

ASERS

# Journal of Environmental Management and Tourism

Quarterly

Volume XI

Issue 1(41)

Spring 2020

ISSN 2068 – 7729

Journal DOI

<https://doi.org/10.14505/jemt>

 **ASERS**  
Publishing



**Editor in Chief**

**Ramona PÎRVU**

University of Craiova, Romania

**Editorial Advisory Board**

**Omran Abdelnaser**

University Sains Malaysia, Malaysia

**Huong Ha**

University of Newcastle, Singapore,  
Australia

**Harjeet Kaur**

HELP University College, Malaysia

**Janusz Grabara**

Czestochowa University of Technology,  
Poland

**Vicky Katsoni**

Techonological Educational Institute of  
Athens, Greece

**Sebastian Kot**

Czestochowa University of Technology,  
The Institute of Logistics and International  
Management, Poland

**Nodar Lekishvili**

Tbilisi State University, Georgia

**Andreea Marin-Pantelescu**

Academy of Economic Studies Bucharest,  
Romania

**Piotr Misztal**

The Jan Kochanowski University in  
Kielce, Faculty of Management and  
Administration, Poland

**Agnieszka Mrozik**

Faculty of Biology and Environmental  
protection, University of Silesia, Katowice,  
Poland

**Chuen-Chee Pek**

Nottingham University Business School,  
Malaysia

**Roberta De Santis**

LUISS University, Italy

**Fabio Gaetano Santeramo**

University of Foggia, Italy

**Dan Selişteanu**

University of Craiova, Romania

**Laura Ungureanu**

Spiru Haret University, Romania

ASERS Publishing

<http://www.asers.eu/asers-publishing>

ISSN 2068 – 7729

Journal DOI: <https://doi.org/10.14505/jemt>

## Table of Contents:

1	<b>The Effects of Multinational Companies on Deforestation: The Building Block or Stumbling Block</b> Kumba DIGDOWISEISO, Eko SUGIYANTO	5
2	<b>Institutional Designing of Food Security by Instruments of Matrix Modelling and Value Flows Synchronization</b> Galina ASTRATOVA, Vladimir KLIMUK, Olga RUSHITSKAYA, Igor IVLIEV, Aleksey RUCHKIN, Nadegda YURCHENKO	12
3	<b>A Review of the Impact of Consumerism, Recycling and Pollution: Evidence from Southeast Asia: 1999 to 2019</b> Tinashe CHUCHU, Eugene Tafadzwa MAZIRIRI	23
4	<b>The Business Efficiency of Agroprocessing of Food Crops Commodities and Horticulture in Increasing Product Competitiveness in Central Sulawesi Indonesia</b> M. Fardhal PRATAMA, Made ANTARA, Rustam Abdul RAUF, EFFENDY	29
5	<b>The Theory of Planned Behavior and Pro-Environmental Behavior among Students</b> Mohamad Irhas EFFENDI, Dyah SUGANDINI, Agus SUKARNO, Muhamad KUNDARTO, Rahajeng ARUNDATI	35
6	<b>Improving the Energy Efficiency of Kazakhstan's Economy</b> Zhanar M. ORYNKANOVA, Raissa A. BAIZHOLOVA, Aigul Zh. ZEINULLINA	44
7	<b>Diversity of Birds for Ecotourism Attractions in the Mangrove Ecosystem of Nature Conservation Forum Putri Menjangan</b> I Ketut GINANTRA, I Ketut MUKSIN, Martin JONI	54
8	<b>Development of Industrial and Urban Areas in the Context of Ecological and Economic Security</b> Aigul SHAIMERDENOVA, Kanat TIREUOV, Ukilyay KERIMOVA, Elmira MURSALIMOVA	65
9	<b>Ecological Strategy of Development in Agricultural Enterprises of Ukraine</b> Tetiana PIZNIAK, Olha KOVALOVA, Olha NOVIKOVA	73
10	<b>The Process of Innovation Diffusion and Adoption of Innovations in the Implementation of Community-Based Total Sanitation Policy in South Sumatera</b> Katriza IMANIA, Sri SUWITRI, Yoppie WARELLA, Nurmah SENIH	81
11	<b>Animal Rights and Protection against Cruelty in Ukraine</b> Ivan V. YATSENKO, Svitlana I. ZAPARA, Gregory A. ZON, Lydmyla B. IVANOVSKAYA, Alyona M. KLOCHKO	91
12	<b>The Development of Agro-Tourism Based on Arabica Coffee Plantation in Bali</b> I Dewa Ayu Sri YUDHARI, Dwidjono Hadi DARWANTO, Lestari Rahayu WALUYATI, Jangkung Handoyo MULYO	104
13	<b>Tourism Impact on the Environment in Nusa Penida Tourism Area</b> Nyoman SUDIPA, Made Sudiana MAHENDRA, Wayan Sandi ADNYANA, Ida Bagus PUJAASTAWA	113
14	<b>A Study on the Improvement Plan of Facility in National Park Using Importance-Performance Analysis</b> Joonho BAE, Seungmin NAM	125
15	<b>Environmentally Oriented Anti-Crisis Management of Enterprises: Problems, Directions, and Prospects</b> Ainur BALTABAYEVA, Aruna BEKMETOVA, Bibigul KYLYSHPAYEVA, Zhanna ASSANOVA, Gulshat ZHUNUSSOVA	131

