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Polish and Estonian Regulations on Homeless (Stray) Animals*

Polskie i estońskie uregulowania prawne dotyczące zwierząt bezdomnych (bezpańskich)

ABSTRACT

The article is of a scientific research nature and its main aim is to compare Polish and Estonian legal regulations on homeless (stray) animals and to evaluate them and formulate optimisation proposals. The analysis of national regulations was preceded by findings on how the issue in question is regulated in international law and EU law. The issue needs to be addressed due to the fact that the problem of the protection of homeless animals, despite the ever-increasing number of such animals, has been marginalised in all the legal orders discussed in this text. In any case, both in Poland and Estonia, their normative solutions are focused more on remedying the effects than on preventing the causes of the problem of homelessness of animals. Moreover, it is extremely rare that this issue becomes the subject of in-depth scientific analysis. Therefore, the intention is that the dissemination of previously unpublished research results will help develop an optimal model for the administrative-law protection of homeless animals and will raise the degree of public awareness of the legal protection of animals, which is one of the conditions for further progress in civilisation.

Keywords: Poland; Estonia; law; protection of homeless animals; homeless animals; stray animals

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INTRODUCTION

It is beyond any doubt that the manner in which animals are treated is one of the measures of civilisational development. This is true especially with regard to humanitarian protection, i.e. based on ethical (non-economic) considerations. The philosophy and the actual scope of this form of protection, in particular legal systems, are especially visible in the regulations governing the rules of dealing with homeless (stray) animals. This is so because it is a group of unattended animals, the presence of which in the environment entails the risk of spreading contagious diseases and the risk of losses in forest management, and the presence of which often generates very high costs incurred by local government units, related to the catching and subsequent maintenance of these animals. In view of the above, it is difficult to point out an entity that would be interested in preserving this group of animals, and consequently any action aimed at improving their welfare should be perceived in humanitarian categories. At the same time, all such activities must be carried out in such a way as to reduce the population of homeless animals, which still remains in the public interest.

In view of the above, it would be interesting to carry out research whose main objective is to compare Polish and Estonian legal regulations in this area. The main reasons for limiting the choice to a single reference system are the editorial requirements concerning the volume of this study. On the other hand, the choice of legal system itself was motivated, among other things, by the fact that the Republic of Estonia is a progressive country that has upraised, with great determination, environmental protection standards and has developed its environmental legislation since the early 1990s.[1] Estonia's efforts in this area were intensified before its accession to the European Union (EU), and now, as a member of the EU, complies very well with its obligation to transpose EU law in a timely and correct manner (including in the field of environmental protection in the broadest sense).[2] However, on this occasion it should be noted that it is not only the European Union that influences Estonia's environmental protection activities. The Scandinavian countries also play

[1] On the development of the Estonian environment protection law, see, e.g., H. Veinla, K. Relve, *Environmental Law in Estonia*, London 2012, pp. 34–36; R. Caddell, *Wilderness protection in Estonia*, [in:] *Wilderness Protection in Europe: The Role of International, European and National Law*, ed. K. Bastmeijer, Cambridge 2016, p. 287–313.

[2] This is confirmed in annual reports of the European Commission on the monitoring of application of the EU law by member states. These reports state that as of 2018 the least number of proceedings due to the delayed or incorrect transposition and breach of provisions, treaties and decisions were initiated against Estonia. See European Commission, *Monitoring the Application of European Union Law. Annual Report 2018*, https://ec.europa.eu/info/sites/info/files/eu28-factsheet-2018_en.pdf [access: 13.06.2020]. Naturally, this does not change the fact that Estonia still faces many challenges related to implementation of the EU natural environment protection policy. On this topic, see European Commission, *The EU Environmental Implementation Review 2019. Country Report – Estonia*, https://ec.europa.eu/environment/eir/pdf/report_ee_en.pdf [access: 13.06.2020].

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an enormous role in this respect. They have long been a role model for Estonia's environmental protection activities and often support Estonia in their implementation. It was also not insignificant for the choice made that nature is deeply inherent in the Estonian culture, and eco-innovations and "green" social initiatives such as the "Teeme ära" project (known worldwide as "Let's Do It")[3] have become the showcase of this country. Moreover, according to various analyses, the ecological awareness of Estonian citizens is constantly growing.[4] In this context, it is worth asking how this country has regulated the protection of stray animals, and what are the differences between these regulations and the regulations in force in this area under Polish law. The answer will become a point of departure for assessing the solutions functioning in both legal systems and formulating optimisation postulates. The research was carried out using the methods dominating in the legal research methodology, i.e. the legal dogmatic method, the historical method and the comparative method. They consisted of an analysis of the existing legal regulations (national, EU and international) and the previous case law and established legal scholarly opinion in the field of administrative and legal protection of animals.

INTERNATIONAL AND EU CONTEXT

Before analysing national regulations concerning the care of homeless animals, it is important to check how this problem has been regulated in international and EU laws.[5] Thus, as regards the Universal Declaration on Animal Welfare proclaimed by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) on 15 October 1978 in Paris,[6] it does not refer to this issue directly. Instead,

[3] It is a civil action that started in 2008, led by Rainer Nõlvak. It is based on the idea to clean up the territory of the whole country in one day by volunteers. It is considered to be the largest campaign to activate civil society in Estonia since "the singing revolution" (Estonian: *laulev revolutsioon*). This revolution was initiated by a protest in 1987 against the Soviet authorities' plans to build a phosphorus mine in Lääne-Viru, which could have disastrous consequences for the environment and society. This event became a kind of catalyst for the processes that led to Estonia's regaining independence in 1991.

[4] This is confirmed by the results of the latest survey of environmental awareness of Estonians, which was carried out on 7–27 August 2018 on behalf of the Ministry of the Environment by market research company Turu-uuringute AS and the Tallinn University Ecology Centre. See Turu-uuringute AS, Tallinn University Ecology Centre, *Eesti elanike keskkonnateadlikkuse uuring*, 2018 (August), www.envir.ee/sites/default/files/2018_keskkonnateadlikkuse_uuring.pdf [access: 13.06.2020], p. 11 ff.

[5] Generally on the topic of protection of animals in international law, see A. Przyborowska-Klimczak, *Ochrona zwierząt w świetle dokumentów międzynarodowych*, [in:] *Prawna ochrona zwierząt*, ed. M. Mozgawa, Lublin 2002, pp. 93–116; eadem, *Ochrona przyrody. Studium prawnomiędzynarodowe*, Lublin 2004, passim.

