Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

Articles

Studia Iuridica Lublinensia vol. XXX, 3, 2021
DOI: 10.17951/sil.2021.30.3.67-79

Justyna Goździewicz-Biechońska
Adam Mickiewicz University in Poznań, Poland
ORCID: 0000-0001-5046-037X
jusgoz@amu.edu.pl

Eliza Jachnik
Adam Mickiewicz University in Poznań, Poland
ORCID: 0000-0003-4049-2268
eliza.jachnik@amu.edu.pl

Legal Status of the Animal as a Determinant of Its Humanitarian Protection

Status prawny zwierzęcia jako determinanta jego ochrony humanitarnej

ABSTRACT

The article concerns the humanitarian protection of animals in Polish law. It is of a scientific and research nature and its purpose is to define the relationship between the legal status of an animal and the nature and the scope of its humanitarian protection. The legal status of an animal is determined by the Animal Protection Act, through dereification and the general principle of humane treatment of animals. In the light of legal provisions, two basic categories of animals can be distinguished in the context of their humanitarian protection: domestic animals and working animals. The latter are then divided into further subcategories. The scope of humanitarian protection varies depending on belonging to a given category, because legal provisions differently define the scope and degree of obligations regarding animal welfare. However, the premises for classifying a given animal as belonging to one of those types, result not only from the scope of legal acts. The decisive role in this regard has the status that is given by a man, usually determined by the man's attitude towards the

CORRESPONDENCE ADDRESS: Justyna Goździewicz-Biechońska, PhD, Assistant Professor, Adam Mickiewicz University (Poznań), Department of Agricultural, Food and Environmental Protection Law, Faculty of Law and Administration, Święty Marcin 90, 61-809 Poznań, Poland; Eliza Jachnik, PhD Student, Adam Mickiewicz University (Poznań), Department of Agricultural, Food and Environmental Protection Law, Faculty of Law and Administration, Święty Marcin 90, 61-809 Poznań, Poland.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

animal and its utility for the man. This attitude is shaped individually in a specific case and is the actual source of the legal status of the animal and consequently its protection.

Keywords: legal status of the animal; animal welfare; humanitarian protection of animals; legal status of an animal

INTRODUCTION

The protection of animals in Poland results from many legal acts. However, the main basis for humanitarian protection of animals is the Act of 21 August 1997 on the protection of animals,[1] which constitutes the *lex generalis* in this matter.[2] The Animal Protection Act describes the humanitarian way of dealing with animals as treatment, which takes into account their needs, and provides care and protection to them (Article 4 (3) APA). The scope of animal protection is diverse depending on the category of animal since legal provisions in relation to those categories present different scopes and degrees of animal welfare obligations.

The subject of the article is the legal institution of animal humanitarian protection. Its aim is to determine the influence of the legal status of the animal on the scope and character of its protection. We argue that the status of the animal shapes its legal protection and is the main determinant of the scope of its welfare as prescribed by law. Next, the question occurs, what is the actual source of this legal status of the animal. In this regard, we argue that the human decision on the status of the animal determines the scope of its protection. In this article, the argumentation of the above theses was carried out through the formal and dogmatic analysis of legal provisions and court decisions. The analysis covers Polish law with special attention to the Animal Protection Act. Due to the contemporary attention to animal welfare, the issues of animal protection have so far been the subject of growing interest of legal literature and various aspects have been analyzed. However, to date, legal literature has not dealt with the problem of the relation between the legal status of an animal and its welfare protection as outlined above.

This article is structured as follows. First, the following main section starts with the analysis of the Animal Protection Act provisions regarding the legal status of animals. Next, different types of animal welfare protection in Polish legislation according to their status are presented. Then the determinants of the status and consequently the scope of protection of a given animal are discussed. Thus, we prove our thesis pointed above also on the examples of judicial decisions. In the last part, some conclusions are formulated.

---

[1] Consolidated text, Journal of Laws 2020, item 638, hereinafter: APA.

