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Features of Legal Regulation of Handling of Farm Animals During Slaughter in Ukraine

*Specyfika regulacji prawnych dotyczących
postępowania ze zwierzętami gospodarskimi podczas uboju*

Animal slaughter is one of the stages of agricultural production of livestock products. Under the conditions of conducting large-scale commercial agricultural production, the system of centralized industrial slaughter of farm animals is widely used. This implies that a large number of animals are transported from farms to the slaughterhouse, which necessitates compliance with the laws on animal welfare during their transportation. Along with this, despite the general trends in the industrialization of the process of animal slaughter, small producers of agricultural products continue to slaughter animals independently in order to sell animal products. In this regard, there are problems related to ensuring the safety of livestock products, obtained in this way, insufficient control of the pre-slaughter and post-slaughter inspection of animals, over the slaughter process, shortcomings or complete lack of training in slaughter techniques and the use of methods that have not changed for centuries and do not comply with the Law of Ukraine “On the Protection of Animals from Cruel Treatment” of

February 21, 2006, No. 3447-IV¹. Taking into account that Ukraine's legislation on welfare of animals, their protection against ill-treatment in Ukraine is at the stage of its formation, there are practically no scientific works on the handling of farm animals during slaughter in the agrarian law of Ukraine, the topic chosen for research is relevant. Scientific and theoretical basis of this research were the scientific works of V.M. Yermolenko, O.V Gafurova, M.A. Deinega, I.M. Yermolenko, Yu.A. Krasnova, T.S. Novak, O.Yu. Piddubny², T.O. Kovalenko³, S.I. Marchenko⁴ and other scholars.

The history of the legal regulation of the treatment of animals dates back to ancient times. The first laws in the English-speaking world on the protection of animals were passed in Ireland in 1635. They forbade pulling off wool from sheep and attaching a plow to a horse's tail, because "it causes them suffering"⁵. In 1641, the first code on the protection of farm animals was adopted in North America in the colony of Massachusetts⁶, which included paragraph 92: "No person should practice tyranny or cruelty against any divine creature that is commonly used for human benefit".

Instead, Ukraine is only at the beginning of the formation of legislation on the implementation of the protection of animals from cruel treatment, especially during slaughter. Therefore, national legislation requires more precise regulation of the rules of slaughter of animals, including agricultural ones.

Legal regulation of the treatment of animals is ensured by the norms of the Laws of Ukraine "On the Protection of Animals from Cruel Treatment" of February 21, 2006, No. 3447-IV, "On the Basic Principles and Requirements for Safety and Quality of Food Products" of December 23, 1997, No. 771/97, "On Veterinary Medicine" of June 25, 1992, No. 2498-XII, "On State Control over the Observance of Legislation on Food Products, Feeds, Byproducts of Animal Origin, Animals' Health and Welfare" of May 18, 2017, No. 2042-VIII and other normative legal acts.

The analysis of international sources on the studied issue is important for determining the specifics of the legal regulation of the treatment of agricultural animals during slaughter, especially given the need to bring the legislation of Ukraine into

¹ The legal acts used in this article are posted on the official website of the Verkhovna Rada of Ukraine, <https://zakon.rada.gov.ua> [access: 9.11.2018].

² *Veterinary Law*, ed. by V.M. Yermolenko, Kyiv 2015, p. 300.

³ T. Kovalenko, S. Marchenko, *Legal Regulation of Economic Activity in the Agro-Industrial Complex of Ukraine*, Kyiv 2015, p. 296.

⁴ S. Marchenko, *Organizational and Legal Issues of Commodity Agricultural Production in Ukraine*, Kyiv 2008, p. 200.

⁵ R. Ryder, *Animal Revolution: Changing Attitudes Towards Speciesism*, Berg 2000.

