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Why Control over Compliance with the Provisions of the Animal Protection Act Mainly Consists of Administrative Supervision

Introduction

Being a participant in one of the conferences concerning humanitarian protection of animals, I have noted that the majority of speakers emphasize criminal liability for violating the standards of conduct arising from the Animal Protection Act (hereinafter referred to as APA). That is, speakers have mainly focused on responsibility regime, in which the majority of reprehensible actions are treated as crime or offense. This drew my attention to such an extent that at the said conference, I partly changed the content of my speech and pointed out that the idea of humanitarian protection of animals is expressed also in criminal liability.

Also, in the doctrine, if the subject of compliance with the provisions of APA is raised, then individual actors emphasize primarily crimes and offenses against animals. This is particularly the case for Karolina Kuszlewicz, who, despite declaring that in her book she focuses “on practical issues of protecting animals from inhumane treatment”,¹ does not mention administrative supervision and its practical consequences.

¹ K. Kuszlewicz, *Prawa zwierząt. Praktyczny przewodnik*, Warszawa 2019, p. 23.

It also concerns Wojciech Radecki² who, on the one hand, rightly indicates control and supervisory competence of the veterinary administration in the field of animals' humanitarian protection, but on the other, reduces them to: carrying out control and notifying the law enforcement authorities of suspected crime or independent response to committed offenses³ (without bearing in mind at the same time that the Police have the leading competence in prosecuting offenses, not public administration bodies).

Why is the idea of the humanitarian protection of animals expressed also in criminal liability? The term "also" means "as well". Does it mean that in addition to criminal liability in the event of a breach of the provisions of APA, we can speak of some other legal liability? We truly can or even should talk about it, even before focusing on criminal liability. Since most of the legal standards of APA belong to the administrative regulations, the field of administrative law, then its violation concerns administrative responsibility. While asking the question posed in the title, we should firstly explain the main reasons and arguments why we think so.

At the same time, it should be noted that posing that kind of question and providing an answer to it is of great practical importance in the field of humanitarian protection of animals. Properly conducted administrative supervision over compliance with regulations on animal protection may be of crucial importance in the process of improving animal living conditions much faster and more effectively than any criminal proceeding or offense.

Law on the humanitarian protection of animals as a subject of the administrative law

In the Polish doctrine of the administrative law, provisions in the field of humanitarian protection of animals were not of particular interest for many years. However, the term "humanitarian protection of animals" was developed by the doctrine of law to designate all provisions aimed at protecting animals from suffering caused by the actions of man.⁴ That is correct: from the actions of men (from human side). Who do the standards for humanitarian protection of animals apply to and who can cause the suffering to an animal? Of course, such norms are directed at people and it is the man who, unfortunately, is the cause of such suffering, which lawyers often call "inhumane treatment of an animal".

² W. Radecki, *Czego oczekiwać i wymagać od Inspekcji Weterynaryjnej*, [in:] *Praktyczne procedury ochrony zwierząt. Poradnik dla administracji publicznej wszystkich szczebli*, red. A. Elżanowski, <https://docplayer.pl/2123596-Praktyczne-procedury-ochrony-zwierzat-poradnik-dla-administracji-publicznej-wszystkich-szczebli.html> [access: 29.10.2019].

³ *Ibidem*.

⁴ W. Radecki, *Ustawa o ochronie zwierząt z komentarzem*, Wrocław 1998, p. 9.

This way of defining the law on the humanitarian protection of animals also takes into account the purpose of the regulations. At the same time, it is about the protection of specific individual or collective goods. These goods, apart from the legal entity, and not the state and its tasks should be considered the central point of legal regulations.⁵

Currently, the basic legal act concerning humanitarian protection of animals in Poland is the Animal Protection Act of 21 August 1997.⁶ The essence of humanitarian protection of animals was expressed in Art. 1, para. 1, second sentence of the Act as well as in Arts. 5 and 6. Pursuant to these provisions, man has to respect the animal, and each animal requires humane treatment, which should be understood as treatment that takes into account the animal's needs and provides care and protection. Therefore, the above-mentioned issues should be considered as the main ones in the field of relations under the law on humanitarian protection of animals.