[2] *Ustawy o ochronie zwierząt. Komentarz*, ed. W. Radecki, Wrocław 2003, p. 15; Ł. Smaga, *Ochrona humanitarna zwierząt*, Białystok 2010, pp. 80–81.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

DISCUSSION

1. Legal status of animals according to the Animal Protection Act

Legal status of animals is generally prescribed by the Animal Protection Act. Its starting point is the recognition of animals' ability to suffer and the acknowledgment that animals are not "things" (Article 1 (1) APA). First, the imperative that the suffering of any being is a moral evil constitutes the axiological basis of legal protection of animals.[3] That creates the general principle of the humanitarian treatment of animals.[4] According to Article 5 APA each animal requires humanitarian treatment. The axiological foundations of humanitarian protection are therefore primarily ethical. Then the source of the distinct legal status of animals is the humanitarianism – humanitarian attitude of man, which is manifested towards other beings, marked by and permeated with the essence of humanity and morality.[5] It can be observed that this specific legal status does not stem from the specific features of the animal as a being but from the humanities of man[6].

Secondly, the legal status of an animal is shaped by the statement of Article 1 (1) APA that animal is not a thing. It indicates animals' difference from things and causes specific humans' responsibilities towards them, stemming from the humanitarianism pointed above. From three possible approaches to regulate the legal status of animals (reification, dereification, and legal personality),[7] the Polish legislator chooses the second one, meaning the animal is not to be treated as a thing, but a "material object" not being a thing.[8] Such dereification constitutes the introduction of a general rule of different legal regimes for animals in relation to things (due to the special subject of the legal relationship in the case of animals).[9] Consequently, it creates a special, but also complicated, status of animals in the context of property

[3] J. Białocerkiewicz, *Status prawny zwierząt. Prawa zwierząt czy prawna ochrona zwierząt*, Toruń 2005, passim; M. Janowski, *Status prawny zwierząt a ich kategoryzacja biologiczna*, "Archiwum Filozofii Prawa i Filozofii Społecznej" 2020, no. 25, p. 30.

[4] T. Pietrzykowski, *Moralność publiczna a konstytucyjne podstawy ochrony zwierząt*, "Studia Prawnicze" 2019, no. 1, p. 12.

[5] M. Kubiak, D. Minkiewicz, *Humanitarian protection of animals – ethical and legal context*, "Torun Social Science Review" 2016, no. 1, p. 18.

[6] M. Janowski, *op. cit.*, p. 29.

[7] Ł. Smaga, *op. cit.*, p. 81.

[8] M. Nazar, *Normatywna dereifikacja zwierząt – aspekty cywilnoprawne*, [in:] *Prawna ochrona zwierząt*, ed. M. Mozgawa, Lublin 2002, pp. 128–129, 137–139.

[9] E. Łętowska, *Dwa cywilnoprawne aspekty praw zwierząt: dereifikacja i personifikacja*, [in:] *Studia z prawa prywatnego. Księga pamiątkowa ku czci Profesor Biruty Lewaszkiewicz-Petrykowskiej*, ed. A. Szpunar, Łódź 1997, pp. 70–93, 83–84.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

law.[10] However, dereification of animals does not imply personification, meaning recognizing them as subjects of law.[11] As a result, the Animal Protection Act does not establish animal rights, but only the obligations of people related to actions and omissions in relation to animals.[12]

Despite recognition in the Animal Protection Act that an animal as a living being, able to feel suffering is not a thing, the ability to suffer and feel pain does not in fact constitute a prerequisite for legal protection. Article 2 APA indicates that this Act relates to the handling of vertebrate animals. Then, the literal interpretation of this provision suggests exclusion of non-vertebrates regardless of their ability to feel suffering.[13] It results in some inconsistency of Polish regulation. The Animal Protection Act's provisions cover all vertebrates (even the most primitive ones), while in the Act of 15 January 2015 on the protection of animals used for scientific or educational purposes[14] cephalopods are included as a subject of protection along with vertebrates.[15] However, the prevailing opinion of the legal literature is that dereification applies to the entire animal kingdom.[16]

[10] Legal status of the animal, and therefore the possibility of recognition as a thing in the sense of civil law is an essential issue to determine the nature of the rights assigned to an animal, and then for liability for damage caused by free-living animals. See K. Piernik-Wierzbowska, *Systematyka i zagadnienie własności zwierząt oraz ich statusu prawnego w kontekście problematyki odpowiedzialności za szkody przez nie wyrządzane*, "Studia Iuridica Toruniensia" 2015, vol. 16, pp. 217–233.