**Editor in Chief**

**Ramona PÎRVU**

University of Craiova, Romania

**Editorial Advisory Board**

**Omran Abdelnaser**

University Sains Malaysia, Malaysia

**Huong Ha**

University of Newcastle, Singapore,  
Australia

**Harjeet Kaur**

HELP University College, Malaysia

**Janusz Grabara**

Czestochowa University of Technology,  
Poland

**Vicky Katsoni**

Technological Educational Institute of  
Athens, Greece

**Sebastian Kot**

Czestochowa University of Technology,  
The Institute of Logistics and International  
Management, Poland

**Nodar Lekishvili**

Tbilisi State University, Georgia

**Andreea Marin-Pantelescu**

Academy of Economic Studies Bucharest,  
Romania

**Piotr Misztal**

The Jan Kochanowski University in  
Kielce, Faculty of Management and  
Administration, Poland

**Agnieszka Mrozik**

Faculty of Biology and Environmental  
protection, University of Silesia, Katowice,  
Poland

**Chuen-Chee Pek**

Nottingham University Business School,  
Malaysia

**Roberta De Santis**

LUISS University, Italy

**Fabio Gaetano Santeramo**

University of Foggia, Italy

**Dan Selişteanu**

University of Craiova, Romania

**Laura Ungureanu**

Spiru Haret University, Romania

ASERS Publishing

<http://www.asers.eu/asers-publishing>

ISSN 2068 – 7729

Journal DOI: <https://doi.org/10.14505/jemt>

16	<b>The Role of Human Capital in Ensuring Food Security of the Region</b> Gorbunova Olesya SERGEEVNA, Voronin Boris ALEKSANDROVICH, Bukhtiyarova Tatyana IVANOVNA, Zyryanova Tatyana VLADIMIROVNA, Mitin Alexander NIKOLAEVICH, Mokronosov Alexander GERMANOVICH	139
17	<b>Geotourism Concept Development in the Basis of Environment Sustainability, Socioculture, and Natural Science Wealth: A Case Study in Indonesia</b> Endy MARLINA, Tutut HERAWAN	145
18	<b>State Regulation of Environmental Taxes and Fees: National and International Experience</b> Larisa Petrovna GRUNDEL, Natalia Alexandrovna NAZAROVA, Alexey Alexandrovich KOSTIN, Anastasia Viktorovna KNIAZEVA, Elena Samratovna GORBATKO	159
19	<b>Adopting New Heritage Model for Ecotourism Plan in National Key Economic Areas to Improve Tourism Sector Performance in Malaysia</b> Intan Maizura ABD RASHID, Irza Hanie ABU SAMAH, Wan Ahmad Fauzi WAN HUSAIN, Mohd Fitri MANSOR, Sallahuddin HASSAN	167
20	<b>Efficiency of Optimized Technology of Switchgrass Biomass Production for Biofuel Processing</b> Maksym KULYK, Vasyl KURILO, Natalia PRYSHLIAK, Viktor PRYSHLIAK	173
21	<b>Environmental and Legal Framework for Regulating Consumer and Industrial Waste Management</b> Dauren BEKEZHANOV, Alima OMIRALI, Bolat AITIMOV, Daniya NURMUKHANKYZY, Timur ZHUMAGULOV	186
22	<b>Potential and Opportunities for Development of Tourism in Ukraine</b> Yurii KOVALCHUK, Irina FURMAN, Halyna HUMENYUK, Anatolii KUCHER	194
23	<b>The Burden and Effects of Cooking Fuels Usage on Women in Rural Areas: A Case Study of Afao-Ekiti, Nigeria</b> Kehinde John AKOMOLAFE, Elizabeth YUSUF	202
24	<b>Consumption Aspects that Create Life Satisfaction</b> Orose LEELAKULTHANIT	215