⁶ G. Francione, *Rain without Thunder: The Ideology of the Animal Rights Movement*, Philadelphia 1996.

line with EU legislation. In particular, the European Convention for the Protection of Animals kept for Farming Purposes No. 087 (signed in Strasbourg on March 10, 1976, came into force on September 10, 1978), signed by 35 countries of the Council of Europe, ratified by 33 countries. Ukraine is not a party to this Convention. The Convention applies to animals bred or intended for the production of food, wool, leather or fur, or for other agricultural purposes. The Convention calls for the task of avoiding unnecessary suffering or injury to animals, and to provide them with normal living conditions, including living space, food and care. To ensure animal welfare, the Convention imposes on the parties an obligation to check animal health and to monitor the state of the technical equipment used in intensive farming.

European Convention for the Protection of Animals for Slaughter No. 102 (signed in Strasbourg on May 10, 1979, came into force on June 11, 1982), signed by 30 countries of the Council of Europe, ratified by 25 countries. Ukraine is not a party to this Convention. The main objective of the Convention is to help harmonize the methods of slaughter in Europe and make them more humane. The first part of the Convention requires humane treatment of animals in slaughterhouses: to use appropriate equipment for unloading animals; to prevent ill-treatment with animals, in particular, not to beat on sensitive parts of the body; to provide appropriate pre-slaughter animal handling, as well as care for the animals that are not killed immediately upon arrival; to equip the slaughterhouse with proper technical equipment. With regard to the very slaughtering, the Convention provides that all animals must be stunned before they are drained of blood. The stunning of large animals should be carried out using a special pistol (a tool that hits, penetrating the brain), electro-narcosis or gas anesthesia. Use of the puntilla, hammer or pole-axe shall be prohibited. In addition, before the slaughter, large animals should not be suspended or restricted in movement. Where there are exceptions to these rules (slaughtering in accordance with religious rituals; emergency slaughtering when stunning is not possible; slaughtering of poultry and rabbits, etc.), slaughter should be carried out in such a way as to deprive animals of unnecessary suffering. These last provisions apply equally to the slaughter of animals not only in slaughterhouses, but also in any other places.

The use of modern technologies in agriculture, in particular in livestock production, is an important condition for further progress of Ukraine. At the same time, along with the solution of many important problems, the development of modern technologies poses a large number of bioethical issues to humanity. An important component of this direction is the solution of the problem of ethical attitude to animals in their use in various branches of animal husbandry – poultry farming, pig breeding, cattle rearing, etc. According to the Law of Ukraine “On the Protection of Animals from Cruel Treatment”, the use of animals in agriculture is based on the following principles: ill-treatment of animals is incompatible

with the requirements of morality and humanity, causes moral damage to people; providing living conditions for animals that meet their biological, species and individual characteristics; ownership and other property rights to animals in case of cruel treatment with them may be terminated by a court decision by their forcible seizure or confiscation; prohibition of cruel methods of killing animals, including poisoning of animals; responsibility for ill-treatment of animals; ensuring the safety of life and health of people when using animals in agriculture.

These principles should be observed at all stages of agricultural production, related to the maintenance and use of animals, including during their slaughter. Detailed conditions for the handling of animals in the field of agricultural production are regulated by the Procedure for the use of animals in agriculture, which is developed in compliance with the Law of Ukraine “On the Protection of Animals from Cruel Treatment”. This Procedure applies to all owners of animals kept to obtain products and raw materials of animal origin.

Killing (slaughter) of animals, in accordance with the provisions of Art. 17 “On the Protection of Animals from Cruel Treatment” is permissible: for obtaining economically-useful products; to stop the suffering of animals, if they cannot be stopped in any other way; if necessary, in case of the slaughter of the newborn offspring of animals; when regulating the number of wild animals and animals that are not kept by man, but are in conditions wholly or partially created by human activity; if necessary, in case of the killing of individual animals with rabies or animals which are carriers of a particularly dangerous disease; if necessary, in case of defense against an animal attack if life or health of people is in danger.