[11] R. Kmiecik, *„Dereifikacja" zwierząt czy antropomorfizm prawniczy?*, [in:] *Prawna ochrona…*, p. 185; A. Nałęcz, *Ochrona zwierząt a postęp cywilizacyjny*, [in:] *Wpływ przemian cywilizacyjnych na prawo administracyjne i administrację publiczną*, eds. J. Zimmermann, P.J. Suwaj, LEX/el. 2013. The different views in this regard (supporting animals righs; for example, see J. Białocerkiewicz, *op. cit.*, pp. 177–267) are also present in Polish legal doctrine, but they are rather ethically than legally persuasive. The concept of "impersonal legal subjecthood" proposed by T. Pietrzykowski (*Problem podmiotowości prawnej zwierząt z perspektywy filozofii prawa*, "Przegląd Filozoficzny – Nowa Seria" 2015, no. 2, pp. 247–260) could also be mentioned in this regard. Animal personhood's recognision in international law is also postulated (for example, see A. Peters, *Toward International Animal Right*s, [in:] *Studies in Global Animal Law*, ed. A. Peters, Berlin 2020, p. 110).

[12] Ł. Smaga, *op. cit.*, pp. 89–97.

[13] This literal interpretation of the APA provisions was also adopted in the judgement of the Supreme Court of 13 December 2016 (II KK 281/16, LEX no. 2237277). The opposite interpretation by M. Goettel (*Sytuacja zwierzęcia w prawie cywilnym*, Warszawa 2013, pp. 42–48) is also worth noting that dereification is not narrowed only to vertebrates and legislator in Article 2 indicates only a part of the matter regulated in the APA.

[14] Consolidated text, Journal of Laws 2019, item 1392, as amended, hereinafter: APASEP.

[15] See the definition of animals set out in Article 2 (1) (1) APASEP. More on this topic: M. Janowski, *op. cit.*, p. 40.

[16] M. Goettel, *Sytuacja prawna zwierzęcia po wejściu w życie ustawy o ochronie zwierząt*, [in:] *Status prawny zwierząt*, Warszawa 2013, pp. 42–49; W. Radecki, *Dereifikacja zwierząt*, [in:] *Ustawa o ochronie zwierząt. Komentarz*, Warszawa 2015, pp. 45–54.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

2. Types of animals in the context of their humanitarian protection in Polish law

The term "status" in the context of animals can also be used to describe the diversity of legal positions of animals due to the way they are used.

In the regulations in force, the legislator decided to list certain categories of animals. Those provisions define the relationship between humans and animals belonging to the category, which largely determines the way the animal is treated. The general typology distinguishes three groups: pets, animals treated in a utilitarian manner, and free-living animals, whose interactions with humans are limited to a minimum or do not occur at all. In law, pets are called companion animals. The animals treated in a utilitarian manner include farm animals, laboratory animals, and working animals (e.g., in uniformed services, the entertainment industry, etc.). It is worth noting that this enumeration is not disjunctive. Finally, animals in zoos constitute a special category. Free-living (wild) animals and animals in zoos are outside the scope of these considerations, because, unlike others, in their case, there is a priority for species protection, or more broadly, biodiversity protection, rather than for humanitarian protection of them.[17] Although undoubtedly, these categories of animals are also subject to humanitarian protection,[18] and humanitarian protection is incorporated by many authors into environmental protection law.[19]

The legislator included a definition of companion animals in Article 4 (17) APA. They are animals that traditionally live with humans in their homes or other suitable room and are kept by humans as their companions. In this case, the legislator does not provide for any catalog of such animals. Nevertheless, it does not seem reasonable to say that any animal that human claims to be their companion can be considered a companion animal. First of all, the phrase "traditionally staying with humans" will function to limit the number of designata of "companion animals".

The animals referred to in Article 73 of the Nature Conservation Act[20] as animals of species dangerous to human health and life, which may be kept in zoos, circuses, animal rehabilitation centers and some scientific institutions (the so-called category 1 of dangerous animals[21]), certainly, cannot be called companion animals. The situation of the so-called category 2 of dangerous animals, which can, after

[17] For example, see T. Pietrzykowski, *Moralność publiczna…*, pp. 11–12; Z. Gądzik, *Ochrona humanitarna zwierząt utrzymywanych w ogrodach zoologicznych*, "Studia Prawnicze KUL" 2019, no. 2, p. 128.

[18] For animals kept in zoos, see Z. Gądzik, *op. cit.*, pp. 113–132.

[19] *Ustawy o ochronie zwierząt…*, pp. 26–27 and the literature referred to therein.

[20] Act of 16 April 2004 on the protection of nature (consolidated text, Journal of Laws 2020, item 55), hereinafter: APN.

