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## Do Current Legal Provisions Guarantee a High Level of Welfare of Domestic Animals?

The changes in the process of defining animal welfare are associated with the progress in many research fields on the one hand, and with the increase in public awareness on the other hand. It is also increasingly being highlighted that the perception of welfare in relation to the Five Freedoms formulated by the Brambell Commission in the 1960s is highly inadequate in the case of both livestock and pet animals. In recent years, the methods for assessment of welfare have been revised in many countries to

take into account the quality of life criterion. These activities should be reflected in educational programs and legislative solutions.<sup>1</sup>

Keeping various species as companion animals is a relatively common phenomenon in Poland,<sup>2</sup> but the owners do not always have adequate knowledge of the species-specific requirements. This problem is also reported in the case of individuals involved in breeding/rearing of livestock animals. It is most often associated with the traditional approach to keeping, using, or feeding animals and sometimes with an attempt to maximize profits. It has to be considered whether the applicable law obliges owners to provide their animals with a high level of welfare.<sup>3</sup> Even the term “minimum living standards” for livestock may arouse considerable controversy. It also seems that the provisions on keeping companion animals define imprecisely the matter of ensuring a high level of welfare, mainly in the sense of meeting species-specific needs.<sup>4</sup> The current knowledge of animals’ behavioral needs necessitates urgent verification of legislative solutions to ensure real animal protection and oblige keepers to provide animals with appropriate welfare.<sup>5</sup>

The basic legal act ensuring proper treatment of pet and livestock animals is the Animal Protection Act of 21 August 1997 with later amendments.<sup>6</sup> Undoubtedly, increasing attention is paid to the insufficient protection of animals in various areas. Provisions that were supposed to guarantee real protection of animals are often clearly incompatible with their species-specific needs. This is the case of livestock animals, where the regulation defining the “minimum living standards” legalizes practices that disregard many behavioral needs of animals. A good example is the horse; in this case, the minimum dimensions of boxes/stands have been established, but the obligation to provide these animals with movement, diet, and social contacts adequate to the age

<sup>1</sup> D.J. Mellor, N.J. Beausoleil, *Extending the ‘Five Domains’ Model for Animal Welfare Assessment to Incorporate Positive Welfare States*, “Animal Welfare” 2015, No. 24, pp. 241–253; T. Green, D.J. Mellor, *Extending Ideas about Animal Welfare Assessment to Include ‘Quality of Life’ and Related Concepts*, “New Zealand Veterinary Journal” 2011, Vol. 59(6), pp. 263–271; I. Veissier, A. Butterworth, B. Bock, E. Roe, *European Approaches to Ensure Good Animal Welfare*, “Applied Animal Behaviour Science” 2008, Vol. 113(4), pp. 279–297; D.M. Broom, *Animal Welfare: Concepts and Measurements*, “Journal of Animal Science” 1991, No. 69, pp. 4167–4175.

<sup>2</sup> *Zwierzęta w polskich domach*, [http://www.tnsglobal.pl/archiwumraportow/files/2014/11/K.073\\_Zwierz%C4%99ta\\_w\\_polskich\\_domach\\_O10a-14.pdf](http://www.tnsglobal.pl/archiwumraportow/files/2014/11/K.073_Zwierz%C4%99ta_w_polskich_domach_O10a-14.pdf) [access: 01.10.2019].

<sup>3</sup> K. Adamczyk, T. Kaleta, J. Nowicki, *W obronie dobrostanu zwierząt w ujęciu zootechnicznym*, „Przegląd Hodowlany” 2017, Nr 1, pp. 1–3; E. Herbut, J. Walczak, *Dobrostan zwierząt w nowoczesnej produkcji*, „Przegląd Hodowlany” 2017, Nr 5, pp. 3–7.

<sup>4</sup> E. Herbut, J. Walczak, *op. cit.*

<sup>5</sup> M.B.M. Bracke, H. Hopster, *Assessing the Importance of Natural Behavior for Animal Welfare*, “Journal of Agricultural and Environmental Ethics” 2006, Vol. 19(1), pp. 77–89; A.C. Bayvel, T.J. Diesch, N. Cross, *Animal Welfare: A Complex International Public Policy Issue: Economic, Policy, Societal, Cultural and Other Drivers and Constraints. A 20-Year International Perspective*, “Animal Welfare” 2012, No. 21, pp. 11–18.

<sup>6</sup> The Animal Protection Act of 21 August 1997 (consolidated text, Journal of Laws of 2019, item 122).

and breed has been ignored.<sup>7</sup> As indicated in many studies, these three key factors may contribute to the development of severe behavioral disorders with a negative effect on the quality of animal life and health, which in turn significantly reduces their welfare.<sup>8</sup> In the case of riding horses, there may be many more welfare-deteriorating factors, but they are most often not considered by the legislator. Despite their ambivalence, the practices used are not regarded as bullying and/or cruelty, as in the case of the use of various aids (whips, spurs) or some parts of the bridle. Although the provisions and regulations of competitions or equestrian shows are supposed to protect horses from cruel treatment, they usually focus on such issues as the acceptable length of the whip or the type of mouthpiece.<sup>9</sup>

Transportation often poses a risk to livestock welfare, especially given the fact that the current Council Regulation (EC) No. 1/2005 on the protection of animals during transport and related operations does not refer to animal transport over distances lower than 50 km or to non-commercial transport.<sup>10</sup>

Effective legal protection of companion animals seems even more debatable. The only precise provisions have been formulated in the case of dogs; they prohibit keeping dogs tethered on a leash shorter than 3 m for more than 12 hours a day.<sup>11</sup> However, a question should be asked about the possibility of satisfying species-specific behavioral needs of dogs kept in a pen (even larger than a pen ensuring the possibility of “free change of body position”). A controversial issue in terms of the quality of life is the practice of keeping dogs in apartments by owners who spend a considerable amount of time out of home. The possibility to explore the environment, sniff, mark, or establish social relationships is a key factor ensuring a high level of welfare.<sup>12</sup>