[6] Declaration of the European Parliament of 13 October 2011 on dog population management in the European Union (P7_TA(2011)0444), www.europarl.europa.eu/doceo/document/TA-7-2011-0444_EN.html?redirect [access: 11.12.2020].

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the document generally enumerates human obligations towards the animal world, indicating that all animals have the right to the attention, care and protection of man (Article 2). Only Article 6 additionally stipulates that all companion animals have the right to complete their natural life span and abandonment of an animal is a cruel and degrading act.

The European Convention for the Protection of Pet Animals of 13 November 1987[7] defines a "stray animal" as a pet animal which either has no home or is outside the bounds of its owner's or keeper's household and is not under the control or direct supervision of any owner or keeper (Article 1)[8] and allows the possibility of reducing the number of such animals. Pursuant to the provision of Article 12 of this Convention, if a State Party considers the number of stray animals to be a problem for this State Party, it may take the appropriate legislative and/or administrative measures necessary to reduce their numbers in a way which does not cause avoidable pain, suffering or distress.

To date, the European Convention for the Protection of Pet Animals has been ratified by 24 states.[9] These include neither Poland nor Estonia. According to K. Jurgiel, in the case of Poland, this decision stems, among other things, from the fact that the convention is not on the list of international agreements to which all Member States of the European Union should adhere.[10] With this in mind, it is worth noting that the problem of protecting homeless animals is not the subject of EU regulations. Although, pursuant to Article 13 of the Treaty on the Functioning of the European Union,[11] the Union and the Member States, in formulating and implementing certain European Union policies, are obliged to pay full regard to

[7] European Convention for the Protection of Pet Animals, Strasbourg, 13.11.1987, www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007a67d [access: 13.06.2020]. More on the origins of this Convention, see E. Ausems, *The Council of Europe and animal welfare*, [in:] *Ethical Eye: Animal Welfare*, Strasbourg 2006, pp. 249–252.

[8] For the better understanding of the definition of "stray animal", it is worth citing the definition of "pet animal" adopted in European Convention for the Protection of Pet Animals as any animal kept or intended to be kept by man in particular in his household for private enjoyment and companionship (Article 1).

[9] The countries which ratified the Convention: Norway (1988), Sweden (1989), Belgium (1991), Finland (1991), Germany (1991), Luxembourg (1991), Denmark (1992), Greece (1992), Cyprus (1993), Portugal (1993), Switzerland (1993), Czech Republic (1998), Austria (1999), France (2003), Turkey (2003), Bulgaria (2004), Lithuania (2004), Romania (2004), Azerbaijan (2007), Latvia (2010), Serbia (2010), Italy (2011), Ukraine (2014), Spain (2017). The country which signed the Convention: The Netherlands (1987).

[10] See K. Jurgiel, *Odpowiedź na interpelację nr 5936 w sprawie niepodpisania przez Polskę europejskiej konwencji ochrony zwierząt towarzyszących*, Warszawa, 5.10.2016, www.sejm.gov.pl/sejm8.nsf/InterpelacjaTresc.xsp?key=30604E7C [access: 13.06.2020].

[11] Consolidated version of the Treaty on the Functioning of the European Union (OJ C 326, 26.10.2012, pp. 1–390).

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welfare requirements of animals as sentient beings.[12] However, this does not constitute a legal basis for the Union to regulate all animal welfare issues, as some of them are the exclusive competence of the Member States. This is the case for the welfare of stray animals (non-harmonised area).[13] However, this does not mean that EU bodies are not making any efforts in this area. For example, the European Parliament pays attention to problems relating to the control of the pet population in some Member States, including the welfare of stray animals. A good example of this is the European Parliament resolution of 4 July 2012 on the establishment of an EU legal framework for the protection of pets and stray animals (2012/2670(RSP)).[14] The European Parliament adopted this resolution given the significant number of petitions in which EU citizens are calling for establishing an EU legal framework for the protection of pets and stray animals. These petitions state that in many Member States pets and stray animals are the victims of maltreatment and cruelty, most of them relating to the situation in the Member States of southern and eastern Europe (1613/2010, 1274/2011, 1321/2011, 1377/2011, 1412/2011 and other petitions).[15]

Moreover, the European Parliament took into account the fact that there are no EU rules for the protection of pets and stray animals (although the EU's pet population is estimated at over 125 million[16]), as well as that the European Convention for the Protection of Pet Animals has not been signed by all the Member States. For these reasons, the European Parliament called on the European Union and the Member States to ratify the European Convention for the Protection of Pet Animals and to transpose its provisions into national legal systems. The European Parliament

[12] M. Górski, J. Miłkowska-Rębowska, *Komentarz do art. 13 Traktatu o funkcjonowaniu Unii Europejskiej*, [in:] *Traktat o funkcjonowaniu Unii Europejskiej. Komentarz*, vol. 1: *Art. 1–89*, eds. D. Miąsik, N. Półtorak, W. Andrzej, LEX/el. 2012; E. Jachnik, *Zasada dobrostanu zwierząt we Wspólnej Polityce Rolnej Unii Europejskiej*, „Studia Iuridica Lublinensia" 2017, vol. 26(1), p. 290; K. Sowery, *Sentient Beings and Tradable Products: The Curious Constitutional Status of Animals under Union Law*, "Common Market Law Review" 2018, vol. 55, pp. 55–99.

[13] The degree of protection of homeless animals in EU Member States is very diversified, hence many reports point to the need for the EU to regulate the issues related to welfare of these animals. See L. Tasker, *Stray Animal Control Practices (Europe): A Report into the Strategies for Controlling Stray Dog and Cat Populations Adopted in Thirty-One Countries*, London 2007, passim; D.M. Broom, *Animal Welfare in the European Union: Study*, Great Britain 2017, p. 10, 52, 54, 61.

[14] OJ 2013/C 349 E/08.

[15] At present, most petitions concern the situation of stray dogs in Romania (0980/2013, 1347/2013, 1561/2013, 1590/2014, 0322/2015, 0370/2015, 1162/2016), but also petitions on mistreatment of stray animals in Bulgaria (0475/2016), Greece (0819/2013) or generally in the countries of Southern and Eastern Europe (2128/2013). The petitions are posted at the petitions portal at: https://petiport.secure.europarl.europa.eu/petitions/pl/home [access: 13.06.2020].

[16] According to certain estimates, there were 60.8 million dogs and 66.5 million cats in the EU in 2012. See *Study on the welfare of dogs and cats involved in commercial practices. Final report*, 2015 (December), https://ec.europa.eu/food/sites/food/files/animals/docs/aw_eu-strategy_study_dogs-cats-commercial-practices_en.pdf [access: 13.06.2020], p. 6.