[21] See annexes to the Regulation of the Minister of the Environment of 3 August 2011 on species hazardous to human life and health (Journal of Laws 2011, no. 173, item 1037).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

all, be owned and kept after obtaining the permit referred to in Article 73 (4) APN is different. Can these animals be called companions if they are kept by humans as pets? Certainly not, because these species do not traditionally fulfill such a role.

The legislator does not use the term "utility-treated animals" in any legal act, but in accordance with the adopted typology, they are neither free-living animals nor companion animals, and their common feature is utilitarian treatment by humans. According to the encyclopedia, animals treated in a utilitarian manner include both wild and domesticated species, used on farms and caught from those remaining in the wild, in order to obtain financial advantage and welfare needs of humans.[22]

In everyday language, the expression "farm animals" means animals kept on an agricultural holding for commercial production or animal traction.[23] The legal definition of farm animals is included in the Act of 10 December 2020 on the organization of breeding and reproduction of farm animals.[24] Before the amendment of 10 December 2020, this Act exhaustively indicated groups and species being farm animals.[25] In the new definition of "farm animals", the legislator referred to the definition of farm animals in the Regulation 2016/1012,[26] that enumerates farm animals but Polish Act also adds other species to this list. It includes 30 animals that are mostly traditional to our latitude, but several alien species to our fauna have appeared, such as ostriches, alpacas and mulberry silkworms.

The legislator defined the term "laboratory animals" in Article 2 (1) (2) APASEP. This definition applies to over a dozen species. An additional condition for recognizing an animal as a laboratory animal is breeding for: research; animal welfare or improvement of livestock farming or breeding conditions; development and production of medicinal products, foodstuffs, etc.; environmental protection in the interest of human and animal health or welfare and higher education or training for the acquiring or improvement of professional competences.

As regards the utility-treated animals, and especially farm and laboratory animals, there is a risk of their return reification in the public awareness. It results mainly from the purpose of these animals, as well as from the forms of treatment

[22] *Zwierzęta użytkowe*, https://encyklopedia.pwn.pl/haslo/zwierzeta-uzytkowe;4002518.html [access: 29.01.2021].

[23] *Zwierzęta gospodarskie*, https://encyklopedia.pwn.pl/haslo/zwierzeta-gospodarskie;4002517.html [access: 29.01.2021].

[24] Journal of Laws 2021, item 36.

[25] Previously Act of 29 June 2007 on the organization and reproduction of farm animals (Journal of Laws 2017, item 2132).

[26] Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) no. 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding ("Animal Breeding Regulation") (OJ EU L 171/66, 20.06.2016).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

accepted in the Animal Protection Act, Act on the protection of animals used for scientific or educational purposes, Regulation 1099/2009,[27] and other legal acts.

The unique characteristics of some animals are used by humans in many professions. Chapter 4 APA provided for the category of animals used for entertainment, shows, films, sports, and special purposes. An example of this type of animal are dogs and horses that are used by various uniformed services.[28] The way of dealing with them, apart from the Animal Protection Act, is provided by the regulations concerning individual formations. However, for several years the guides of these animals have indicated the need for regulation of the status of these animals in case of their withdrawal from service since there is a risk for those animals to be left unattended.[29] This issue is an interesting legal problem because humanitarian protection is granted to these animals throughout their life cycle, but they actively serve in the formations only for a certain period of time. It seems that if they stay after the termination of their service with private protector, often being a former guide, their status may transform into companion animals, assuming that the conditions included in the definition of this group of animals are met.

3. Attitude of the person towards the animal and its legal status

The above characteristics of animal welfare legislation regarding different types of animals indicate that the scope of protection differs significantly. Belonging to a group is decisive to define the scope of protection of a given animal. The premises for classifying a given animal as belonging to one of those types result not only from the scope of legal acts. The decisive role in this regard has the status that is given by a human, usually determined by personal attitude towards the animal and its utility for this person. This relation is shaped individually in a specific case. The personal attitude is then the actual source of the legal status of the animal.

The above argumentation is also supported by the decisions of administrative courts. They relate to appeals against the municipal resolutions on the regulations

[27] Council Regulation (EC) no. 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ EU L 95/1, 7.04.2017).

[28] For example, police dogs and horses referred to in Articles 21 and 22 of the Act of 24 May 2013 on measures of direct coercion and firearms (consolidated text, Journal of Laws 2019, item 2418); service dog used by the Forest Guard in accordance with Article 47 (3) of the Act of 28 September 1991 on forests (Journal of Laws 2020, item 1463, as amended); rescue dogs referred to in Article 49c (2) (5) of the Act of 24 August 1991 on the State Fire Service (Journal of Laws 2020, item 1123, as amended).