At the same time, since most of the legal standards of APA belong to the regulations in the field of administrative regulation, field of administrative law, then violation of these regulations concerns administrative responsibility. Administrative and criminal liability may perform similar functions, i.e. preventive and repressive. However, it should be remembered that in the case of administrative responsibility, the emphasis is, however, on the preventive function, while in the case of criminal liability – on repression.⁷ What is more, public administration bodies will always have competences to the final implementation of the administrative law standards, in other words, the power to take measures to bring conditions existing in the supervised (controlled) entity to the postulated one – set in APA or in the implementing acts. It is rather unnecessary to say that the realization of criminal liability for violation of the law in the field of humanitarian protection of animals takes place in forms and with effect appropriate for the criminal law system, while administrative responsibility – in forms and with effect appropriate for the administrative law system.

Defining the place of the provisions of the law on humanitarian protection of animals in the legal system no longer presents such difficulties as defining the concept itself. The provisions of the law in the field of humanitarian protection of animals show certain specific features, which, taken together, give a characteristic image of this administrative law subject. In particular, it is determined by the public nature of the law on humanitarian protection of animals. As a rule, these standards are mandatory. That means that they contain solutions that on the one hand, introduce the obligation to take specific behaviors (or refrain from them),⁸ on the other hand, they cannot be freely changed by agreement

⁵ Z. Leoński, *Materialne prawo administracyjne*, Warszawa 2006, p. 2; see also Z. Bukowski, *Polskie administracyjne prawo materialne*, Toruń 2005, p. 18.

⁶ Journal of Laws of 2019, item 122.

⁷ See W. Radecki, *Odpowiedzialność prawna w ochronie środowiska*, Warszawa 2002, p. 62; E. Łętowska *Odpowiedzialność w aparacie administracyjnym* [in:] *Prawo administracyjne i funkcjonowanie aparatu państwowego Polski i NRD*, red. G. Schulz, J. Łętowski, Wrocław 1981, p. 228.

⁸ J. Zimmermann, *Prawo administracyjne*, Kraków 2005, p. 35ff.

of the parties, which is the characteristic feature of the civil law. The regulations concerning humanitarian protection of animals also give public administration bodies the power to unilaterally resolve individual situations. Entity to which an obligation arising from the regulation of the law on humanitarian protection of animals has been imposed may not effectively transfer responsibility for such an obligation to another entity.⁹ In addition, if it fails to comply with the obligation required by law (or specified by an administrative act), this obligation will be enforced by using state coercion (although in this respect there is some doubt whether, if the commune does not perform – in the field of humanitarian protection of animals – its own tasks, government administration bodies can implement such coercion in relation to it).

The public nature of legal standards in the field of humanitarian protection of animals will also be discussed for public objectives pursued under this law.¹⁰ It is about values due to which the law on humanitarian protection of animals is meant to be an instrument ordering specific manifestation of social life. As Mieczysław Goettel pointed out: “Proper treatment of an animal and ensuring its safe and proper existence (and not only in relation to animals constituting public property) is identified with the public interest, whose implementation and protection are best guaranteed by the regulations of public law, especially administrative.”¹¹

Considering the above-mentioned features, the issue of belonging the law on humanitarian protection of animals to the field of administrative law should not raise any doubts, regardless of which of the main ways of creating the definition of administrative law in the doctrine we will choose as a reference.¹² It can be shown with equal effectiveness that the standards of the law on humanitarian protection of animals regulate the behavior of a specific part of public administration, as well as the behavior of individuals and other entities in the field which does not belong to other branches of law,¹³ and that they contain an element of power enabling public administration bodies to unilaterally resolve individual situations, to make permanent decisions, binding all legal entities in the state which are threatened by state coercion,¹⁴ or that they regulate performing administration functions by public administration bodies.¹⁵

⁹ J. Starościak, *Prawo administracyjne*, Warszawa 1978, p. 21.

¹⁰ J. Boć, *Prawo administracyjne*, [in:] *Prawo administracyjne*, red. J. Boć, Wrocław 2005, p. 39.

¹¹ M. Goettel, *Sytuacja zwierzęcia w prawie cywilnym*, Warszawa 2013.

¹² The definition of the term “administrative law” raises constant disputes in the doctrine. Therefore, some of its representatives only talk about the search for such a definition or they point out that it is more important to enumerate the basic features of administrative law than to make attempts to build it (e.g. J. Zimmermann, *op. cit.*, p. 34ff).

¹³ This concept of administrative law, built from an entity point of view, is cited by J. Lang, *Zagadnienia wstępne*, [in:] *Prawo administracyjne*, red. M. Wierzbowski, Warszawa 2007, p. 21.

¹⁴ If we consider the definition built on the basis of the way public administration bodies work, we need to cite J. Boć, *Prawo administracyjne*, [in:] *Prawo administracyjne*, red. J. Boć, Wrocław 2004, p. 35.