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also called on the European Commission to put forward an EU legal framework for the protection of pets and stray animals, including: 1) rules for the identification and registration of animals;[17] 2) stray animal management strategies, including vaccination and sterilisation programmes; 3) measures to promote responsible ownership; 4) the prohibition of unlicensed kennels and shelters; 5) the prohibition of the killing of stray animals without medical indication; 6) information and educational programmes in schools on animal welfare; 7) severe sanctions to be imposed on any Member State which fails to comply with the rules. It is worth noting here that the European Parliament had called even earlier on the European Commission and the governments of the Member States to adopt such solutions. An example of this is the Declaration of the European Parliament of 13 October 2011 on dog population management in the European Union (P7_TA(2011)0444).[18] Unfortunately, these efforts have not brought the expected result so far and there is no indication that it will change quickly. In any case, it should not be expected that the European Commission will soon prepare a draft legal act on the welfare of stray animals.

Nor should we expect the adoption of a new European Union strategy for the protection and welfare of animals.[19] Such conclusions can be derived from the official communications of the European Commission. These state that currently the Commission's priority is to "ensure" that the Member States fully implement the EU legislation that is already in place. In the opinion of the European Commission, introducing new requirements does not make sense in a situation where the current legislation is not applied in full.[20] Moreover, the European Commission is of the opinion that the welfare of animals (including stray ones) can be significantly

[17] See also European Parliament resolution of 25 February 2016 on the introduction of compatible systems for the registration of pet animals across Member States (2016/2540(RSP)) (OJ 2018/C 035/24).

[18] OJ 2013/C 94 E/05.

[19] So far, two strategies were adopted. See Communication from the Commission to the European Parliament and the Council on a Community Action Plan on the Protection and Welfare of Animals 2006–2010 (COM/2006/0013), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52006DC0013 [access: 13.06.2020]; Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the European Union Strategy for the Protection and Welfare of Animals 2012–2015 (COM/2012/06), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012DC0006 [access: 13.06.2020]. The European Parliament's call for developing by the European Commission of a new and ambitious strategy for animal protection and welfare for the period 2016–2020 turned out to be ineffective. See also European Parliament resolution of 26 November 2015 on a new animal welfare strategy for 2016–2020 (2015/2957(RSP)) (OJ C 366, 27.10.2017).

[20] On the effectiveness of EU actions aimed at improvement of animal welfare, see, e.g., European Court of Auditors, *Animal welfare in the EU: closing the gap between ambitious goals and practical implementation. Special report*, Luxembourg 2018, https://op.europa.eu/webpub/eca/special-reports/animal-welfare-31-2018/en [access: 13.06.2020], p. 6 ff.

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improved through various non-legislative measures.[21] The European Commission is currently focusing on such activities as: 1) improving the implementation of existing EU animal welfare legislation (including by auditing official controls); 2) developing the dialogue between stakeholders (this is achieved, i.a., by the EU Platform on Animal Welfare established in 2017[22]); 3) promoting EU standards globally (including at the forum of the World Organization for Animal Health and the Food and Agriculture Organization of the United Nations[23]); 4) establishing a network of EU Reference Centres for Animal Welfare;[24] 5) organisation of conferences and training courses addressing animal welfare (intended for officials from the EU Member States and non-EU countries).

It should be noted, however, that these activities are aimed primarily at improving the welfare of farm animals (especially pigs and poultry) and animals used for experimental purposes, while such protection should extend to all animals. This is pointed out by the European Parliament, which as early as in 2006 expressed its "regret" about the fact that the European animal welfare policy focused almost entirely on the welfare and protection of farm animals.[25] Unfortunately, in view of the findings presented above, nothing has changed since then.

In this situation, the postulate put forward by J. Wojciechowski (EU Commissioner for Agriculture in the period 2019–2024) regarding the improvement of the situation of stray animals remains valid. As early as in 2012, he expressed the view that the EU should consider the protection of stray animals its responsibility and allocate appropriate funds for this purpose, e.g. implementing stray animal sterilisation programmes, conducting educational activities, etc. According to J. Wojciechowski, the EU should also issue a directive according to which the running of shelters for homeless animals should not be a commercial activity, as

[21] See European Commission, *Launch of the EU Platform on Animal Welfare: Q&A on Animal Welfare policy*, https://ec.europa.eu/commission/presscorner/detail/en/MEMO_17_1426 [access: 13.06.2020].

[22] EU Platform on Animal Welfare, https://ec.europa.eu/food/animals/welfare/eu-platform-animal-welfare_en [access: 13.06.2020].

[23] European Commission, *How the European Commission promotes animal welfare standards*, https://ec.europa.eu/food/animals/welfare/international-activities_en [access: 13.06.2020].

[24] European Commission, *EU Reference Centres for Animal Welfare*, https://ec.europa.eu/food/animals/welfare/eu-ref-centre_en [access: 13.06.2020].

[25] European Parliament resolution on a Community Action Plan on the Protection and Welfare of Animals 2006–2010 (2006/2046(INI)) (OJ C 308 E, 16.12.2006). See also European Parliament resolution of 5 May 2010 on evaluation and assessment of the Animal Welfare Action Plan 2006–2010 (2009/2202(INI)) (OJ EU C 81 E, 15.03.2011); European Parliament resolution of 4 July 2012 on the European Union Strategy for the Protection and Welfare of Animals 2012–2015 (2012/2043(INI)) (OJ 2013/C 349 E/07).

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this leads to "abuse and distortion" observed, among others, in Poland.[26] These are absolutely right postulates.

However, apart from the proposed detailed solutions in this area, it is necessary to point out the need to provide a legal framework that would establish a common basic level of animal welfare throughout the EU. Such rules should cover all animals, including stray animals of domesticated species.