# Call for Papers Summer Issues 2020 Journal of Environmental Management and Tourism

**Journal of Environmental Management and Tourism** is an interdisciplinary research journal, aimed to publish articles and original research papers that should contribute to the development of both experimental and theoretical nature in the field of Environmental Management and Tourism Sciences.

Journal will publish original research and seeks to cover a wide range of topics regarding environmental management and engineering, environmental management and health, environmental chemistry, environmental protection technologies (water, air, soil), pollution reduction at source and waste minimization, energy and environment, modeling, simulation and optimization for environmental protection; environmental biotechnology, environmental education and sustainable development, environmental strategies and policies, etc. This topic may include the fields indicated above, but are not limited to these.

Authors are encouraged to submit high quality, original works that discuss the latest developments in environmental management research and application with the certain scope to share experiences and research findings and to stimulate more ideas and useful insights regarding current best-practices and future directions in environmental management.

*Journal of Environmental Management and Tourism* is indexed in SCOPUS, RePEC, CEEOL, ProQuest, EBSCO and Cabell Directory databases.

All the papers will be first considered by the Editors for general relevance, originality and significance. If accepted for review, papers will then be subject to double blind peer review.

<b>Deadline for submission:</b>	29 <sup>th</sup> May 2020
<b>Expected publication date:</b>	June 2020
<b>Website:</b>	<a href="https://journals.aserspublishing.eu/jemt">https://journals.aserspublishing.eu/jemt</a>
<b>E-mail:</b>	<a href="mailto:jemt@aserspublishing.eu">jemt@aserspublishing.eu</a>

To prepare your paper for submission, please see full author guidelines in the following file: [JEMT\\_Full\\_Paper\\_Template.docx](#), then send it via email at [jemt@aserspublishing.eu](mailto:jemt@aserspublishing.eu).



DOI: [https://doi.org/10.14505/jemt.11.1\(41\).11](https://doi.org/10.14505/jemt.11.1(41).11)

## Animal Rights and Protection against Cruelty in Ukraine

Ivan V. YATSENKO

Faculty of Veterinary Medicine  
Kharkiv State Veterinary Academy, Ukraine  
[yacenko-1971@ukr.net](mailto:yacenko-1971@ukr.net)

Svitlana I. ZAPARA

Law Faculty  
Sumy National Agrarian University, Ukraine  
[zapara2007@ukr.net](mailto:zapara2007@ukr.net); [s\\_zapara2017@mail.ru](mailto:s_zapara2017@mail.ru)

Gregory A. ZON

Faculty of Veterinary Medicine  
Sumy National Agrarian University, Ukraine  
[zon\\_g@ukr.net](mailto:zon_g@ukr.net)

Lydmyla B. IVANOVSKAYA

Faculty of Veterinary Medicine  
Sumy National Agrarian University, Ukraine  
[lydmylaivanovskaya@gmail.com](mailto:lydmylaivanovskaya@gmail.com)

Alyona M. KLOCHKO

Law Faculty  
Sumy National Agrarian University, Ukraine  
[alenaklocko@gmail.com](mailto:alenaklocko@gmail.com), [october@list.ru](mailto:october@list.ru)

### Suggested Citation:

Yatsenko, I.V. *et al.* (2020). Animal Rights and Protection against Cruelty in Ukraine. *Journal of Environmental Management and Tourism*, (Volume XI, Spring), 1(41): 91 - 103. DOI:[10.14505/jemt.v11.1\(41\).11](https://doi.org/10.14505/jemt.v11.1(41).11)

### Article's History:

Received November 2019; Revised January 2020; Accepted February 2020.  
2020. ASERS Publishing©. All rights reserved.

