prolonged starvation or death of animals, the cruel killing of animals, and other actions that contradict the rules established by law and the norms of humane treatment of animals accepted in society (Osokin & Chibizov, 2011).

It is feasible to focus on the study by R. Veresha, who concludes that cruelty to animals creates an even more dangerous phenomenon – cruelty to humans. This approach fundamentally

changes the idea of the public danger of such an act, thus necessitating the application and development of the relevant norms of the criminal law (Veresha, 2014b).

### Methodology

We used the following general scientific methods: dialectical (to determine the subject of the crime under investigation); historical method (to study the process of formation of liability for cruelty to animals), descriptive method (to reveal some concepts, conduct a general description of the elements of the crime); method of scientific analysis and generalization (to distinguish between crime and misconduct). In addition to general scientific methods, we used special methods: the comparative legal method (to compare criminal liability for cruelty to animals in different states); statistical method (to analyze statistical data related to this crime).

### Results and discussion

#### *Retrospective analysis of liability for animal cruelty*

The concept of cruelty to animals has been known long before Martin's Act or creating the first animal welfare organizations. To systematize the periods that humanity has gone through in establishing legal standards for the problem of animal welfare under criminal law, we propose to highlight the relevant historical stages.

The authors consider the early references to attitudes towards animals, which served as a further basis for issues of modern liability for cruelty to animals. One of them is the Bible, which states: "If you see the donkey of one who hates you lying under its burden, and you would refrain from helping it, you shall surely help him with it." The Christian religion, the canons collected in the Holy Book, encourages people to care for and help animals, regardless of whether they own them. Another major work is the Laws of Manu. These laws contain the main provisions that shaped the further development of vegetarianism and non-violence: one of them is "the one who kills an animal, the buyer and seller of meat, the one who prepares food from it, serves it to the table, eats – they are all murderers" (Elmanovich, 2002). The provision prohibits killing and eating meat and condemns such actions, proclaiming such a person as a murderer, evokes condemnation on the part of society. It is worth noting that the ideas of

ancient philosophers also influenced the development of relevant criminal science. One of the most striking examples is the hero of ancient myths – Triptolemus, guided by three commandments of a dignified life: treating parents with respect, giving gifts to the gods, preserving and protecting animals (Clark, 2000). The famous Greek philosopher Pythagoras believed that the souls of people and animals have a common origin from the spirit that permeates the whole world, and his students called on for observing the principles of humanity and moderation, self-restraint and believed that a good attitude towards animals is the basis of human morality (Ziegler, 1995).

Thus, the first stage in the specification of liability for cruelty to animals can be distinguished, which lasted from about the end of the third century BC to the third century AD. The peculiarity of this period is that the corresponding sources do not determine the punishment for a cruel attitude towards animals, but such actions entail moral condemnation from society. However, the use of animals as a labor force and their use for food remained the main means of subsistence.

The next stage in the formation of criminal law standards for the treatment of animals is a wide period of time from the fourth to the seventeenth century AD. It is known from history that wars took place all over the world at that time. By the example of Ukraine, we note that the consequences of Greek colonization, the large settlement of the Slavs, the unification of the northern and southern lands, the introduction of Christianity, the division of the thrones of Kievan Rus, the unification of the Galician and Mongolian principalities, the Mongol invasion, the division of Ukrainian lands between various empires, joining the Grand Duchy of Lithuania – these events were aimed at solving political, economic or social problems. Therefore, careful treatment of animals was far from the forefront of established problems. Although Kievan Rus had animals that required special attention – birds that were considered sacred. Punishment was even provided for the destruction of nests, but on the part of a Christian or pagan god: for destroying a stork's nest, a house can burn down, for destroying a nest of swallows, pockmarks will the face ugly (Skurativsky, 1995). Consequently, due to historical events, this period is characterized by a decline in attention to the issue of cruelty to animals.

The real beginning of the struggle for protecting animals can be considered the moment of the

creation of relevant regulatory legal acts and special organizations. Therefore, the next stage of forming criminal legal relations concerning the treatment of animals begins in the seventeenth century. In particular, the main events of this period are the adoption of the first animal welfare statute in North America in 1641. This code included 92 paragraphs, the last of which proclaimed that “no man should practice tyranny or cruelty against any creature of God, usually used for the benefit of man” (Francione, 1996). One of the most significant steps in animal welfare was the legislative consolidation of the 1822 Act, the so-called Martin’s Act. The provisions indicated a wide list of animals that were subject to this Act and the corresponding actions for which sanctions were imposed: “beatings, poor care or cruel treatment of any horse, mare, gelding, silt, donkey, bull, cow, heifer, sheep or other cattle” were punished with a monetary penalty (from 10 shillings to 5 pounds sterling) or imprisonment for a period of three months (7). In 1824, the first animal welfare organization, the Society for the Prevention of Cruelty to Animals, was created. After that, the corresponding trend spread in many European countries.

