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“Protection of animals used for scientific purposes in Polish criminal law”

Doctoral thesis on the subject of “Protection of animals used for scientific purposes in Polish criminal law” explores the problems concerning protection of experimental animals in Polish criminal law. The timeliness of the undertaken topic is particularly noticeable due to the fact that the new 15 January 2015 Protection of Animals Used For Scientific or Educational Purposes Act entered into force on 27 May 2015. Based on the regulations contained in this act, the earlier 21 January 2005 Experiments on Animals Act, which up till now regulated rules of undertaking and conducting experiments on animals, amongst others matters of criminal responsibility for acts against protection of experimental animals, has been overturned.

The goal of the thesis is to establish how the criminal law regulations protect experimental animals and whether the protection is sufficient. The contents of the work lead to demonstrating that because of the conflict of values, one of which is being sacrificed, and taking into account the social worth of such behavior, it is justified to consider experimental procedures to be a circumstance excluding unlawfulness of acts constituting unfounded or inhumane deprivation of life or ill-treatment of experimental animals. The analysis is also based on comparison of existing in criminal law system circumstances excluding unlawfulness of an act, the elements of which are partially reflected in the legal construction of experimental procedures. Additionally, the thesis is an attempt at showing that norms of criminal law that deal with experimental procedures using animals have the purpose of humanitarian protection of animals, i.e. the protection against causing them unnecessary or unjustified pain or suffering. Another goal of the thesis is proving the subsidiary character of criminal law norms referring to the experimental procedures, as they find application only when protection contained in other branches of law, particularly administrative law, is deemed inadequate.

The presented thesis is divided into four chapters with introduction, conclusion and bibliography. Chapter I contains general issues, introducing the problems of using animals in experimental procedures. It presents the genesis of using animals in experiments, the development of legal norms regulating matters of acceptability of such actions, as well as their impact on creating institutions supervising the execution of the aforementioned procedures. This chapter also contains the explanation of the term of experimental animals,

which, based on the binding norms, might be used in experimental procedures. Furthermore, the chapter presents matters connected to the legal status of animals, covering regulations of public and private law. The analysis covers four areas of protection of animals in the context of the protection of experimental animals – humanitarian, special, utilitarian and veterinary. Because of numerous controversies connected to experimenting on animals, this chapter also presents ethical and moral assessments of such actions, while taking into account the importance of experiments on animals in science and the dispute over their legitimacy.

Chapter II pertains to the nature and legal basis of experimental procedures. One of the main issues contained in the chapter deals with determining the legal status of actions taken as part of such procedures, while examining the matter of qualifying experimental procedures as circumstances excluding unlawfulness of acts against humanitarian protection of animals (i.e. inhumane or unjustified depriving an animal of its life or ill-treatment of it). Furthermore, it presents and interprets elements of the definition of experimental procedure, containing categories of acts classified as experimental or scientific and educational. Because of the rigorous regulations concerning the legality of undertaking experimental procedures, chapter II also describes formal conditions which have to be fulfilled for them to be conducted. It also includes the consequences of crossing the required criteria for the criminal responsibility of a perpetrator.

Chapter III extrapolates on the thesis that criminal law norms applied to experimental procedures with the use of animals are aimed particularly at their humanitarian protection. This chapter presents the characteristics of the scope of humanitarian protection of animals, including the classification of general protection, pertaining to all animals, and specialist protection, applying to particular categories of animals used for special purposes. In the presented thesis the scope of specialist protection has been reduced only to the animals used in experimental procedures.

Chapter IV presents the opinions of criminal law doctrine pertaining to different circumstances excluding unlawfulness (i.e. the allowed risk of novelty, medical/veterinarian treatment and educational activity) and their relation to experimental procedures using animals. The goal of such comparison was presenting the limits of experimental animal protection, in relation to using in experimental procedures particular elements of different circumstances excluding unlawfulness.

The presented dissertation is an attempt at presenting the problems of experimental animal protection in Poland and assessing its sufficiency in criminal law regulations. The coming into force of the new law concerning the topic, that is the 15 January 2015 Protection

of Animals Used For Scientific or Educational Purposes Act, makes the presented thesis a pioneering take on the subject. It contains suggestions for resolving the issue of criminal responsibility for actions against humanitarian protection of animals while taking into account the legal status of experimental procedures and the necessity of conducting them. Changes proposed in the presented thesis are aimed not only at improving the situation of experimental animals by raising the level of protection against pain and suffering, but also maintaining the desirable level of scientific research, for which undertaking experimental procedures is necessary.