POLISH LEGAL REGULATIONS ON HOMELESS ANIMALS

Despite efforts made by communes and NGOs to prevent homelessness among animals, the number of homeless animals in Poland continues to grow and consequently the number of shelters to keep them. For example, in 2011 there were 100,265 dogs, 20,470 cats and 117 horses in 150 shelters, and in 2017 there were 109,962 dogs, 32,245 cats and 197 horses in 213 shelters.[27] Problems related to the overpopulation of pets[28] and the growing scale of animal homelessness are generated by low public awareness of methods of preventing homelessness among animals (this applies in particular to reproduction neutralisation procedures). To a large extent, this situation stems from numerous omissions and ineptness of the Polish legislature. The best evidence of this is the fact that for decades the problem of homeless animals has been overlooked in the legislation on the humanitarian protection of animals,[29] while other legislation has tried to "solve" it by allowing homeless animals to be caught and killed. This was usually done in practice as part of the broadly understood "protection against homeless animals",[30] on the

[26] J. Wojciechowski, *Ochrona zwierząt w UE – w dobrym kierunku zbyt małymi krokami*, [in:] *Status zwierzęcia. Zagadnienia filozoficzne i prawne*, eds. T. Gardocka, A. Gruszczyńska, Toruń 2012, p. 293.

[27] See annual reports of the Chief Veterinary Officer on animal shelter inspections, published at the website of the General Veterinary Inspectorate: General Veterinary Inspectorate, www.wetgiw.gov.pl [access: 13.06.2020]. See also *Raport o problemie bezdomnych zwierząt*, ed. T. Wypych, Warszawa 2016, www.boz.org.pl/raport/2016 [access: 13.06.2020], passim.

[28] According to the estimates provided by the European Pet Food Industry (FEDIAF) there were a total of 7,600,000 dogs and 6,400,000 cats in Poland in 2018. For comparison: in 2010 these figures amounted to 7,311,000 dogs and 5,550,000 cats. See The European Pet Food Industry, FEDIAF, Facts & Figures 2018, Brussels, pp. 2–3; The European Pet Food Industry, FEDIAF, Facts & Figures 2010, Brussels, pp. 3–4.

[29] The first Polish legal act providing for humanitarian protection of animals, e.g. the Decree of the President of the Republic of Poland of 22 March 1928 on the protection of animals (consolidated text Journal of Laws 1932, no. 42, item 417), for the whole of the period it was effective, i.e. until 24 October 1997, did not concern the issue of homeless animals at all. It did not provide for a general ban on killing animals.

[30] For axample, the Act of 13 September 1996 on maintaining cleanliness and order in communes (consolidated text Journal of Laws 2019, item 2010 as amended) in Article 3 para. 2 item 5 (in the wording as effective until 31 December 2011) imposed on communes the obligation to maintain

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occasion of combating contagious animal diseases[31] or in due to the need to protect "free-living" (wild) animals.[32]

Currently, the issue is regulated by the provisions of the Act of 21 August 1997 on Animal Protection.[33] According to Article 4 point 16 AAP, the term "homeless animal" should be understood as a pet or working animal which escaped, went astray or was abandoned by a man and it is impossible to identify its owner or another person under whose permanent custody was before. Preventing homelessness of animals and providing care for homeless animals and catching them is the own task of communes (Article 11 para. 1 AAP).[34] To guarantee proper performance of the obligation in question, the legislature, in Article 11a AAP, has required the municipal councils to adopt, by way of a resolution, by 31 March each year, the programmes of

cleanliness and order on their respective areas and to create conditions that are necessary to keep them clean and in order, including "to organise the protection against homeless animals".

[31] For example, Decree of the President of the Republic of Poland of 22 August 1927 on combating contagious animal diseases (Journal of Laws 1927, no. 77, item 673 as amended) contained the obligation for the competent administrative authorities to order the immediate killing of stray dogs "suspected of rabies". However, animals that came into contact with an animal with rabies or suspected to be infected, and with dogs and cats, even if it could only be assumed that they had come into contact with such an animal, should be considered suspected of being infected.

[32] For example, the Act of 21 August 1997 on Animal Protection (consolidated text Journal of Laws 2020, item 638) (hereinafter: AAP) in Article 33a para. 3 (in the wording effective until 31 December 2011), allows tenants or operators of hunting districts to control feral dogs and cats, unaccompanied and unattended by human beings in hunting districts more than 200 m from residential areas and posing a threat to wildlife, including wild game. This solution contradicted the main objective of the Act, namely animal protection, and not the interests of hunter's communities. Earlier, Article 23 of the Act of 17 June 1959 on breeding and the protection of wild game and the hunting law (consolidated text Journal of Laws 1973, no. 33, item 197 as amended) provided for that people authorized for hunting (Article 29 para. 2), officers of the Citizens' Militia, hunting guards, employees of state forests in forest areas, and authorized employees of state farming enterprises in agricultural areas are obliged to shoot stray dogs and cats in the hunting district. This regulation was not "taken over" by the current Act of 13 October 1995 – Hunting Law (consolidated text Journal of Laws 2020, item 67 as amended.

[33] On legal protection of animals in Poland, see, e.g., I. Babińska, E. Kuczewska, J. Konkie, M.Z. Felsmann, J. Szarek, K. Popławski, A. Snarska, *Selected aspects of humane animal protection in Polish law*, "Polish Journal of Natural Sciences" 2017, vol. 32(2), pp. 407–419; M. Bednarczyk, *The laws protecting pets in Poland*, „Zeszyty Naukowe Uniwersytetu Przyrodniczo-Humanistycznego w Siedlcach. Seria: Administracja i Zarządzanie" 2017, no. 40, pp. 121–131; M. Kubiak, D. Minkiewicz, *Humanitarian protection of animals – ethical and legal context*, "Torun Social Science Review" 2016, no. 1, pp. 10–25.

[34] M. Szalewska, *Counteracting Animal Homelessness and Providing Care for Stray Animals as a Task of a Commune*, "Polish Yearbook of Environmental Law" 2016, vol. 6, pp. 91–107; A. Golenia, M. Marek, *Zadania własne gminy w zakresie praw zwierząt*, [in:] *Urzędnik jako strażnik realizacji ustawowych obowiązków wobec zwierząt*, eds. T. Pietrzykowski, A. Bielska-Brodziak, K. Gil, M. Suska, Katowice 2016, pp. 13–29.

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care for homeless animals and prevention of animal homelessness.[35] The programme is drafted by the executive body of the commune, which is obliged to submit it for an opinion to the competent veterinary officer, social organizations whose statutory goal is to protect animals, as well as tenants or operators of hunting districts operating in the commune. Within 21 days of receipt of the draft programme, these entities shall issue opinions on the draft. Failure to issue the opinion within this period shall be deemed as acceptance of the submitted programme (Article 11a para. 6–8 AAP).