In 1861, the First Russian Society for the Protection of Animals was created. In 1866, the Rules for the Treatment of Animals were published. The main provisions of which were: it is forbidden to use sick, lame and wounded animals in work; it is not allowed to hit animals with a hard or sharp object, and to hit on the stomach or head in general; it is forbidden to give the animal a load that is too heavy for it; it is not allowed to put on a lasso on a horse when the horse walks in yarn and slightly pulls the cart, etc. A significant contribution of such societies is also the fact that in 1871 these Rules were supplemented with some articles that had an imperative nature of prohibitions and established liability: “Art. 43-A. The perpetrators are subject to a monetary recovery not exceeding 10 rubles for inflicting useless torment on farm animals. Article 153 imposes arrest for 1 month or a monetary penalty not exceeding 100 rubles for the slaughter or maiming of other people’s animals.”

Consequently, this stage lasted from the beginning of the 16th century to the middle of the 20th century and is characterized by the active attraction of attention to the issue of violence against animals, the creation of the first law aimed at protecting animals; the activities of protective organizations and their influence on

the relevant legal framework. Thus, the third stage became a kind of engine that launched a mechanism for resolving the issue of cruelty to animals at the national level.

Since the middle of the twentieth century, the fourth stage of forming the modern criminal law attitude to cruelty to animals begins. After the Second World War, the international community issues acts that introduce basic provisions on the attitude to and existence of animals. One of them is the European Convention for the Protection of Vertebrate Animals Used for Experimental and other Scientific Purposes dated March 18, 1986. The main purpose of this act is to protect animals that serve as experimental subjects in scientific research “if such a procedure can cause pain, suffering, anxiety, cause long-term harm” (European Convention No. 123, 1986). Another defining document at the international level is the European Convention for the Protection of Domestic Animals as of November 13, 1987. In particular, the basic principles of this convention proclaim that “no one should cause unnecessary pain, suffering or oppression for a pet; no one should leave a pet” (European Convention, 2014). An important step to solve this problem was creating the World Society for the Protection of Animals. Society pays attention to important issues: keeping dolphins in captivity, slaughtering whales, etc.

At this time in the Soviet Union, the Criminal Code was changed (Law No. 2001-05, 1960). Still, only the 1988 amendment established the liability for cruelty to animals: “the cruel treatment of animals, resulting in their death or injury, as well as torture of animals, committed by a person who was subjected to an administrative penalty for the same actions during the year, shall be punished with correctional labor for a term of up to six months or a fine of up to forty times the minimum amount wages” (Law No. 2001-05, 1960).

Today in Ukraine, there are legal acts concerning the maintenance, care, and protection of animals: the Law of Ukraine On the Protection of Animals from Cruelty dated February 21, 2006; the Law of Ukraine On the Animal World dated February 13, 2001; the Law of Ukraine On the Protection of the Natural Environment of June 25, 1991; the Law of Ukraine On Veterinary Medicine of June 25, 1992, (Law No. 1264-XII, 1991) etc. Moreover, the Code of Administrative Offenses of Ukraine and the Criminal Code of Ukraine contain

articles establishing liability for illegal acts against animals.

Thus, we have identified the fourth stage in forming criminal law standards for the treatment of animals. Its peculiarity is the consolidation of the relevant acts of animal protection at the international level, creating global animal welfare organizations, and the active attraction of attention to the issues of cruelty to animals and the prohibition of the use of animals in the circus, and experiments on them. This period lasts from the middle of the twentieth century to the present day.

Thus, analyzing the above, we have identified four main stages in forming criminal law standards concerning cruelty to animals. Each stage is characterized by the definition of time intervals and some features corresponding to the social development of that period.

#### *Social conditionality of criminalization of cruelty to animals*

The need to introduce criminal liability for cruelty to animals appeared and developed for a long period of time. We propose to investigate them per the historical stages that we discussed above to find out all the conditions and reasons for the criminalization of the crime.