The slaughter of animals by their owners should be carried out in accordance with the Rules of pre-slaughter veterinary inspection of animals and veterinary and sanitary examination of meat and meat products, approved by the Order of the State Department of Veterinary Medicine of the Ministry of Agrarian Policy of Ukraine of June 7, 2002, No. 28. In particular, it is established that slaughter of animals is carried out after the loss of their consciousness, provided that the used methods will not cause the animal additional suffering. The room(s) in the slaughterhouse where the animals are kept must be isolated and separated from the premises used to deprive the animals of consciousness, slaughter, bleeding and other post-slaughter operations, and separated from the rooms where the animals of other species are located. Before the slaughter, animals must be kept for several hours in the pre-slaughter room(s) for stress relief.

The category of slaughter animals includes: cattle (including yaks, buffaloes), pigs, sheep, goats, deer, horses, donkeys, mules, camels, rabbits, coypus, poultry – chickens, ducks, pheasants, geese, turkeys, guinea fowls, quails and other species that are grown for slaughtering for meat.

Preparing animals for slaughter is an important mean of preserving meat quality. There are two options for the transfer of livestock after transportation for slaughter: pre-slaughter handling and without it. Pre-slaughter handling is done for animals that have been in transportation for a long time. The use of pre-slaughter handling provides physical rest for animals, relieving nervous tension, adapting them to new conditions, restoring the protective functions of the body. Various methods of slaughtering are applied. However, with any method it is necessary to follow the general rules: the slaughter of animals must be fast, without suffering and accompanied by effective bleeding.

At the level of EU legislation, these issues are subject to Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing, Council Regulation (EC) No. 1099/2009 of 24 September 2009 on the protection of animals at the time of killing. This directive regulates transportation of animals, the slaughterhouse, the fixation, stunning, slaughter and killing of animals that were bred and kept for the production of meat, leather, fur or other products, and methods of killing animals to combat disease. Its provisions contain a warning that animals should not feel unnecessary pain, suffering during slaughter and related operations. It also provides that slaughter and related operations must be performed only by persons with the appropriate level of competence in order not to cause any unnecessary pain, stress or suffering to animals. Slaughter operators require that slaughter must be carried out only by persons who have a certificate of compliance. Member States are responsible for ensuring the availability of training courses for personnel involved in the slaughter and related operations, as well as for the issuance of qualification certificates, confirmed by independent final certification. The situation requires the operators of the slaughter: 1) to adhere to the standard operating procedures; 2) to carry out the on-site inspection procedure; 3) to appoint an animal welfare officer to help maintain welfare rules.

It should be noted that certain provisions of the said Directive were reflected in the Law of Ukraine “On State Control over Observance of Legislation on Food Products, Feed, Animal By-products, Animal Health and Welfare” and the Procedure for using animals in agriculture. Instead, the legislation of Ukraine lacks specific provisions regarding the protection of productive animals during slaughter. In the Order of January 14, 2004 No. 4 “On Approval of Veterinary-Sanitary Rules for Slaughterhouses, Slaughter-Sanitary Sites of Farms and Homestocking of Animals” there is no mention of animal protection, mainly attention is paid to the state of animal health before slaughter, veterinary inspection and after slaughter carcass inspection⁷. In order to improve the system of state control in

⁷ *Analysis of differences in legislation on the welfare of productive animals in Ukraine and the European Union*, http://ciwf.in.ua/wp-content/uploads/2015/04/Analiz_zaconodavstva.pdf

the field of food safety, taking into account the requirements of the European Union and the socio-economic status of Ukraine, it is necessary to align the agrarian legislation of Ukraine with the EU legislation.