On the other hand, the substantive scope of municipal programmes for the care of homeless animals and the prevention of animal homelessness, in accordance with the current wording of Article 11a para. 2 AAP, covers in particular: 1) providing homeless animals with a place in an animal shelter; 2) care for free-living cats, including their feeding; 3) catching homeless animals; 4) obligatory sterilization or castration of animals in animal shelters; 5) seeking owners for homeless animals; 6) euthanasia of blind litter; 7) specification of the farm to provide a space for farm animals; 8) providing round-the-clock veterinary care in cases of traffic incidents involving animals.[36] Moreover, pursuant to Article 11a para. 5 AAP, the programme must specify the amount of funds allocated for its implementation and the manner of their spending (the costs of implementing the programme is to be borne by the commune). The list presented above includes obligatory elements of the programmes. Thus, when adopting a resolution on the programme of care of homeless animals and prevention of homelessness of animals, the legislative body of the municipality may not ignore any of the elements listed in Article 11a para. 2 and 5 AAP.[37] Failure to do so results in the absolute nullity of such an act. Moreover, the teleological interpretation of Article 11a AAP, which must be interpreted in conjunction with Article 11 AAP, leads to the conclusion that, for the commune to effectively implement the responsibilities as set out in those provisions, it is necessary to specify their content by identifying the entities responsible for carrying out various tasks, defining how to proceed in certain situations and by setting the amount of financial resources allocated to the performance of those tasks and the manner in which they are to be spent. The short (annual) programme period also supports the need to make their content specific. In any event, it is appropriate to adapt the programming guidelines to the conditions which are in place or which are forecast for the year in question and not to give the programme a general framework nature which would require its further specification.

[35] See the remarks by Ł. Smaga (*Ochrona humanitarna zwierząt*, Białystok 2010, p. 241 ff.) on the humanitarian value of activities that may be covered by the municipal animal homelessness prevention programme, such as "seeking new owners", "sterilization and castration" and "euthanasia of blind litter".

[36] K. Brończyk, A. Brzostek, *Program opieki nad bezdomnymi zwierzętami oraz zapobiegania bezdomności zwierząt*, [in:] *Urzędnik jako strażnik…*, pp. 31–44.

[37] Judgement of the Voivodeship Administrative Court in Wrocław of 4 December 2014, I SA/Wr 676/14, http://orzeczenia.nsa.gov.pl/doc/39D9211CEF [access: 13.06.2020].

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It should be stipulated here that this list is open-ended. Therefore the programme content is not limited to the elements listed in the Act, as it was under the legislation previously in force. This solution has caused a number of practical difficulties, which is why the legislature changed the nature of the list contained in Article 11a para. 2 AAP from closed-ended to open-ended on 6 January 2017, while preserving the existing mandatory elements. The open nature of the list allows making the implementation of the commune's own task more flexible (e.g. the programme may provide for awareness-raising actions among the inhabitants of communes). On the other hand, by adding para. 3 and then para. 3a to Article 11a AAP, it was possible to cover with the programme and to finance the tasks of marking and sterilisation or castration of animals which have their owners.[38] Until then, it was possible to finance these procedures only with regard to animals placed in shelters. This is important because the principle of self-management by local authorities does not imply absolute freedom to spend public funds, and municipal authorities are allowed to operate within financial management only as permitted by law.

Focusing here on the essential obligation of communes to provide homeless animals with a place in an animal shelter[39] and to catch homeless animals, it should be stressed that the fulfilment of the competence norm setting out this obligation requires a specific homeless animal shelter[40] from the commune area to be specified in the programme by indicating its name and address. The relevant contract with the shelter should be entered into as early as at the stage of preparation of the draft programme by the executive body of the commune. It is worth noting that the provisions of the Act on Animal Protection do not provide for time limits for the stay of a homeless animal in a shelter. In this situation, it should be assumed that the commune has an obligation to provide such animals with temporally indefinite care. The communes are not relieved of that obligation by the fact that there are no vacancies in existing shelters.[41] Pursuant to Article 11 para. 3 AAP, the catching of homeless animals without providing them with a place in an animal shelter is prohibited unless the animal poses

[38] Such procedures may be performed in full respect of the rights of animal owners or other persons taking care of the animals in question.

[39] See M. Suska, *Gmina a schronisko dla bezdomnych zwierząt*, [in:] *Urzędnik jako strażnik…*, pp. 45–65.

[40] The requirements to be met by animal shelters are set out in the Regulation of the Minister of Agriculture and Rural Development of 23 June 2004 detailed veterinary requirements for the operation of animal shelters (Journal of Laws 2004, no. 158, item 1657). These requirements concern the following items: shelter location; preparing the area where the shelter is to be located; rooms to be ring-fenced in the shelter and the materials used to finish them; technical equipment necessary for the disposal or temporary storage of animal corpses; equipping the compartments; access to paddocks; veterinary care and compulsory vaccinations; training of people employed for handling the animals; documentation kept (list of animals in the shelter, veterinary inspection book).

[41] Judgement of the Voivodeship Administrative Court in Opole of 31 July 2014, II SA/Op 325/14, http://orzeczenia.nsa.gov.pl/doc/9E82F1DECB [access: 13.06.2020].

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a serious risk to humans or other animals. The violation of the prohibition in question is subject to a penalty of imprisonment or fine (Article 37 para. 1 AAP). Importantly, Article 11a para. 4 AAP provides for the possibility of entrusting an entity running an animal shelter with such tasks as: catching homeless animals; obligatory sterilization or castration of animals in animal shelters; looking for owners for homeless animals; euthanasia of blind litter. The catching of homeless animals[42] takes place solely on the basis of a resolution of the municipal council setting out a programme for the care of homeless animals and preventing homelessness of animals (Article 11 para. 3 sentence 2). The legislature, when introducing the obligation to catch homeless animals, did not make its implementation conditional on these animals being ill or posing a threat, or on their general condition (such as the fact of being neglected). This reservation is important because the inclusion of this and similar regulations in programmes actually leads to a modification of the statutory notion of homeless animals, which results in the need to declare these programmes invalid. These acts are established on the basis of statutory authorisations and may not go beyond the statutory regulations, introduce exceptions to generally adopted statutory solutions, or modify them. It is worth noting that the legislature did not specify in the Act on Animal Protection how often homeless animals should be caught within the commune area.

ESTONIAN LEGAL REGULATIONS ON STRAY ANIMALS

When addressing the issue of animal homelessness in Estonia, it should first be noted that the scale of the problem is very difficult to define. As estimated by the European Pet Food Industry (FEDIAF), in 2018 there were 210,000 dogs and 285,000 cats in the country. For comparison, in 2010 these figures were 174,600 dogs and 244,500 cats.[43] Unfortunately, there is no official data on the number of stray animals in Estonia.[44] Such data are neither held by the Ministry of Rural Affairs (Maaelumin-

[42] On this topic, see K. Kotara, M. M. Drapalska, *Hycel – stan pożądany a rzeczywistość*, [in:] *Urzędnik jako strażnik…*, pp. 67–82.