¹⁵ See the definition of “administrative law” presented by J. Starościak, *Określenie administracji i prawa administracyjnego*, [in:] *Prawo administracyjne*, red. J. Starościak, Warszawa 1966, p. 17.

Quoting Goettel again: “Although legal protection of animals is a very diverse matter, present in numerous branches of law in the most comprehensive way, (...) it is included in administrative law regulations. This is justified by the specificity of the subject of protection. By means of its regulations, it is possible to define a system of orders and prohibitions in the field of animal handling, tasks of public authorities and obligations of other entities in this field, as well as instruments to ensure their enforcement, rules for conducting specific activities using various categories and groups of animals, etc.”¹⁶

For the purposes of this study, when defining the concept of “the law on humanitarian protection of animals”, it is proposed to systematize administrative law by indicating the basic subject of protection and thus defining the field of social relations governed by the given provisions. The areas of regulation highlighted in this way will bind specific areas to normatively defined issues. This part of administrative law will not be distinguished by a specific subject of regulation, method of regulation or legal form of implementation, but due to at least partial possibility of indicating specific legal protection institutions, as well as the importance attached by the European Union and the society to humanitarian protection of animals,¹⁷ it may be called a “subject branch of administrative law”. In this way, under administrative law, we can separate environmental law, food law, construction law,¹⁸ sanitary and veterinary law¹⁹ or law on humanitarian protection of animals.

The branches distinguished in this way are characterized by comprehensive regulations. Law on humanitarian protection of animals accepts administrative law regulations and includes the standards of conduct from other branches of law, most often civil law (the animal is not a thing, but provisions on things apply accordingly) or criminal (crime and offenses for animal abuse, unjustified killing or violating its welfare). It is not about a simple juxtaposition of regulations from various legal systems, but on their binding into one functional whole.²⁰ At the same time, their presence in

¹⁶ M. Goettel, *op. cit.*

¹⁷ Such criteria are indicated by J. Boć and E. Samborska-Boć, when talking about the separation of the legal basis for environmental protection and the independence of normative protective regulations in this field of law (*Uwagi o polskim systemie regulacji prawnej ochrony środowiska*, [in:] *Ochrona środowiska*, red. J. Boć, Wrocław 2005, p. 159ff).

¹⁸ A. Błaś, J. Boć, *Źródła prawa administracyjnego*, [in:] *Prawo administracyjne*, red. J. Boć, Wrocław 2005, p. 62; B. Wierzbowski, B. Rakoczy, *Podstawy prawne ochrony środowiska*, Warszawa 2004, p. 21ff; S. Jędrzejewski, *Prawo budowlane*, Toruń 1998, p. 17ff. See also W. Nosek, *Uwagi wstępne*, [in:] *Prawo budowlane z umowami w działalności inwestycyjnej. Komentarz*, red. H. Kisielowska, Warszawa 2008, p. 12.

¹⁹ At the same time, we should be aware that due to the lack of codification of administrative law, the material scope of each of the proposed sub-headings will be the subject of a long-term debate (Z. Leoński, *op. cit.*, p. 8).

²⁰ The parts of administrative law created in this way were called “comprehensive branches” (F. Longchamps, *W sprawie pojęcia administracji państwowej i pojęcia prawa administracyjnego*, „Zeszyty

the administrative law gives hope for ensuring proper and comprehensive protection of a given social interest. These standards do not lose their original affiliation to their parent branch by incorporating them into administrative law.

Enforcement of APA regulations

Since the provisions on humanitarian protection of animals are primarily included in the administrative law regulations, the supervision over compliance with them was also assigned, first of all, to the public administration bodies. In the Polish legal system, it results explicitly from Art. 34a of APA. According to it, the bodies of the Veterinary Inspection (organs of the government's special administration) are competent to supervise compliance with all provisions on humanitarian protection of animals. Within the scope of this supervision, employees of the Veterinary Inspection and persons appointed by the authorities of this Institution have very broad powers specified in the Act on Veterinary Inspection,²¹ including the right to perform inspections at animal-keeping facilities and to control the process of killing animals (in terms of its compliance with the law, that is in accordance with the principle of legality).