The way cats are kept has changed considerably in recent years. Many of these animals are kept in houses without the possibility to leave. With the simultaneous lack of adequate enrichment of the environment, this may constitute a clear limitation of the possibility to satisfy the species-specific needs determining the level of welfare. There are increasing numbers of reports indicating that cats that are not allowed to go out of home more frequently exhibit various forms of behavioral disorders reducing

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<sup>7</sup> Regulation of the Minister of Agriculture and Rural Development of 28 June 2010 on the minimum conditions for keeping farm animals other than those for which protection standards have been laid down in EU provisions (consolidated text, Journal of Laws of 2010, No. 116, item 778).

<sup>8</sup> D.S. Mills, K.J. Nankervis, *Equine Behaviour: Principles and Practice*, Oxford 1998.

<sup>9</sup> M. Uldahl, H.M. Clayton, *Lesions Associated with the Use of Bits, Nosebands, Spurs and Whips in Danish Competition Horses*, “Equine Veterinary Journal” 2019, Vol. 51(2), pp. 154–162.

<sup>10</sup> Council Regulation (EC) No. 1/2005 of 22 December 2004 on the protection of animals during transport and related operations, and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No. 1255/97 (OJ EU L 3/1).

<sup>11</sup> The Animal Protection Act of 21 August 1997...

<sup>12</sup> K. Stafford, *The Welfare of Dogs*, Dordrecht 2007, pp. 8–11, 83–111; K. Svartberg, B. Forkman, *Personality Traits in the Domestic Dog (Canis familiaris)*, “Applied Animal Behaviour Science” 2002, No. 79, pp. 133–155.

the quality of their life. The failure to meet the species needs in pet animals is often caused by owners' insufficient knowledge.<sup>13</sup> In turn, precise legal regulations usually mobilize pet owners to comply. A good example is the Directive 2008/120/EC of 18 December 2008 on the need to use environmental enrichments in swine breeding.<sup>14</sup> As shown by practice, most owners use enrichments through various solutions.

In the case of some animal species, it is very difficult or impossible to provide conditions that would provide them with a high level of welfare. This is most often the case of various species of exotic animals, which in recent years have become an attractive alternative to dogs or cats.<sup>15</sup> They include, e.g. some species of the family Callitrichidae, which are becoming increasingly popular. Tamarins and marmosets have a very wide range of behavioral needs, which are impossible to satisfy in home conditions. These are needs related to the nutrition and function in a social group or adequate space. These animals live in groups (often composed of different species) with an established social structure, whereas in home conditions they are most often kept singly (exceptionally in pairs).<sup>16</sup> Their basic diet in natural conditions comprises fruits, resins, plant secretions, and insects, whereas the owners most frequently they feed them only with fruits and vegetables.<sup>17</sup> Such problems also affect other species of exotic animals, including those kept for commercial purposes. Parrot aviaries, which have gained popularity in recent years, are an unquestionable attraction. Yet, keeping birds living in nature in different conditions and having different food strategies and specific social needs in a relatively small space excludes a high level of welfare.<sup>18</sup>

These examples show only some areas where the applicable law does not impose the obligation to ensure a high level of animal welfare on owners or keepers. Therefore, it seems advisable to take actions aimed at introduction of issues related to animal protection into school curricula, to provide animals with adequate living standards guaranteeing welfare, and to change legislative solutions.

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<sup>13</sup> I. Rochlitz, *A Review of the Housing Requirements of Domestic Cats (Felis silvestris catus) Kept in the Home*, "Applied Animal Behaviour Science" 2005, No. 93, pp. 97–109; Q. Sonntag, K.L. Overall, *Key Determinants of Dog and Cat Welfare: Behaviour, Breeding and Household Lifestyle*, "Revue scientifique et technique (International Office of Epizootics)" 2014, Vol. 33(1), pp. 213–220; S. Schroll, J. Dehasse, *Zaburzenia zachowania kotów*, Wrocław 2018.

<sup>14</sup> Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (OJ EU L of 18 February 2009, OJ EU L 09.47.5).

<sup>15</sup> R.A. Grant, V.T. Montrose, A.P. Wills, *ExNOTic: Should We Be Keeping Exotic Pets?*, "Animals" 2017, No. 7(6), p. 47.

<sup>16</sup> G. Anzenberger, B. Falk, *Monogamy and Family Life in Callitrichid Monkeys: Deviations, Social Dynamics and Captive Management*, "International Zoo Yearbook" 2012, No. 46, pp. 109–122.

<sup>17</sup> E. Bairrão Ruivo, *EAZA Husbandry Guidelines for Callitrichidae* (2<sup>nd</sup> ed.), Saint-Aignan 2010.

<sup>18</sup> M. Engebretson, *The Welfare and Suitability of Parrots as Companion Animals: A Review*, "Animal Welfare" 2006, No. 15, pp. 263–276; J. Karocka, *Wprowadzenie do problemu dobrostanu papug w papugarniach w Polsce*, <https://docplayer.pl/53148124-Wprowadzenie-do-problemu-dobrostanu-papug-w-papugarniach-w-polsce-joanna-karocka-kwiecien-2017.html> [access: 01.10.2019].

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**Abstract:** The report is an attempt to indicate some issues related to animal handling and deterioration of animal welfare due to the lack of precise legislative solutions. The focus is placed mainly on the problem of keeping domestic animals, as the relevant regulations are formulated in a very general way in the Polish legal system, which may have a negative effect on the quality of animal life.

**Keywords:** animal welfare; Polish legal system