[43] The European Pet Food Industry, FEDIAF, Facts & Figures 2018, Brussels, pp. 2–3; The European Pet Food Industry, FEDIAF, Facts & Figures 2010, Brussels, pp. 3–4. See also D. Arney, M. Kass, R. Leming, T. Ariko, L. Tummeleht, K. Õkva, L. Kiiroja, T. Maran, T. Randveer, P. Päkk, T. Zõbin, S. Jalakas, *Loomade heaolu. Õpik kõrgkoolidele*, Tartu 2018, p. 100.

[44] On 14 February 2011, the "Postimees" daily newspaper published an article by A. Maksimov, entitled *Masu kasvatas hulkuvate loomade arvu*, which contained estimates of the number of stray animals in Estonia. At that time, the animal protection NGOs reported about at least several hundred thousand to even one and half million stray animals. However, these figures were questioned by a veterinary officer who considered them exaggerated. See www.postimees.ee/387698/masu-kasvatas-hulkuvate-loomade-arvu [access: 13.06.2020].

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isteeriumi)[45] nor the Veterinary and Food Board (Veterinaar- ja Toiduamet),[46] which are responsible for animal welfare, including for the welfare of stray animals.

There are many statutory NGOs in Estonia, which deal with the protection of stray animals.[47] However, these organizations are not required to report on the number of stray animals in their care to their supervisory state authorities. In this situation, establishing how many animals are currently placed in shelters in Estonia would require a relevant inquiry to each of these shelters. The trouble is that such an attempt would very likely fail, as some NGOs running the shelters are reluctant to share this information. Therefore, information on the number of animals admitted to shelters operated by the Varjupaikade MTÜ can only be cited as an example (Table 1).[48] It is the largest organization of this type operating in Estonia. Varjupaikade MTÜ runs seven shelters for homeless animals that receive animals from several dozen Estonian communes.[49]

Table 1. Number of animals admitted to shelters operated by the Varjupaikade MTÜ

Year	Dog	Cat	Other	Dog	Cat		Other	Dog	Cat	Other	Dog	Cat	Other	Dog	Cat
	arrived			to new home			return to origin home			euthanized			to other organization		
2009	629	1,629	–	389	412	–	215	36	–	18	451	–	–	–	–
2010	707	1,654	–	380	346	–	256	42	–	60	857	–	–	–	–
2011	654	1,748	–	288	254	–	229	38	–	51	970	–	–	–	–
2012	687	1,955	–	300	354	–	246	77	–	48	1,032	–	–	–	–
2013	602	1,992	–	310	523	–	277	114	–	50	1,036	–	–	–	–
2014	687	2,187	–	328	869	–	294	118	–	56	953	–	–	–	–
2015	592	2,658	–	247	1,305	–	322	145	–	41	1,143	–	–	–	–
2016	641	2,783	–	212	1,140	–	367	165	–	27	1,119	–	–	–	–
2017	805	3,034	44	316	1,208	–	428	210	–	44	981	1	–	–	–
2018	779	3,067	47	293	1,145	–	393	232	–	44	1,191	1	–	–	–
2019	793	3,432	25	297	1,374	–	478	256	–	30	1,236	0	17	110	0
Ogółem	7,576	26,139	116	3,360	8,930	0	3,505	1,433	14	469	10,969	2	17	110	0

Source: Varjupa ikade MTÜ, www.varjupaik.ee/en [access: 13.06.2020].

[45] Ministry of Rural Affairs of the Republic of Estonia, www.agri.ee/en [access: 13.06.2020].

[46] Veterinary and Food Board of the Republic of Estonia, https://vet.agri.ee/en [access: 13.06.2020].

[47] The history of animal protection in the territory of today's Estonia dates back to 1861 when the Society Against Torturing Animals (Loomade Piinamise Vastu Võitlemise Selts) was established. The first shelter for stray animals was opened on 1 January 1904 in Tallin. For more on this topic, see Eestimaa Loomakaitse Liit, *Eesti Loomakaitseliidu ajalugu*, http://loomakaitse.eu/eesti-loomakaitseliidu-ajaloost [access: 13.06.2020]. See also L. Ots, *Loomakaitse ja inimeste suhtumine loomadesse 1930. aastate Eestis*, "Mäetagused" 2006, no. 31, pp. 63–85.

[48] Varjupaikade MTÜ, www.varjupaik.ee/en [access: 13.06.2020].

[49] After the administrative reform of 2017, Estonia has been divided into 15 regions (*maakond*) and 79 communes, including 15 municipalities (*linn*) and 64 rural communes (*vald*). See *Haldusreform 2017. Artiklikogumik: otsused, taustad, elluviimine*, ed. S. Valner, Estonia 2018, www.riigikontroll.ee/Portals/0/upload/Artiklikogumik%20-%20Haldusreform%202017.pdf [access: 13.06.2020], passim.

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In the Estonian legal system, this matter is regulated by the Animal Protection Act of 13 December 2000.[50] The Act became effective on 1 July 2001.[51] Whenever the APA refers to stray animals, this includes pets whose owners cannot be identified and unattended animals that are outside the territory belonging to their owners or guardians (breeders). According to § 5 APA, a stray animal must be caught and returned to its owner or a new owner must be found for it. If the owner of a stray animal cannot be identified and a new owner for the animal cannot be found, it is acceptable to euthanise the animal. The euthanasia of a stray animal cannot be carried out until two weeks have elapsed from the moment when steps are taken to identify the owner of the animal. During this time, the animal must be provided with appropriate living conditions and, if necessary, medical treatment. The euthanasia of a stray animal must be carried out in accordance with the procedure laid down in § 18 APA. According to this provision, animals must be euthanised by a veterinarian. Euthanasia is to be carried out with the least physical and mental suffering to the animal under given circumstances. The method used for euthanasia must lead to the immediate unconsciousness and death of the animal. Suffocation, drowning, the administration of toxic substances or medicinal products the use of which may not have the effect described above, and killing by electrocution are prohibited, unless they cause immediate unconsciousness. At this point, it is worth adding that in Estonia, the responsibility for organising the catching, keeping and euthanasia of stray animals and the disposal of their bodies lies with the local authorities having jurisdiction over the area. Local government units bear the cost of keeping an animal in a shelter for the first 14 days. After that period, the costs shall be borne by the organisation running the shelter.