### Abstract

The article deals with the issues of the animal rights protection in Ukraine. Views of the prominent scientists are examined and the provisions of the current international and Ukrainian legislation are analyzed to establish the lacks in the legislative regulations of the animals protection from the cruel treatment. It is noted that an animal is a creature, but not a thing as it is prescribed by the civil legislation in Ukraine. Some particular terms, such as "bullying", concerning the cruel treatment with animals are analyzed. The interpretation of the concept of "cruel methods" in the scientific and reference literature is studied. Conclusions are made, that animal abuse is a socially dangerous, unlawful, guilty, punishable, intentional action, provisioned by the Criminal legislation and according to the animal's health consequences, animal abuse may cause: non-lethal damage or death. In this regard Ukrainian legislation needs to be amended essentially,

**Keywords:** definition; animal; rights; protection; legislative gaps; international legislation.

**JEL Classification:** Q56; Q57; K14.

### Introduction

The world provides an analysis of the prerequisites for reforming of the treatment of animals and their rights. The difficulty of solving the problem of humane treatment of animals is that it cannot be regulated solely on based on scientific experiments. Assessing the ability of animals to consciously feel pain, suffer, think, talk, understand

themselves and the events around them is a difficult question for many people. So what is the Animal Law? What is animal ethics? Do we understand and recognize such concepts in our own country?

Wildlife is one of the main components of the natural environment, the common heritage of mankind, part of the spiritual and aesthetic perception of the world. Unfortunately, humanity cannot completely stop the use of animals for industrial and other purposes, which is an ominous trend leading to the destruction of the animal habitat. Currently, wildlife remains a strategic base for industrial and medicinal raw materials, food and other tangible assets (Boreiko 2008). The processes taking place in the area directly affect all aspects of life activity, determining the society's stability (Kurylo 2017).

However, vertebrates are capable of experiencing physical and mental distress, and therefore any use of them should not be accompanied by fear or pain, depression or other discomfort. Adverse environmental changes form an appropriate public opinion and determine the benefits of activities aimed at regulating the environmentally sustainable use of natural resources as a whole and the rational use, conservation and reproduction of wildlife objects (Netchyporuc 2006).

Animal cruelty is a crime against the morals of society, stemming from its social nature, an extremely cruel, ruthless, socially dangerous act, as it promotes violence among children and young people, increases indifference to the suffering of living beings, engenders aggression and violence, vandalism, abuse, other antisocial acts and crimes incompatible with the principles of humanism and applicable national and international law, the antithesis of the humane animal treatment. In recent years, the idea that humane animal treatment is a testament to a civilized society has become increasingly recognized around the world (Grandin *et al.* 2010).

When our country chose a new democratic path of development, it automatically committed itself to take appropriate measures to protect homeless animals, at best not outsiders, but the medieval barbarian at worst in the international arena (Lockwood *et al.* 2015).

## 1. Research Background

In terms of positive changes in legislation, Ukraine's accession to the European Council has become a fitting moment.

So far, most international animal protection regulations have been ratified by Ukraine, or are those that Ukraine has adhered to:

- European Convention for the Protection of Animals of 1987 (Incidentally, Ukraine is the twenty-third country that has signed and ratified the European Convention for the Protection of Animals, adopted in 1987)

- The 1972 Convention on the Protection of the World Cultural and Natural Heritage,

- The 1992 Convention on Biological Diversity. However, some important international instruments have not yet been ratified in Ukraine:

- The 1976 European Convention for the Protection of Agricultural Animals,

- The 1986 European Convention on the Protection of Vertebrate Animals used for experimental and other scientific purposes.

In accordance with Article 59 (2) of the Association Agreement between Ukraine and the EU, Ukraine has committed itself to achieving a common understanding of the standards of animal welfare in the EU. Although Ukraine is making progress in the legal regulation of the issue under discussion, unfortunately it is far from bringing the issues under control.

Ukraine gained independence only in 1991, which is why the legal legacy of the former USSR influenced its legal culture and reality. In general, the legislation of Ukraine on natural nature is a relatively new regulatory and legal sector that needs constant attention and systematization.