At the first stage, which lasted from the end of the third century BC and to the third century AD, there was a need to condemn such behavior rather than prosecute it. Neither the Bible nor the Laws of Manu determine the appropriate sanction. Considering that animals were the main source of food and labor in this historical period, it is logical that the reason for their protection was far from a sense of humanism. Religious and mythological beliefs were a basic need to protect oneself from the vengeance of the gods. Fear of punishment forced people to refrain from performing cruel actions against animals. For example, Jainism, a religiously philosophical doctrine widespread in India and Sri Lanka, professes the rule of non-violence. Any violent actions are prohibited. The highest religious duty is based on the fact that you cannot kill any living creature, and this should be expressed not only in actions but also in thoughts. During this period, in Europe, the attitude to animals was somewhat different. For example, in the myth of Ancient Greece "The Twelve Labors of Hercules", the hero is glorified for brave deeds, the overwhelming majority of which involve killing animals. In addition, a common practice was a sacrifice –

killing animals (sometimes people) to thank the gods. Therefore, the first reason for the protection of animals is the religious and mythical ideas of humanity.

As noted above, at the second stage of development (the fourth to sixteenth century AD) of the criminal law attitude towards cruelty to animals, the interest in this problem declined. Although in *Russkaya Pravda*, for the first time in Ukraine, there was an attempt to introduce liability for violence against animals: "for deliberately slaughtering someone else's horse or other cattle, the attacker pays 12 hryvnias to the treasury, and the owner – 1 hryvnia. For cut trees with pedigree beehives, the guilty person is obliged to contribute 3 hryvnias to the treasury. Although the need for legislative consolidation was first based on the protection of a person's property. In addition, in the Law Code of Casimir of 1468, liability for cruelty to animals was not introduced because animals were recognized as movable things. One of the crimes against property was "the keeping of strayed or stolen cattle for more than three days" (Dovnar, 1995). Such a crime was considered serious, and an appropriate sanction was established. If the amount of theft exceeded 30 Lithuanian money, the death penalty was applied to the perpetrator. Thus, at the second stage, the main prerequisite for animal protection was protecting property.

At the third stage, the first legislative consolidation of the rules for treating animals took place. As already noted, the relevant regulatory legal acts prohibited the mutilation of animals. In our opinion, this step was due to a simple causal relationship because animals were still used as a means of farming and movement in any country (especially in rural areas) in the period from the sixteenth to the middle of the twentieth century. Therefore, it is logical that the injury of an animal can lead to partial and sometimes complete loss of performance of the animal. Another feature of this period is the creation of the first animal protection organizations. It was this step that was caused not by consumer needs but by the manifestation of humanity. By the beginning of the nineteenth century, the issue of cruelty to animals began to be publicly discussed. Public figures of that time were increasingly expressing opinions on the relevant topic. For example, Leonardo da Vinci, who was known for his love of animals and was a vegetarian, noted that morality towards animals should change to the inadmissibility of cruelty to them. Consequently, attention to the issue of cruelty to

animals has become another reason for criminalizing the relevant crime.

Within the last period of development, which continues today, issues related to animals are actively discussed in society. One of the first problems facing humankind today concerning the attitude to animals is the problem of their use in research. Testing of cosmetics and medical products on animals is negatively evaluated by society. In particular, calls for the abandonment of such cosmetics are increasingly common on social networks. As for Ukraine, the relevant European Convention On the Protection of Vertebrate Animals Used for Research and Other Scientific Purposes dated March 18, 1986 was ratified only on January 9, 2014, but this act has not been implemented yet. The next reason for the protection of animals is the manufacture of leather clothing and fur coats. The conditions in which animals are kept and the methods of killing cause a lot of public indignation. In particular, the United States became the first country to ban the sale of fur clothing.

In post-Soviet countries, including Russia, Ukraine, and Belarus, the activity of dog hunters has actively spread, which causes a flurry of criticism from both ordinary citizens and public figures. Dog hunters are persons who, to protect themselves and their loved ones from the attacks of stray dogs, kill them by food poisoning. In 2010, a website Вредителям.НЕТ was created, which promoted the relevant activities. In addition to these motives, supporters of the relevant policy often resorted to killing animals that are owned.

Recently, a circus with animals has become a problem in Ukraine. Videos shown on social networks, TV channels, and journalistic investigations indicate that the authorities should immediately ban the display of animals in circuses. The reason for this is inappropriate conditions for keeping and training animals. The Ministry of Culture plans to ban the circus with animals until 2021. In Europe, a corresponding ban has long been established. Germany uses a modern method – the holograms of animals are used.