It is worth noting that APA intentionally uses the term “supervision” of government administration bodies, and not the term “control”. Supervision is a qualified form of control, under which government administration authorities check not only whether the condition postulated in the regulations (for example, to avoid any unnecessary suffering of animals) is consistent with the condition found in the given breeder / animal owner, but also in the case of violations of administrative law, they may interfere in the controlled entity's activities with the use of state coercion.²²

Do the government administration bodies have appropriate “tools” to enforce standards in the field of humanitarian protection of animals? It has been pointed out for many years that their role in verifying the humane treatment of animals boils down to the issue of controlling violations and possible redirection of the case to criminal procedure, that is to the competent law enforcement authorities. Also, the media (radio, press, television and the Internet), at least until now, have been part of this narrative, primarily publicizing criminal matters related to animal abuse.

Naukowe Uniwersytetu Wrocławskiego, Seria A. Prawo” 1958, Nr 10, p. 20. See also A. Błaś, J. Boć, *op. cit.*, p. 62 and Z. Rybicki, S. Piątek, *Zarys prawa administracyjnego i nauki administracji*, Warszawa 1984, p. 107). The complexity of regulation of administrative acts is inscribed in the specifics of administrative law, as F. Longchamps indicates, administrative law “(...) is a concept which is intended to cover certain elements of different legal systems” (F. Longchamps, *op. cit.*, p. 19). See also M. Goettel, *op. cit.*

²¹ Journal of Laws of 2018, item 1557.

²² See W. Radecki, *Czego...*, p. 10ff.

Pointing out the obligation to refer such cases to the law enforcement authorities, as well as hoping that the penalties imposed for crimes and offenses against humanitarian protection of animals have an appropriate educational value, it should be emphasized at the same time that the purpose of criminal or offence proceedings is not, in principle, to bring the factual state to the postulated one by the provisions of administrative law, but only to punish the perpetrator for a committed crime or offence. Therefore, it cannot be assumed that law enforcement authorities can act instead of public administration to enforce requirements referring to humanitarian protection of animals.

In this case, we must return to the issue of administrative enforcement of orders arising from the provisions on humanitarian protection of animals. The question is, however, how to do it, since the Polish Act (excluding the competence provisions related to the regulation of EU law on the transport of animals and the decision on the temporary taking an animal by the executive body of local self-government) does not provide for the possibility of issuing administrative acts (i.e. decisions). The answer to this question is quite simple. The method of formulating the majority of administrative law regulations adopted in the field of humanitarian protection of animals, including the provisions on killing animals, indicates that these are non-monetary obligations arising directly from the law. In relation to such obligations, there are often no grounds for initiating and conducting administrative proceedings. Why? Because they should be enforced immediately by way of administrative enforcement proceedings. So, there is no obligation to issue an administrative decision in the matter. To initiate enforcement proceedings, it is sufficient to deliver a written warning and issue an enforceable order, to which the relevant voivode shall give an enforcement clause.

It is worth noting that the legislator applies the structure of enforcement of a non-monetary obligation arising directly from a legal provision, in those places where compliance with the administrative law regulations cannot bear the delay by conducting administrative proceedings. And so, it certainly is the case of proceedings related to humanitarian protection of animals.

The lack of competence to issue an administrative act does not mean, however, that the standards of conduct specified in Council Regulation (EC) No. 1099/2009 of 24 September 2009 on the protection of animals at the time of killing are exceeded.²³ In the event of a breach of the above-mentioned Act, the competent control authority may institute proceedings and issue an administrative decision on the basis of Art. 22. Pursuant to Art. 22, for the purpose of Art. 54 of Regulation (EC) No. 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules,²⁴ the competent authority may in particular:

²³ Official Journal of the EU 2009, No. 303, p. 1, as amended.

²⁴ Official Journal of the EU 2004, No. 165, p. 1, as amended.

- require business operators to amend their standard operating procedures and, in particular, slow down or stop production,
- require business operators to increase the frequency of the checks referred to in Art. 5 and amend the monitoring procedures referred to in Art. 16,
- suspend or withdraw certificates of competence issued under this Regulation from a person who no longer shows sufficient competence, knowledge or awareness of his/her tasks to carry out the operations for which the certificate was issued,
- suspend or withdraw the delegation of power referred to in Art. 21(2),
- require the amendment of the instructions referred to in Art. 8 with due regard to the scientific opinions provided pursuant to Art. 20(1)(b).

The above Regulation requires the competent authorities to take such actions that the economic entity should apply remedial measures to eliminate detected non-compliances, however, it should be noted that the catalog of actions under Art. 22 of the above-mentioned Act is an open catalog, and therefore the official control authority may also apply other activities, including those specified in Art. 54(2) of Regulation 882/2004.