[29] Many times in a public discussion, this topic is taken up by the "Zakątek Weteranów" Association (http://zakatekweteranow.pl/stowarzyszenie/o-stowarzyszeniu [access: 4.02.2021]). A draft legislation has been submitted to introduce a benefit for caretakers of withdrawn animals. See Resolution of the Senate of the Republic of Poland of 14 October 2020 on the Act amending the Act on animal protection and some other acts, Print no. 677.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

of maintaining cleanliness and order in the communes. Such regulations may define the duties of persons keeping domestic animals. Although those court decisions were not issued in the direct context of the Animal Protection Act provisions, they present an interpretation based on common meaning, that may be useful for interpretations within the area of animal law. It is worth citing the wider fragment of the judgement of the Supreme Administrative Court of 20 April 2009 (II OSK 1953/08), which initiated the jurisprudence line in this regard[30] and accurately illustrates our thesis presented above: "[…] domestic animals are animals kept at home by humans for personal enjoyment or companionship, as opposed to animals kept or bred for other reasons (breeding, livestock and utility animals). A pet is an animal that is kept in a house or apartment to meet human emotional needs, as a companion animal or as a kind of decoration or attraction of the apartment. A pet is usually treated by household members as a pet or a member of the family herd. A pet is usually an individual which is liked more than other individuals of the same species, but also is under human care. The same animal species (e.g., a domestic pig) can be an animal raised for meat, farmed (for further reproduction) or domestic animal. A dog kept in the square, which it is supposed to guard against intruders, is a working animal. Kept in the farm yard, it still plays a utility role, and it becomes a domestic animal only when emotional ties are established between a man and an animal and the human herd grants it the right to stay with people in their immediate vicinity, as a member of the herd".[31]

Therefore, when considering whether an animal should be acknowledged as a domestic animal, the issue of establishing emotional bonds between humans and animals is decisive. There is no doubt that such a bond is possible in the case of animals of domesticated species. In the case of other animals, e.g., turtles or parrots, the nature of the relationship with humans in a particular case should be analyzed, but the existence of such attachment is not excluded.[32] It is worth noticing that the Supreme Administrative Court's opinion cited above breaks certain stereotypes about animals. The domestic pig is considered traditionally, but also in Polish law, as a farm animal. Meanwhile, the court states that if an animal is a human companion and an emotional bond will be established between them, it results in treating such an animal as a pet, and consequently it must be treated as a domestic animal.

[30] See judgement of the Supreme Administrative Court of 8 November 2012, II OSK 2023/12; judgement of the Supreme Administrative Court of 23 June 2019, II OSK 2299/17, LEX no. 3073627; judgement of the Voivodeship Administrative Court in Krakow of 21 January 2020, II SA/Kr 1471/19; judgement of the Voivodeship Administrative Court in Lublin of 10 November 2016, II SA/Lu 656/16, LEX no. 2199297.

[31] Judgement of the Supreme Administrative Court of 20 April 2009, OSK 1953/08.

[32] Judgement of the Voivodeship Administrative Court in Lublin of 10 November 2016, II Sa/Lu 656/16, LEX no. 2199297; judgement of the Supreme Administrative Court of 23 July 2019, II OSK 2299/17, LEX no. 3073627.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

CONCLUSION

Both the concept of the nature of the legal protection of animals and their legal status are complex and ambiguous. The state of law in this regard is an expression of the process of civilization.[33] The evolution of Polish animal welfare law also reflects that process which is observed all around the world.[34] The level of general concern for animal welfare in society influences the animal protection established by law and then of course enforcement of the law. However, there are also other than prescribed by law determinants of the scope of humanitarian protection of animals. This article has offered a reflection in this regard. We have argued that the fundamental role for the animal's status plays the decision of the person towards a particular animal. The legal qualification of a specific type of animals to be covered by specific type of protection, is determined by the prior decision of a person, how they perceive the particular animal. This human attitude may differ in individual cases, even within the same animal species.

In the case of companion animals, the emotional relationship impacts the animal keeper's strong motivation to protect their pet, which is also reflected in social dimension of such an approach. Therefore, the nonobjective approach to companion animals is firmly established in social consciousness. However, the specific situation of homeless domestic animals should be noticed in this context, for which the emotional relationship is broken. That loss of emotional bond significantly affects the scope of their protection.[35] In the case of utility-treated animals, there is a certain danger of treating them objectively. It is also worth noting that an animal may fall into more than one category. For example, rabbits are considered all three: domestic, farm, and laboratory animals. It may even happen that an individual has more than one function in his life at one time. A guard dog may also be a companion animal. The status of an animal may also change during its lifetime. If a horse, which was destined for a slaughterhouse, is bought by a private person, it changes its status from a farm animal to a domestic animal.