A person's tendency to cruelty depends on various factors. Home environment, attitudes in school or work, social impact. In particular, in most cases, minors are exposed to violent tendencies. It often happens that a child accidentally witnesses bullying of both humans and animals, which leaves an imprint on his or

her psyche. An immature person tends to imperfectly distinguish between good and evil. Especially when one of the parents systematically uses violence against the other at home. Moreover, the influence of television, computer games, social networks, and other things lay the appropriate template for solving certain situations using aggression and force.

The main reason for criminalizing the relevant crime was that cruelty to animals is a consequence of committing crimes that are more serious. This is confirmed by studies conducted at the Serbsky Center of Psychiatry – about 85% of criminals who have committed grave and especially grave crimes have previously cruelly treated animals (Lobov, 2000). A well-known case is the example of Anatolii Onopriienko – a repeat offender-killer who was inclined to abuse animals in childhood. Thus, the social conditionality of criminalization consists in several aspects. Condemnation of cruelty to animals according to religious canons, recognition of ownership over them, inhuman and anti-moral behavior influences the formation of propensities for cruelty and aggression. In addition, in Ukraine, there are still many problems of animal exploitation that require immediate solutions and legislative consolidation.

#### *Delimitation of the corpus delicti "Cruelty to animals" from an administrative offense*

In addition to criminal liability for cruelty to animals, there is also administrative liability. Special attention should be paid to the separation of an administrative offense from a criminal offense because neither the Criminal Code of Ukraine nor the Code of Ukraine on Administrative Offenses defines clear boundaries.

First, we consider the specifics of administrative liability. Thus, Art. 89 of the Code of Administrative Offenses of Ukraine defines such actions as cruelty to animals: "mockery of animals, inflicting beatings or committing other violent actions that inflicted physical pain on the animal, suffering and did not entail bodily harm, injury or death, including violation of the rules of keeping animals" (Law No. 8073-X, 1984). Thus, a crime and an administrative offense have common features: punishment, public danger, guilt, illegality. However, there are also certain differences. First of all, these are the actual grounds for liability. The grounds for administrative liability are expressed in the specific composition of the offense – an

unlawful, guilty (intentional or reckless) action or inaction that infringes on public order, property, rights, and freedoms of citizens, on the established management procedure and for which the law provides for administrative liability. According to the Criminal Code of Ukraine, the only basis for criminal liability is the presence in the actions of a person of signs of *corpus delicti* (Law No. 2341-III, 2001).

Turska V.A. states that the degree of public danger and its quantitative factor (repetition, relapse) is the main criterion for distinguishing between crime and administrative offense. Administrative offenses include actions characterized by a lesser degree of public danger and the absence of great harm to society (Turska, 2014).

In particular, Article 89 of the Code of Administrative Offenses of Ukraine also defines the consequences, which is an important criterion for distinguishing the composition of offenses. As already noted, these actions did not lead to personal injury or death. Correlation of the disposition of Art. 89 of the Code of Ukraine on Administrative Offenses and Art. 299 of the Criminal Code of Ukraine immediately reveals some issues.

First, the subject of the crime of cruelty to animals is vertebrate animals, and in an administrative offense – any animal. Such a discrepancy is unacceptable. After all, the question of fairness arises concerning non-vertebrate animals. This disadvantage can be interpreted by the fact that vertebrates experience great physical pain and have more advantages than all others have, which contradicts the Universal Declaration of Animal Rights, adopted on September 23, 1977, where it is defined in Art. 1 that “all animals have equal rights to exist within the boundaries of biological equilibrium” (World Declaration of Animal Rights, 1978).

Second, causing bodily harm to an animal is not an act that contains signs of an administrative offense or crime. Art. 89 of the Code of Administrative Offenses of Ukraine states “did not entail bodily harm, injury or death,” i.e., the actions that led to these consequences contain signs of criminal liability. However, analyzing the disposition of Art. 299 of the Criminal Code of Ukraine, we define that cruel treatment of animals, which entails criminal liability, is the occurrence of such consequences as mutilation or death of the animal. Thus, causing bodily

harm does not entail either administrative or criminal liability, which is unacceptable.