Detailed rules for handling stray animals in Estonia are laid down in the Regulation of the Government of the Republic of Estonia of 16 April 2002 on the catching, keeping, identification and killing of stray animals (Hulkuvate loomade püüdmise, pidamise ja nende omaniku kindlakstegemise ning hulkuvate loomade hukkamise kord).[52] According to its provisions, a stray animal should be caught immediately, and in such a way that public order is not violated and human life and health is not put at risk. If an animal behaves abnormally during catching, or if other symptoms of animal disease are observed,[53] the instructions for the prevention and control

[50] RT I 2001, 3, 4, hereinafter: APA.

[51] Until then, the Act of 17 November 1992 on the Protection of Animals (RT 1992, 50, 617) was applicable in Estonia. This law negatively classified abandoning of an animal by the owner. At the same time, the Act allowed the killing of stray dogs and cats in cases and according to the procedure as determined by the local government if there is no other way to reduce their number.

[52] RT I 2002, 34, 212.

[53] In 1953, an obligation of vaccination of dogs and cats against rabies and hunting for stray dogs was introduced in Estonia. See F. Cliquet, E. Robardet, K. Must, M. Laine, K. Peik, E. Picard-Meyer,

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of animal diseases set out in the Infectious Animal Disease Control Act[54] must be immediately applied. If the animal being caught is overly agitated and its behaviour poses a risk to human life or health, a veterinarian may apply a veterinary medicinal product to calm the animal. In any case, stray animals must be caught in a way that minimises their physical and mental suffering. When catching a stray animal, it must be checked that the animal is marked and whether it can be returned to its owner immediately. If a stray animal is identified but cannot be returned to its owner immediately, it should be placed in a shelter until it can be returned to its owner.

When transporting stray animals to the shelter, the requirements of the APA for the transport of animals must be adhered to. Animals placed in the shelter must be examined immediately by a veterinarian and must be provided with conditions appropriate to their species, sex, age and health condition. If it is impossible to identify a stray animal, the search for its owner or prospective owner must begin immediately after it has been placed in the shelter. To this end, the local authorities must make a description of the stray animal public. The local authorities must disseminate the description of the stray animal as widely as possible, using the available means of communication (e.g. website, radio, television, printed newspapers), so that the message reaches everyone concerned as quickly as possible. If the owner of the animal is identified, the local authorities must return the animal to him or her. In this case, the owner bears the costs of catching and keeping the animal in the shelter. However, if it is not possible to identify the owner of the stray animal, the local authorities can give the animal to a new owner. However, this may not take place more than two weeks after the publication of the description of the animal. If it is not possible to identify the owner of a stray animal or to find a new owner of the animal, and it has been at least two weeks since the first steps taken to identify the owner, the animal placed in the shelter may be terminated as described above.

So far, no central register of pets has been established in Estonia. According to § 11 IADCA, local authorities are required to establish and maintain dog registers and, if necessary, registers of other pets. In practice, this means that there are many such registers in the country, which makes it very difficult to identify the owners of stray animals. On the other hand, owners are required to make, at their own expense, their animals indentifiable. The obligations of the owners in this regard are specified in the local legislation. A good example of this is Regulation no. 24 of Tallinn City Council of 18 April 2013 – Regulations for keeping dogs and cats in Tallinn.[55] Pursuant to its provisions, dogs and cats kept within the Tallinn admin-

A.L. Guiot, E. Niin, *Eliminating Rabies in Estonia*, "PLOS Neglected Tropical Diseases" 2012, vol. 6, p. 1.

[54] RT I 1999, 57, 598, hereinafter: IADCA.

[55] RT IV, 24.04.2013, 73.

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istrative area should have microchips and be registered with the Tallinn Register of Pets.[56] All dogs and cats over three months old are required to be registered. The exception is dogs that have been otherwise marked (legible tattoo or collar registration number) and entered in the Tallinn pet register before 1 August 2006.

In Estonia, the pet keeping conditions have been specified in Regulation no. 76 of the Minister of Agriculture of 24 July 2008 – Requirements for keeping pet animals.[57] That Regulation is binding on all natural and legal persons who own or hold pets, but does not introduce any specific arrangements to prevent animal homelessness or solutions for animals in shelters. In addition to the fact that free-roaming dogs and cats that have been caught and placed in a shelter are allowed to be quarantined in cages up to 50% smaller than the standard one (§§ 13 and 15). A kind of addition to the provisions of this Regulation are the aforementioned municipal regulations on the maintenance of pets.[58] In recent years, it has often been the case that communes, in an attempt to solve the problem of animal homelessness, have introduced in the content of these regulations orders or prohibitions that are contrary to higher-level norms. Examples include provisions allowing the immediate killing of a stray animal, a prohibition of feeding stray animals, a reduction in the number of pets kept in an apartment, or the requirement to obtain the consent of other residents of a multi-family building to keep the animal in an apartment.[59] On several occasions, such regulations have been challenged by the Chancellor of Justice (Õiguskantsler)[60], who, as part of exercising his supervision, declared them unconstitutional.[61] It is also worth stressing that all problems related to the application of these regulations are exacerbated by distributed and inefficient su-

[56] Tallinn.ee, *Microchipping and registration of pets*, www.tallinn.ee/eng/pets/Microchipping-and-registration-of-pets [access: 13.06.2020].

[57] RTL 2008, 66, 938. On the conditions in which pet animals are kept in Estonia, see also Veterinary and Food Board of the Republic of Estonia, *Communication on the requirements for keeping pet animals*, https://vet.agri.ee/en/requirements-keeping-pet-animals [access: 13.06.2020].

[58] Communes issue these regulations under § 22 para. 1 item 36^2 of the Act of 2 June 1993 on local government organization (RT I, 05.02.2019, 9).

[59] See Loomapäästegrupp, *Discrepancy between relevant rules and legislation*, https://animalrescue.ee/en/support-us/discrepancy-between-relevant-rules-and-legislation [access: 13.06.2020]. See also M. Filippov, *Loomade toitmise keeld osutus seadusvastaseks*, "Postimees", 17.11.2008, www.postimees.ee/49480/loomade-toitmise-keeld-osutus-seadusvastaseks [access: 13.06.2020].

[60] Pursuant to § 139 of the Constitution of the Republic of Estonia adopted on 28 June 1992 (RT 1992, 26, 349), the Chancellor of Justice is a public official who scrutinises legislative instruments of the legislative and executive branch of government and of local authorities for conformity with the Constitution and the laws.