According to Art. 34 of the Law of Ukraine “On Basic Principles and Requirements for the Safety and Quality of Food Products”, it is prohibited to slaughter animals which are not accompanied by a veterinary document certifying animal health. It is prohibited to slaughter domestic hoofed animals, wild mammals raised on farms other than hares, as well as slaughter poultry and rabbits not in a slaughterhouse that has operational authorization. This provision does not apply to the slaughter of these animals in an amount not exceeding three heads of domestic ungulates or other ungulates per week, subject to pre-slaughter and post-mortem inspection by a state veterinary inspector or an authorized veterinarian in accordance with the procedure approved by the central executive authority, which ensures the formation and implementation of state policy in the field of safety and individual indicators of food quality and veterinary medicine, as well as five heads of poultry, rabbits per day.

From January 1, 2025, products obtained as a result of slaughter not in a slaughterhouse, which has an operational permit, can be used solely for own consumption or for sale on the agro-industrial market to the final consumer within 50 kilometers from the place of slaughter or in the region in which it was carried out.

The activity of slaughterhouses is regulated by the Order of the Ministry of Agrarian Policy of Ukraine and the State Department of Veterinary Medicine No. 4 of January 14, 2004, “On Approval of Veterinary-Sanitary Rules for Slaughterhouses, Slaughter-Sanitary Sites of Farms and Home Slaughter of Animals”, according to which slaughter is a slaughterhouse of any form of ownership, which meets the current veterinary and sanitary requirements and is intended for the slaughter of animals (poultry), primary processing, storage and sale of raw materials of animal origin.

As noted in the special literature, the practice of using slaughter points has become widespread in the EU countries. Slaughter production, or primary processing of livestock, is a key and important technological link in meat processing. According to the level of development of slaughterhouses, it is possible to determine the degree of civilization of the country, because the slaughtering process requires not only adherence to technological processes, but also the standards of sanitation, hygiene and food safety⁸.

[access: 9.11.2018].

⁸ N.G. Kopytec, *Operation of the System of Marketing of Livestock Products: A Theoretical and Practical Aspect*, Kyiv 2007, p. 210.

According to the Ukrainian Stock Breeders Association, at the beginning of 2018, the number of meat processing enterprises engaged in slaughtering farm animals in live weight was 299. A year before, in early 2017, their number was 302. There were 330 meat processing enterprises engaged in slaughter of farm animals at the beginning of 2016. That is, during 2 years the number of meat processing enterprises has decreased by 9.4%⁹.

In this regard, today there is an especially acute issue of the construction of slaughterhouses (sanitary-slaughter stations) in each district. Slaughter of cattle at equipped slaughter points will solve a number of important problems:

1) raising the level of safety of livestock products. Food safety and harmonization of national legislation with international standards and the EU *acquis communautaire* is an important goal of public policy, will help reduce risks to public health¹⁰;

2) utilization of waste. Much of the waste after the slaughter of livestock (especially cattle), which is carried out in private farms, is exported outside the settlements and utilized in fields, forest belts and forests. This greatly increases the risk of spreading diseases, parasites, toxic substances, etc.;

3) raising the competitiveness of the livestock sectors of the Ukrainian agrarian sector in the long run.

Concerning the negative consequences of the prohibition of the sale of livestock products for slaughter, they concern the access of agricultural producers – private farms to slaughterhouses, transport of animals, which will require additional costs, and, therefore, necessarily lead to an increase in final retail prices for final products. Despite the increase in the quality of livestock products, especially in the context of the economic crisis, demand for it will decrease. According to experts, as a result, the competitive position of beef and pork production compared to poultry, will inevitably lead to a reduction in livestock numbers in these sectors, a shortage of meat in the domestic market, an increase in retail prices for it and a continued decline in its consumption.

In order to minimize these risks, the Ukrainian Stock Breeders Association proposes the introduction of an adaptation period during which a transparent mechanism for the introduction of slaughter requirements will be developed, which, among other things, should include information and awareness raising among the population and the necessary funding.

⁹ The number of slaughterers during 2 years decreased by almost 10%, <https://usba.com.ua/kilkist-zabiinikiv-za-2-roki-skorotilasa-maize-na-10> [access: 1.11.2018].