It follows from the above that the Veterinary Inspectorate authorities may take appropriate action in the event of violations arising from the provisions of the law on the protection of animals at the time of killing (also applies to ritual slaughter). In accordance with the judgement of the Constitutional Tribunal of 10 December 2014, “Supervision over slaughterhouses is exercised by the Veterinary Inspectorate (see Art. 3 of the Act on Veterinary Inspectorate). The inspections in slaughterhouses are carried out by the official or regional veterinarian. They include, *inter alia*, the verification of adherence to provisions on animal protection at the time of slaughter”. The Tribunal also indicated that “When ritual slaughter is permitted, the observance of religious norms will be scrutinised by competent religious organizations (i.e. Jewish religious communities pursuant to Art. 9, para. 2 of the Act on Jewish Religious Communities)”.

In this case, controls carried out by both government administration bodies and registered religious associations are mentioned. However, from a legal point of view, the detection of irregularities by the Veterinary Inspectorate body may result in imposing administrative restrictions on the plant. In turn, the effects of any irregularities detected by a religious association will rather be related to the civil law (e.g. refusal to collect the goods, no further orders, etc.). Moreover, both the Veterinary Inspectorate bodies and religious associations will be able – independently of each other – to report suspected crime or offences in connection with violation of APA. The issue of the supervision of government administration bodies over the establishment and implementation of commune programs to prevent animal homelessness should be separated from the above issues.

The obligation to provide proper care and protection to homeless animals was imposed on communities pursuant to Art. 11 para. 1 of APA. This is a task which could

be called the “commune’s own task”, and the basic method of its implementation is the development, adoption and implementation of the program of care for homeless animals and prevention of homelessness of animals. The legislator has set out mandatory elements of the program to be adopted by the commune council annually by March 31, listing among them: providing homeless animals with a place in an animal shelter, care for free-living cats, including feeding them, catching homeless animals, mandatory sterilization or castration of animals in animal shelters, looking for owners for homeless animals, putting blind litters to sleep, indicating a farm to provide space for farm animals, providing 24-hour veterinary care in cases of road incidents involving animals. The program of care for homeless animals and prevention of homelessness of animals should also include an indication of the financial resources allocated for its implementation and the method of their spending.²⁵

The basic legal regulation regarding supervision over the activity of local self-government is provided in Art. 171 of the Constitution of the Republic of Poland, according to which, the activity of local self-government is subject to supervision on the basis of legality criterion. The above constitutional norm was specified in Art. 85 of the Act on Local Self-Government,²⁶ according to which, the supervisory authorities, including the voivode, supervise commune activities on the basis of the criterion of compliance with the law. And according to Art. 87 of the above-mentioned Act, supervisory authorities may enter the activities of local self-government units only in cases specified by other acts. In this case, it is worth pointing out that in the model approach, described supervision of government administration over the self-government of a commune should consist of two things – on the one hand, it should consist of supervision over the commune’s law-making process, and on the other, it should consist of supervision over its implementation.

Supervision within the scope of communal law-making process covers resolutions of commune bodies as well as decrees of a single-person authority (village head, mayor, president of the city). The supervisory bodies are the Prime Minister and voivode (Art. 86 of the Act on Communal Self-Government). Pursuant to Art. 90 para. 1 of the Act, the head of the commune (mayor, city president) is obliged to submit to the voivode resolutions of the commune council within 7 days of their adoption. The voivode has the right to annul a resolution if it is contrary to the law. This invalidity can be ruled in relation to the entire resolution or to its part. The voivode may, when initiating proceedings regarding the annulment of a resolution or in the course of those proceedings, suspend its implementation or, in the event of an insignificant breach of law, confine itself to indicating that the resolution has been adopted in breach of law.

²⁵ For more on the adoption of such care programs, see M. Rudy, *Program opieki nad zwierzętami bezdomnymi oraz zapobiegania bezdomności zwierząt, jako podstawowa forma realizacji zadania gminy z zakresu opieki nad zwierzętami*, „Samorząd Terytorialny” 2018, Nr 9(333), pp. 31–41.

²⁶ Journal of Laws of 2019, item 506, as amended.

The supervisory body shall declare annulment in whole or in part within 30 days of the date of delivery of the resolution or decree. The supervisory decision should contain factual and legal justification and instruction on the admissibility of lodging a complaint with the administrative court. After the expiry of the above-mentioned deadline, the voivode can no longer annul the resolution of the commune council independently, but he can appeal the resolution to the administrative court. In addition to the above, one should also pay attention to the supervisory powers of this body in the process of applying the law by the commune. In this case, it seems appropriate that this supervision should also be provided with reference to the program of care for homeless animals and prevention of homelessness of animals.