The legislator's different approach to the protection of particular groups of animals reflects human-animal relations and their social dimensions. The protection of farm and laboratory animals is limited due to their purpose and legal forms of

[33] A. Nałęcz, *op. cit.*, passim.

[34] It is worth noting that some few domestic jurisdictions have even begun to acknowledge animal rights (e.g., courts in Argentina and Colombia have granted *habeas corpu*s to apes and a bear). See A. Peters, *op. cit.*, p. 110. Recognising legal personality of nonhumans appears even in the case of other elements of nature. For example, see J. Bieluk, *River as a Legal Person*, "Studia Iuridica Lublinensia" 2020, vol. 29(2), pp. 11–23.

[35] E. Kruk (*Polish and Estonian Regulation on Homeless (Stray) Animals*, "Studia Iuridica Lublinensia" 2021, vol. 30(1), p. 146) accurately notices in this context that "it is difficult to point out an entity that would be interested in preserving this group of animals".

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

dealing with them, especially comparing to domestic animals. This confirms the conclusion that the human will plays a decisive role in the context of the protection of a relevant animal.

The possibility of equalizing the legal status of individual groups of animals could be considered only as a potential direction of future changes of law. It must be stressed, that it is not currently possible in the light of the regulations in force and the current ways of using animals by humans. However, this will be shaped by trends in human-animal relations and social attitudes in this regard, that may evolve in the future. As indicated above, progressive changes in this area could already be observed. However, taking into account that social values and assessments change rather slowly, the directive of normative conservatism indicates caution when introducing changes to the law.[36] Until these changes possibly occur, the differences in the legal status of different groups of animals must be maintained, which result from the different ways of using animals by humans.

In this context, the biggest challenge is to shape the legal status of utility-treated animals. The significant shortcomings occur in the existing Polish legislation in the level of animal welfare, particularly food producing animals.[37] The idea of animal protection, including their welfare, is related to the notion of public morality.[38] Then, the legal regulations should reflect the moral condition of society. It seems that social expectations regarding the level of animal protection are constantly increasing. The growing interest in the protection of animals and the expectation of improving their welfare can be observed in social research analyzing consumer choices.[39] Unfortunately, Polish legislation in this regard seems not to comply with social expectations. However, it should be noted that the development of animal welfare legislation might be expected, due to the role of that issue within the European Green Deal initiatives.[40]

---

[36] Z. Ziembiński, *Wstęp do aksjologii dla prawników*, Warszawa 1990, pp. 125–126. For the role of values in shaping the legal order, see M. Kordela, *Inter- and Extra-Legal Axiology*, "Studia Iuridica Lublinensia" 2020, vol. 29(3), pp. 29–38.

[37] For example, see I. Lipińska, *Z prawnej problematyki dobrostanu zwierząt gospodarskich*, "Przegląd Prawa Rolnego" 2015, no. 1, p. 75.

[38] M. Troć, *Glosa do wyroku Trybunału Konstytucyjnego z dnia 10 grudnia 2014 r., K 52/13, Dz.U. 2014, poz. 1707*, "Przegląd Prawa Konstytucyjnego" 2016, no. 4, pp. 287–294; E. Jachnik, *Prawne aspekty uboju rytualnego*, "Przegląd Prawa Rolnego" 2016, no. 1, pp. 177–190.

[39] For example, see M. Gębska, B. Gołębiewska, A. Grontkowska, *Dobrostan zwierząt gospodarskich: od teorii do praktyki*, Warszawa 2018, pp. 21–29.