The democracy of every developed country in the world pays great attention to animal rights and the protection of animals from violence, abuse, mutilation and unjustified extermination, since human rights are valued and respected only in a society that respects animal rights (Repetsky 2010).

The international community has reaffirmed its desire to protect animals from unlawful encroachment, embodying these intentions in a number of European conventions, regulations, declarations. Thus, in Art. 3 of the European Convention for the Protection of Animals (1987) states that no one shall have the right to cause unnecessary pain, suffering or harm to an animal. This is due to the fact that vertebrates are capable of experiencing physical and mental suffering, so any use of them should not be accompanied by pain, fear, depression, or other discomfort (Lozo 2008).

At present, the Convention on Animal Rights has been established in many countries around the world, the mechanisms for their implementation are being improved through the establishment of new public



organizations, and new regulatory acts have been adopted that set restrictions on the humane treatment of animals.

The Law on the Protection of Animals against Cruelty was adopted in Ukraine in 2006, and in 2017 the administrative and criminal liability for animal cruelty was significantly strengthened, since counteracting such an offense is an important task for Ukraine to become, as a democratic and rule of law.

However, cases of animal cruelty, mortification, mutilation and murder are still numerous, and, therefore, the problem of criminal protection of morality in the field of animal protection is urgent. Thus, according to the static reports of the Office of Organized Support of the ERDF and the information and analytical work of the Prosecutor General's Office of Ukraine, the number of reported offenses under Article 299 of the Criminal Code of Ukraine "Cruelty to Animals" increased by 8.4 times from 2006 to 2018 (from 21 to 177).

Animal cruelty is an offense against the moral principles of society due to its public nature, extremely harsh, ruthless, merciless, socially dangerous, punishable act. Public danger of this action is that it contributes to the spread of violence among children and young people, strengthens feelings of indifference to the suffering of living creatures, generates aggression and violence against others, provokes abuse of people, antisocial acts, and, therefore is incompatible with the principles of humanism and current international and national law

Scientific research into the problem of animal cruelty was conducted by scientists: SF Denysov - on the criminal-law characteristics of this offense; AV Landina - clarified the issue of criminal defense of morality in Ukraine; I. I. Lobov, I. A. Golovko, V. O. Turska, M. V. Verbitko, D. O. Kalmikov, I. B. Meditsky, OS Cherna - investigated aspects of criminal and administrative responsibility for this offense; DO Antonyuk - worked out the concepts and features of the composition of this crime; OO Shumilo - analyzed the criminological characteristics and measures for the prevention of animal cruelty; SP Repetsky (2010) explored the issue of public morality as an object of criminal protection; IV Yatsenko and VM Kirichenko - covered the historical and legal aspects of the problem of animal protection against cruelty.

## 2. Methodology

The research that is being described in the paper required different scientific methods taking into account the specificity of the topic, the purpose and tasks of the research, particularly:

- formal and legal - to analyze the legal structure of the crime, provided for in Art. 299 of the Criminal Code of Ukraine, as well as to determine the content of the legal terms used in it;
- dialectical - to study theoretical and normative provisions on the legal regulation of the protection of animals from ill-treatment in Ukraine and foreign countries;
- rather legal analysis - to find out the state and tendencies in legal protection of animals against cruelty in Ukraine;
- systemic analysis - when characterizing the objective features of the offense (the object and the objective side) provided for in Art. 299 of the Criminal Code of Ukraine, Art. 89 of the Code of Administrative Offenses of Ukraine and establishing their relations with the provisions of forensic examination;
- logical and grammatical - to clarify the etymological content of key legal and biological terms and concepts used in the rules that govern public relations regarding animal welfare and their protection against abuse (in all sections);
- statistical - to analyze and summarize empirical information pertaining to the research topic;
- modeling - to develop specific proposals and additions to the legal acts of Ukraine on the effective conduct of forensic veterinary examinations.

The use of these and other methods of scientific cognition in conjunction has facilitated a comprehensive analysis, substantiation of theoretical findings and practical recommendations.

## 3. Case Studies

The conceptual apparatus of the studied problem requires the definition of concepts to be operated. The subject of legal regulation of the protection of animals against cruelty is treatment of animals in itself.