In this respect, the voivode has the right to request information and data from local self-government units regarding the organization and functioning of the commune (control rights). In this area, the voivode can, among others, scrutinize documents and reports sent or conduct control of the activities carried out in local self-government units. These activities can be used in terms of exercising the statutory supervisory powers of government administration within the scope of applying the law by the commune self-government, in particular those related to disciplining self-government bodies in the event of continuous violations of law.

In such cases, the parliament, at the request of the Prime Minister, may dissolve the commune council through a relevant resolution. In the event of dissolution of the commune council, the Prime Minister, at the request of the minister competent for public administration, shall appoint a person who, by the time of election of the commune council, fulfills its function. If the head of the commune commits a repeated violation of the Constitution or other acts, the voivode calls him/her to bring such infringements to an end, and if the notice has no effect – shall make a request to the Prime Minister to dismiss the head of the commune. In the event of dismissal of the head of the commune, the Prime Minister, upon a request of the minister competent for public administration, shall appoint a person who, until the head of the commune is elected, performs this function.

In the event of little chance for rapid improvement and prolonged inefficiency in the performance of public tasks by commune bodies, the Prime Minister, at the request of the minister competent for public administration, may suspend the commune bodies and appoint an administrator for up to two years, but no longer than to the next election of the head of the commune. Establishment of a receivership may take place after the statement of objections and after calling upon the commune authorities to immediately submit a program to improve the commune's situation. The government commissioner (administrator) is appointed by the Prime Minister at the request of the voivode, submitted through the minister competent for public administration. The government commissioner takes over the tasks and competences of the commune authorities on the day of appointment.

From the above-mentioned powers of the voivode, we should clearly distinguish the competences of other government administration bodies in the voivodeship, namely the Veterinary Inspectorate organs. Bearing in mind that the activity of preventing homelessness of animals is associated with the need to cooperate with registered animal shelters and entities involved in the transport of animals, it should be noted that the Veterinary Inspectorate authorities play a more significant role in control than would formally arise from Art. 34 of APA.

In this case, there is a doubt whether the bodies of the Veterinary Inspectorate, in the event of irregularities in the functioning of the commune, can also refer to the Act on administrative enforcement proceedings. With the proviso that the obligations to be enforced will result directly from a legal provision (APA and other implementing provisions), the Veterinary Inspectorate authority will be a creditor here, while the enforcement authority – a voivode.

Conclusions

Regarding the question posed in the introduction, it can be stated that supervision over compliance with the provisions of APA mainly consists of the administrative supervision, because:

- most of the legal standards of APA belong to the field of administrative law,
- in the event of a breach of APA standards, we should primarily talk about administrative responsibility,
- in the case of administrative responsibility, the emphasis is on the preventive function,
- public administration bodies will always have competences to the final implementation of the administrative law standards, i.e. competences to taking steps to bring the conditions existing in the supervised (controlled) entity to the postulated one,
- the implementation of administrative responsibility always takes place in forms and with effects appropriate to the administrative law system, i.e. it contains an element of power enabling public administration bodies to unilaterally resolve individual situations, to make permanent decisions, binding all legal entities in the state which are threatened by state coercion,
- government administration bodies possess appropriate “tools” to enforce the provisions of law on humanitarian protection of animals, including, above all, using in controlled entities state coercion,
- it cannot be assumed that law enforcement authorities can act instead of public administration to enforce the requirements on humanitarian protection of animals,

- the method of formulating the majority of administrative law regulations adopted in the field of humanitarian protection of animals, including the provisions on killing animals, indicates that these are non-monetary obligations arising directly from the law, and such obligations can be enforced immediately by means of enforcement proceedings in administration (without the obligation to issue an administrative decision in a case),
- the legislator applies the structure of enforcement of a non-monetary obligation arising directly from a legal provision, in those places where compliance with the administrative law norm cannot bear any delay by conducting administrative proceedings.

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Abstract: While asking the question posed in the title, we should firstly explain the main reasons and arguments why we think so. At the same time, it should be noted that stating that kind of question and providing an answer to it is of great practical importance in the field of the humanitarian protection of animals. Properly conducted administrative supervision over compliance with regulations concerning the protection of animals may have crucial importance in the process of improving animals living conditions much faster and more effectively than any criminal or any offense proceedings can.

Keywords: humanitarian protection of animals; animal rights; Animal Protection Act; administrative supervision; administrative law