[40] Stricter animal welfare standards are among the sustainable agricultural practices necessary to achieve the objectives of the "Farm to Fork Strategy". See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system, COM(2020) 381 final, 20.05.2020. As announced in Strategy, a Fitness Check of the EU animal welfare legislation for food producing animals is currently performed.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

REFERENCES

Literature

Białocerkiewicz J., *Status prawny zwierząt. Prawa zwierząt czy prawna ochrona zwierząt*, Toruń 2005.
Bieluk J., *River as a Legal Person*, "Studia Iuridica Lublinensia" 2020, vol. 29(2), **DOI: http://dx.doi.org/10.17951/sil.2020.29.2.11-23**.
Gądzik Z., *Ochrona humanitarna zwierząt utrzymywanych w ogrodach zoologicznych*, "Studia Prawnicze KUL" 2019, no. 2, **DOI: https://doi.org/10.31743/sp.5851**.
Gębska M., Gołębiewska B., Grontkowska A., *Dobrostan zwierząt gospodarskich: od teorii do praktyki*, Warszawa 2018.
Goettel M., *Sytuacja prawna zwierzęcia po wejściu w życie ustawy o ochronie zwierząt*, [in:] *Status prawny zwierząt*, Warszawa 2013.
Goettel M., *Sytuacja zwierzęcia w prawie cywilnym*, Warszawa 2013.
Jachnik E., *Prawne aspekty uboju rytualnego*, "Przegląd Prawa Rolnego" 2016, no. 1.
Janowski M., *Status prawny zwierząt a ich kategoryzacja biologiczna*, "Archiwum Filozofii Prawa i Filozofii Społecznej" 2020, no. 25, **DOI: https://doi.org/10.36280/AFPiFS.2020.4.29**.
Kmiecik R., *„Dereifikacja" zwierząt czy antropomorfizm prawniczy?*, [in:] *Prawna ochrona zwierząt*, ed. M. Mozgawa, Lublin 2002.
Kordela M., *Inter- and Extra-Legal Axiology*, "Studia Iuridica Lublinensia" 2020, vol. 29(3), **DOI: http://dx.doi.org/10.17951/sil.2020.29.3.29-38**.
Kruk E., *Polish and Estonian Regulation on Homeless (Stray) Animals*, "Studia Iuridica Lublinensia" 2021, vol. 30(1), **DOI: http://dx.doi.org/10.17951/sil.2021.30.1.145-166**.
Kubiak M., Minkiewicz D., *Humanitarian protection of animals – ethical and legal context*, "Torun Social Science Review" 2016, no. 1.
Lipińska I., *Z prawnej problematyki dobrostanu zwierząt gospodarskich*, "Przegląd Prawa Rolnego" 2015, no. 1, **DOI: https://doi.org/10.14746/ppr.2015.16.1.3**.
Łętowska E., *Dwa cywilnoprawne aspekty praw zwierząt: dereifikacja i personifikacja*, [in:] *Studia z prawa prywatnego. Księga pamiątkowa ku czci Profesor Biruty Lewaszkiewicz-Petrykowskiej*, ed. A. Szpunar, Łódź 1997.
Nałęcz A., *Ochrona zwierząt a postęp cywilizacyjny*, [in:] *Wpływ przemian cywilizacyjnych na prawo administracyjne i administrację publiczną*, eds. J. Zimmermann, P.J. Suwaj, LEX/el. 2013.
Nazar M., *Normatywna dereifikacja zwierząt – aspekty cywilnoprawne*, [in:] *Prawna ochrona zwierząt*, ed. M. Mozgawa, Lublin 2002.
Peters A., *Toward International Animal Right*s, [in:] *Studies in Global Animal Law*, ed. A. Peters, Berlin 2020.
Piernik-Wierzbowska K., *Systematyka i zagadnienie własności zwierząt oraz ich statusu prawnego w kontekście problematyki odpowiedzialności za szkody przez nie wyrządzane*, "Studia Iuridica Toruniensia" 2015, vol. 16, **DOI: https://doi.org/10.12775/SIT.2015.010**.
Pietrzykowski T., *Moralność publiczna a konstytucyjne podstawy ochrony zwierząt*, "Studia Prawnicze" 2019, no. 1, **DOI: https://doi.org/10.37232/sp.2019.1.1**.
Pietrzykowski T., *Problem podmiotowości prawnej zwierząt z perspektywy filozofii prawa*, "Przegląd Filozoficzny – Nowa Seria" 2015, no. 2.
Radecki W., *Dereifikacja zwierząt*, [in:] *Ustawa o ochronie zwierząt. Komentarz*, Warszawa 2015.
Smaga Ł., *Ochrona humanitarna zwierząt*, Białystok 2010.
Troć M., *Glosa do wyroku Trybunału Konstytucyjnego z dnia 10 grudnia 2014 r., K 52/13, Dz.U. 2014, poz. 1707*, "Przegląd Prawa Konstytucyjnego" 2016, no. 4, **DOI: https://doi.org/10.15804/ppk.2016.04.17**.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

Ustawy o ochronie zwierząt. Komentarz, ed. W. Radecki, Wrocław 2003.
Ziembiński Z., *Wstęp do aksjologii dla prawników*, Warszawa 1990.