The complexity of the distinction between an administrative offense and a crime is also found in the qualification of acts of cruelty to animals under Part 2 of Art. 89 of the Code of Ukraine on Administrative Offenses and part 1 of Art. 299 of the Criminal Code of Ukraine, namely the propaganda of cruelty to animals and public calls for the commission of acts that have signs of cruelty to animals. Art. 5 of the Law of Ukraine On the Protection of Animals from Cruel Treatment states: “It is prohibited to promote cruelty to animals, to call on for cruelty to them...” (Law No. 3447-IV, 2006), but there is no clear definition of these concepts, as in any other regulatory legal act governing the rules for the treatment of animals.

In our opinion, the promotion of cruelty to animals is a way of influencing public opinion, which is expressed in the dissemination of facts, rumors, arguments, statements about the need to use cruelty to animals for one purpose or another, orally or in writing through communication with society in real or the virtual world. Public calls for cruelty to animals are an active appeal to society, demanding or asking for actions that contain signs of cruelty to animals, either verbally or in writing, through communication with society in the real or virtual world. It is worth noting that animal cruelty advocacy is a broader concept and includes public calls for cruelty to animals.

Confirmation of the ambiguity of the judges’ decisions in cases of this nature is the example of case No. 679/917/19. Its essence is as follows: the person posted a publication in one of the groups on the Facebook network, expressing his civic position regarding stray dogs, namely, distributed a recipe for the poison. The court qualified such actions as an administrative offense under Part 2 of Art. 89 of the Code of Ukraine on Administrative Offenses, namely the promotion of cruelty to animals. The reasoning states that “his comments were public, promoted and called on publicly to commit acts that had signs of cruelty to animals” (Resolution of the Netishyn City Court of Khmelnytsky Region, 2019). Although, public calls for the commission of actions containing signs of cruelty to animals are already a basis for criminal prosecution. However, to prevent disagreements of prosecution for public calls for the commission of actions containing signs of cruelty to animals, we propose to classify such

actions as signs of an administrative offense. Such actions carry less public danger compared to causing bodily harm, injury, and death of an animal. Moreover, this approach will reduce the burden on the pre-trial investigation bodies.

Thus, now the differentiation of *corpus delicti* and an administrative offense is carried out according to several main criteria: the degree of public danger and the consequences, in particular, bodily harm, injury, and death of an animal. However, in the course of the study, significant shortcomings were found in Art. 89 of the Code of Ukraine on Administrative Offenses and Art. 299 of the Criminal Code of Ukraine. First, the lack of unambiguity concerning the subject of the crime; second, lack of liability for causing bodily harm to an animal; third, the difference in the interpretation and unambiguity of prosecution for the propaganda of cruelty to animals and public calls for the commission of acts that have signs of cruelty to animals.

#### *International experience in criminal liability for cruelty to animals*

Given the urgency of Ukraine's integration into the European Union, the topic of implementing international standards in domestic legislation is crucial. European society pays great attention to the duty of humane treatment of animals at the legislative level. In particular, Germany became the first country to establish a constitutional ban on cruelty to animals. In turn, France defines two types of crimes against animals: cruelty and mistreatment of animals. Another feature is the obligation of each owner of the animal to register it, make the appropriate vaccinations every year, and even contact a zoopsychologist if changes occur in the animal's behavior (Larkin, & Shepel, 2015).

The definition of the subject of the crime for cruelty to animals is very different in various countries worldwide, namely, the age at which criminal liability occurs. In particular, in the Netherlands and Israel, the subject of a crime can be a person who has reached the age of 12; in Norway and Sweden – 15 years; Spain – 18 years old, and in Turkey, in general, criminal liability for cruelty to animals begins from the age of 11 (Veresha, 2014a). Indeed, in our opinion, it is advisable to establish a lower age for cruelty to animals in the Criminal Code of Ukraine – 14 years.

The low rate of investigation of crimes for cruelty to animals leads to confidence in impunity. After analyzing and comparing

statistical information on the state of crime for November 2019, it was found that of the registered criminal offenses under Art. 299 of the Criminal Code of Ukraine, only 13% of the proceedings were directed to the court, while the other 87% are the proceedings, decisions on which has not been adopted. Thus, the peculiarity and specificity of the investigation of crimes for cruelty to animals have a certain impact on future crime. The conviction of criminals that they will not be held accountable is reflected in the recurrence of the crime.