¹⁰ Yu. Oharenko, *Is it necessary to prohibit the sale of animal meat from household slaughter and circulation of unprocessed milk and home-made cheese?*, “German-Ukrainian Agricultural Policy Dialogue” 2013, No. 7, p. 2.

Thus, on the basis of the conducted study, it can be concluded that the legislation on the handling of farm animals during slaughter is being developed in Ukraine. In general, these provisions are partly consistent with European law, but it should be noted that they do not always find their development in subordinate legislation. Taking into account the basic principles of the use of animals in agriculture, which provide for the protection of animals from ill-treatment, promotes the safety and quality of agricultural products, and, therefore, guarantees food security, is one of the key indicators of the civilization of society. After all, developing the humane attitude towards animals is an important component of the ethical, cultural and environmental education of citizens, which provides for the formation of a high level of ecological and ethical consciousness and culture of citizens.

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Abstract: The article deals with the peculiarities of legal regulation of handling of farm animals during slaughter. On the basis of the analysis of Ukrainian legislation and international legislation, the requirements for the transportation of animals have been determined, taking into account their biological, species and individual characteristics, as well as the primary processing of animals and products obtained by slaughter.

In the article particular attention is paid to the subject composition of the studied legal relations, the problems of applying humane methods of slaughter of farm animals and certain issues of legal responsibility in the sphere of handling animals during slaughter in Ukraine. The state of development of slaughter economy of producers of agrarian sector of Ukraine was studied. An estimation of the current state of functioning of slaughter points in Ukraine was carried out. Based on the generalization of the world and domestic experience, the directions of their development were proposed as a component of the market infrastructure. The conclusion was made about the need for the development of slaughter stations as an alternative to home slaughter of livestock intended for sale. The advantages and disadvantages of the prohibition of selling meat from home slaughter of livestock were analyzed. The ways of improving the system of state control in the field of food safety were proposed taking into account the requirements of the European Union and the socio-economic situation in Ukraine.

Keywords: farm animals; welfare of animals; animal slaughter; legal liability

Streszczenie: W artykule została opisana specyfika regulacji prawnych dotyczących postępowania ze zwierzętami gospodarskimi podczas uboju. Po przeprowadzeniu analizy prawodawstwa ukraińskiego i międzynarodowego określono także wymagania dotyczące transportu żywych zwierząt, co w każdym przypadku musi przebiegać z uwzględnieniem ich biologicznych, gatunkowych i indywidualnych cech. Ponadto przybliżono problemy związane z zastosowaniem humanitarnych metod uboju zwierząt gospodarskich, wymagania w zakresie pierwotnego przetwarzania zwierząt i produktów uzyskanych w wyniku uboju oraz niektóre kwestie dotyczące odpowiedzialności prawnej z tytułu niewłaściwego traktowania zwierząt przeznaczonych do uboju.

Opracowanie zawiera również ocenę obecnego stanu funkcjonowania punktów uboju na Ukrainie. Na podstawie doświadczeń krajowych i międzynarodowych zaproponowano kierunki rozwoju punktów uboju (ubój przemysłowy) jako elementu infrastruktury rynkowej. Na tle podjętych rozważań sformułowano wnioski dotyczące potrzeby rozwoju punktów uboju jako alternatywy uboju domowego (uboju gospodarczego) w celu pozyskania mięsa do sprzedaży. W artykule przeanalizowano też wady i zalety zakazu sprzedaży mięsa po uboju domowym oraz zaproponowano sposoby poprawy systemu kontroli państwowej w zakresie bezpieczeństwa produktów spożywczych z uwzględnieniem prawa UE i sytuacji społeczno-gospodarczej na Ukrainie.

Słowa kluczowe: zwierzęta gospodarskie; dobrostan zwierząt; ubój zwierząt; odpowiedzialność prawna