[61] See the opinions of the Chancellor of Justice on the provisions regarding feeding of stray animals in the communes of Tapa and Viimsi: www.oiguskantsler.ee/sites/default/files/field_document2/6iguskantsleri_margukiri_hulkuvate_loomade_toitmise_keelamine.pdf [access: 13.06.2020]; www.oiguskantsler.ee/et/õiguskantsler-hulkuva-looma-toitjale-omaniku-vastustus-ei-laiene [access: 13.06.2020].

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pervision. According to § 60 APA, state supervision of adherence to that Act and the provisions of secondary law under this Act is exercised by the Veterinary and Food Board, the Environmental Inspectorate and police authorities, whose powers have been defined quite generally. This solution has been criticised by Estonian animal protection NGOs, which have for many years been putting forward the idea of establishing a specialised animal welfare agency.[62]

CONCLUSIONS

As it turns out, Polish and Estonian regulations on homeless (stray) animals are quite similar, especially in terms of shortcomings. It seems that in both these countries, their normative solutions are focused more on remedying the effects than on preventing the causes of the problem of homelessness of animals. This concerns in particular the lack of a statutory requirement of marking all cats and dogs and a central register with which they could be registered. Moreover, both in Poland and Estonia, the obligation to provide care to homeless animals was imposed on local government entities without providing financial resources for its fulfilment. In this state of affairs, communes do not always carry out this obligation with due diligence, and the associated problems are further exacerbated by the lack of appropriate supervision.

As far as the differences are concerned, it is evident that in Estonia much stress has been put on activities aimed at immediate returning the caught animal to its owner. This is manifested, above all, in the obligation to make public the description of a stray animal in order to facilitate its identification and identification of its owner. This is a very good solution, which makes a significant contribution to reducing the number of animals entering the shelter. In addition, in the age of electronic media, it is supported by the low cost of publishing information. The profitability calculation is all the more obvious because the alternative is very often the euthanasia of the animal (Estonia) or its lifetime stay in a shelter (Poland). Unfortunately, Polish regulations do not impose on communes any obligations of identification of homeless animals, and are very laconic about finding new owners for homeless animals. Therefore, we should postulate that Polish regulations be supplemented with provisions specifying how to proceed with caught animals. The fundamental difference between the Polish and Estonian legal systems, however, concerns the possibility of killing homeless

[62] H. Roosimägi, *Eesti Loomakaitse Selts on nõrgema poolel*, "Riigikogu Toimetised" 2008, no. 17, https://rito.riigikogu.ee/wordpress/wp-content/uploads/2016/02/Eesti-Loomakaitse-Selts-on-nõrgema-poolel.pdf [access: 13.06.2020], p. 205 ff.; K. Taperson, *Loomade poolt*, Hiiumaa 2016, https://loomus.ee/wp-content/uploads/2016/12/Loomade_Poolt.pdf [access: 13.06.2020], pp. 17–25; K.-M. Ainsalu, *Koduta loomade arvukuse vähendamine: kas eestil on võimalik õppida rootsilt. Bakalaureusetöö*, Tartu 2013, http://dspace.ut.ee/bitstream/handle/10062/32256/ainsalu_kadi_mari.pdf [access: 13.06.2020], pp. 26–29.

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animals. In Estonia, there is a provision on the euthanasia of homeless animals if the owner of the homeless animal has not been identified or a new owner has not been found for it within the prescribed period. This is a solution that is very difficult to clearly assess, especially when we consider that keeping animals in shelters for life is inhumane in the opinion of many people. because living conditions in shelters often differ from the standard defined by law. The high cost of keeping animals in shelters also matters. Approaching this issue, it is only worth pointing out that a general prohibition of the unjustified killing of animals has been in force in Poland since 24 October 1997. In accordance with the literal wording of Article 6 para. 1 of the Polish AAP, the killing of animals is prohibited except in cases where it is justified in the opinion of the legislature. In the legislation currently in force, animal homelessness is not contained in the catalogue of such circumstances.

To conclude, it should be noted that the systems in place both in Poland and Estonia are so effective that no colonies of stray animals are seen on the streets of their cities, as is the case in Romania, for example. This is largely due to the NGOs operating in both these countries, which focus not only on emergency aid for stray animals, but very often also on raising public awareness of the issue, which is clearly missing in government programmes. This does not mean that the problem does not exist, particularly when it comes to reducing the population of this group of animals or providing them with appropriate care. The best evidence of this is the fact that in both Poland and Estonia the number of homeless animals is ever growing, there is a lack of shelters, many existing shelters are overcrowded and the situation of caught animals is not properly monitored. In view of the above, we should call for the earliest possible introduction of a universal obligation to mark and register animals, as well as the development (through education and funding) of programmes to sterilise or castrate animals as basic methods of preventing homelessness in animals. It should be stressed, however, that all such measures must be aimed at ensuring the welfare of homeless animals, and that they should be undertaken with full respect for the rights of animal owners.

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ABSTRAKT

Artykuł ma charakter naukowo-badawczy, a jego zasadniczym celem jest porównanie polskich i estońskich uregulowań prawnych dotyczących zwierząt bezdomnych (bezpańskich) oraz dokonanie ich oceny i sformułowanie postulatów optymalizacyjnych. Analiza regulacji krajowych została poprzedzona ustaleniami, w jaki sposób przedmiotowa kwestia unormowana jest w prawie międzynarodowym i unijnym. Za podjęciem tego zagadnienia przemawia przede wszystkim fakt, iż problem ochrony zwierząt bezdomnych, mimo stale rosnącej ich liczby, został zmarginalizowany we wszystkich omawianych w tym tekście porządkach prawnych. Zarówno w Polsce, jak i w Estonii przyjęte rozwiązania normatywne bardziej skoncentrowane są na usuwaniu skutków niż na zapobieganiu przyczynom problemu bezdomności wśród zwierząt. Ponadto niezwykle rzadko zagadnienie to staje się przedmiotem pogłębionych analiz naukowych. Z założenia więc upowszechnienie niepublikowanych wcześniej wyników badań pomoże w wypracowaniu optymalnego modelu administracyjnoprawnej ochrony zwierząt bezdomnych oraz podniesie poziom świadomości społecznej w przedmiocie ochrony prawnej zwierząt, co jest jednym z warunków dalszego postępu cywilizacyjnego.

Słowa kluczowe: Polska; Estonia; prawo; ochrona zwierząt bezdomnych; zwierzęta bezdomne; zwierzęta bezpańskie