In addition to the subject of the crime, domestic legislation also differs significantly in the sanction. For example, the Austrian Criminal Code specifies that cruelty to animals resulting in suffering, abandoning animals to their fate or setting them against each other is punishable by up to 1 year in prison. In addition, the following actions are also considered punishable: causing injury or death, keeping several animals without food or water. In Israel, the criminal law provides for imprisonment for 3 years for causing injuries, poisoning, causing bodily harm, killing an animal. In countries such as Ireland, Canada, and most US states, only the basic penalty of imprisonment is provided for cruelty to animals. On the other hand, Singapore's criminal law defines punishment, imprisonment or a fine of up to \$800. In Turkey, the sanctions for this crime can also be imprisonment for 2 years or a fine of up to \$250. Interestingly, in Sweden, if a bystander sees an animal in a car with closed windows, he or she can break the window with impunity to provide access to air. Moreover, in Poland, Japan, Switzerland, Denmark, Bulgaria, South Korea, there is no criminal punishment for cruelty to animals.

In our opinion, it is also worth paying attention to the sanction of Article 299 of the Criminal Code of Ukraine. In particular, today, under the first part of this article, a person is punished with arrest for a term of up to six months or restraint of liberty for a term of up to three years. Domestic legislation is quite loyal to the definition of the sanction of this crime. However, in practice, there are some pretty gruesome cases of cruelty to animals that, in our opinion, should be subject to more severe penalties. Analyzing the sentences that entered into force in 2019, we found that under Part 1 of Art. 299 of the Criminal Code of Ukraine, 70% of punishments were 1 year of restriction of freedom, and 30% – were other punishments. We believe that this type of punishment often

does not fulfill its main goal – correction and re-education.

Thus, taking into account the specifics of serving a sentence in the form of restriction of freedom and the degree of social danger of cruelty to animals, it can be argued that the sanction of Art. 299 of the Criminal Code of Ukraine requires improvement. In particular, it is advisable to replace the restriction of liberty for up to three years with a sanction in the form of imprisonment for a period of 1 year. It is the change in punishment to a more severe one that will reduce the incidence of cruelty to animals in the future.

Demidova V.V. notes that one of the most progressive animal protection laws in Europe was the law adopted on May 27, 2004 in Austria. According to the relevant regulatory legal act, it is considered a crime to tie up livestock with tight ropes, keep chickens in tight cages, and cut off the ears and tail of dogs (Demidova, 2018).

Sinoverskaya T. I. notes that the US legislation is among the most progressive animal protection legislations. Every state in the United States has the Animal Health Surveillance Program that regulates sterilization, trapping, licensing, animal walking, shelter activities, price per sale, and public awareness of animals. In particular, the United States has extremely high fines for cruelty to animals (\$400-150,000) and imprisonment (from 90 days to 10 years). The punishment assignment depends primarily on the subjective side of the crime: ignorance, negligence, or willfulness (Sinoverskaya, 2019). Thus, analyzing the above, it is advisable to argue that the international experience of the features of criminal liability is extremely diverse. In particular, the Ukrainian legislation differs significantly in the sanctions and the perpetrator. In our opinion, to prevent the commission of a crime, it is necessary to replace the restriction of liberty for up to three years with a punishment in the form of imprisonment for a period of 1 year. Thus, the severity of punishment in the future will ensure a smaller number of cases of cruelty to animals and make it possible to bring the domestic criminal legislation in the field of animal protection as close as possible to the European one.

## Conclusions

Performed a retrospective analysis of criminal liability for cruelty to animals, we identified four historical stages in the formation and

development of criminal legal standards for cruelty to animals. At each stage, a time frame was identified, the conditions and features in which legal responsibility for cruelty to animals was formed. Conducting research the reasons for the social conditioning of criminalization for cruelty to animals, the authors identified a range of problems in the field of humane treatment of animals that require immediate solutions: the use of animals in scientific experiments, the manufacture of clothing from leather and animal fur, the activities of dog hunters and the use of animals in circuses. Factors affecting the cruelty of a person have been also identified. The delimitation of *corpus delicti* from an administrative offense is carried out according to several main criteria: the degree of public danger and consequences. International experience in the context of criminal liability for cruelty to animals is diverse. In particular, Ukrainian legislation differs significantly in terms of punishment and the age of the perpetrator. In our opinion, it is advisable to adjust the punishment for this crime: to replace the restriction of liberty for a period of up to three years with a punishment in the form of imprisonment for a period of 1 year. Thus, the severity of punishment in the future will ensure a smaller number of cases of cruelty to animals and make it possible to bring the domestic criminal legislation in the field of animal protection as close as possible to the European one.

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