Online sources

Stowarzyszenie „Zakątek Weteranów", http://zakatekweteranow.pl/stowarzyszenie/o-stowarzyszeniu [access: 4.02.2021].
Zwierzęta gospodarskie, https://encyklopedia.pwn.pl/haslo/zwierzeta-gospodarskie;4002517.html [access: 29.01.2021].
Zwierzęta użytkowe, https://encyklopedia.pwn.pl/haslo/zwierzeta-uzytkowe;4002518.html [access: 29.01.2021].

Legal acts

Act of 24 August 1991 on the State Fire Service (Journal of Laws 2020, item 1123, as amended).
Act of 28 September 1991 on forests (Journal of Laws 2020, item 1463, as amended).
Act of 21 August 1997 on the protection of animals (consolidated text, Journal of Laws 2020, item 638).
Act of 16 April 2004 on the protection of nature (consolidated text, Journal of Laws 2020, item 55, as amended).
Act of 29 June 2007 on the organization and reproduction of farm animals (consolidated text, Journal of Laws 2017, item 2132).
Act of 24 May 2013 on measures of direct coercion and firearms (consolidated text, Journal of Laws 2019, item 2418).
Act of 15 January 2015 on the protection of animals used for scientific or educational purposes (consolidated text, Journal of Laws 2019, item 1392, as amended).
Act of 10 December 2020 on the organization of breeding and reproduction of farm animals (Journal of Laws 2021, item 36).
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system, COM(2020) 381 final, 20.05.2020.
Council Regulation (EC) no. 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ EU L 95/1, 7.04.2017).
Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) no. 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding ("Animal Breeding Regulation") (OJ EU L 171/66, 20.06.2016).
Regulation of the Minister of the Environment of 3 August 2011 on species hazardous to human life and health (Journal of Laws 2011, no. 173, item 1037).
Resolution of the Senate of the Republic of Poland of 14 October 2020 on the Act amending the Act on animal protection and some other acts, Print no. 677.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 17/11/2026 16:19:57

Case law

Judgement of the Supreme Administrative Court of 20 April 2009, OSK 1953/08.
Judgement of the Supreme Administrative Court of 8 November 2012, II OSK 2023/12.
Judgement of the Supreme Administrative Court of 23 July 2019, II OSK 2299/17, LEX no. 3073627.
Judgement of the Supreme Court of 13 December 2016, II KK 281/16, LEX no. 2237277.
Judgement of the Voivodeship Administrative Court in Krakow of 21 January 2020, II SA/Kr 1471/19.
Judgement of the Voivodeship Administrative Court in Lublin of 10 November 2016, II SA/Lu 656/16, LEX no. 2199297.

ABSTRAKT

Artykuł dotyczy ochrony humanitarnej zwierząt w polskim prawie. Ma on charakter naukowo-badawczy, a jego celem jest określenie relacji pomiędzy statusem prawnym zwierzęcia a charakterem i zakresem jego ochrony humanitarnej. Status prawny zwierzęcia określa ustawa o ochronie zwierząt poprzez dereifikację i generalną zasadę humanitarnego traktowania zwierząt. W świetle przepisów prawa można wyróżnić dwie podstawowe kategorie zwierząt w kontekście ich ochrony humanitarnej: zwierzęta domowe i zwierzęta użytkowe. Druga z tych kategorii dzieli się na podkategorie. Zakres ochrony humanitarnej różni się w zależności od przynależności zwierzęcia do danej kategorii. Przepisy prawa różnie określają bowiem zakres i stopień obowiązków dotyczących zapewnienia dobrostanu zwierząt. Jednakże przesłanki zakwalifikowania konkretnego zwierzęcia jako należącego do jednej z tych kategorii nie wynikają jedynie z zakresu regulacyjnego aktów prawnych. Decydującą rolę w tym względzie odgrywa status nadany zwierzęciu przez człowieka, zdeterminowany stosunkiem do zwierzęcia i jego użytecznością dla człowieka. Ten stosunek kształtuje się indywidualnie w konkretnym przypadku i stanowi faktyczne źródło prawnego statusu zwierzęcia, a w konsekwencji zakresu jego ochrony.

Słowa kluczowe: prawny status zwierzęcia; dobrostan zwierząt; ochrona humanitarna zwierząt; status prawny zwierzęcia