The dictionary of the Ukrainian language (2010) thus interprets the term "treatment". It is a certain behavior, method or nature of action; treating someone, treating someone; the way or nature of the use of something, the use of something.

The definition of "animals", "humane" and "animal cruelty" in the Ukrainian legislation and in the specialized scientific literature is multifaceted. Thus, in the specialized literature, the term "animals" must be

understood as multicellular nuclear organisms, the main feature of which is heterotrophicity and the ability to move actively.

The legislation of Ukraine provides for the definition of animals, and also identifies their species (Article 1 of the Law on the Protection of Animals from Brutal Treatment, 2006) (Figure 1.1). In our opinion, it is also appropriate to use the term "feral animals" - animals that are referred to as domestic animals (cats, dogs, birds, etc.) who, under certain circumstances, have lost human custody (care) and have been released into the natural environment (forest, forest strips, rivers, swamp) and have acquired wildlife.

The Law of Ukraine "On Veterinary Medicine" (1992) states that "animals" are mammals, poultry, birds, bees, insects, fish, crustaceans, shellfish, frogs, amphibians and reptiles.

Legal liability for animal cruelty arises if such treatment occurs only in vertebrate animals, that is, in zoological taxonomy, beginning with the class of fish, including the class of amphibians (frogs, salamanders, newts, etc.), the class of reptiles (lizards, snakes, turtles) birds and ending with mammals (dogs, cats, ruminants, pigs, etc.).

Civil law defines animals as a special civil rights subject to the legal regime of things. Thus, D.E. Zakharov (2010) states that an animal is a non-consuming, moving, indivisible thing, capable of responding to external stimuli, with certain needs to satisfy its existence and possessing marketable qualities.

An important feature of animals in the aspect of protection from abuse is the ability of sensory perception of the environment and the presence of needs.

Among all other things, only an animal as a "living thing" can have such needs. It is this property that determines the legal peculiarities of acquisition, exercise, limits of realization and termination of real rights to animals.

The totality of animals forms a complex thing that has an economic, cultural, aesthetic, scientific, educational, educational purpose. Such a complex thing can be of biological origin (a group of animals) or arise from human will by artificial means (for example, the creation of zoos, zoos, etc.).

In the course of the historical development of socio-economic formations man has taken custody of the maintenance, breeding, feeding, exploitation of animals. This makes animals helpless without human support. In addition, close emotional and psychological relationships between animals and their owners. In connection with this, V.O. Turskaya (2014) thinks that it would be appropriate to call animals a creature, not a thing.

The humanization of society has led to the development and adoption of legal acts that set standards for the humane treatment of animals, as well as the establishment of responsibility for the ill-treatment of animals. These include the provisions of the Civil Code of Ukraine: Art. 180 of the Civil Code (animals, as a special object of civil rights subject to the legal regime of things, except as required by law); Art. 12 of the Civil Code (regulates the procedure for refusal of ownership of an animal); Art. 340-342 of the Civil Code (establishes relations regarding the ownership of a homeless pet); Art. 1187 of the CC (regulates the keeping of wild animals, service dogs and dogs of fighting breeds, as sources of increased danger and additional responsibility of the owners of these animals) (Civil code of Ukraine 2003).

Rules for the treatment of animals are established by law, and those listed in the Red Book of Ukraine can be a subject of civil use only in the cases and in the manner prescribed by law (Akimov 2009).

In 1995, Ukraine joined the European Council, prompting it to consistently implement the principles of humane treatment of animals and their protection against abuse.

Protecting animals against abuse consists in establishing on the legislative enactment rules for the treatment and retention of animals, which exclude cruelty and means the prevention of ill-treatment of animals to ensure their safe and harmonious existence, protection of human morality (Figure 1).

The meaning of the concept of "protection of animals against abuse" from the general sociological interpretation means actions aimed at preventing animals from causing unjustified suffering or harm for any purpose other than self-defense or survival.

According to the preamble, the Law of Ukraine "On the Protection of Animals from Cruelty" on the protection against suffering and loss of animals as a result of the abuse of animals is aimed at protecting their natural rights and strengthening the morality and humanity of society. Thus, the said law is fundamental in the legal provision for the protection of animals from ill-treatment (Figure 2).

Attitudes towards animals can be humane (social) and not humane (cruel, asocial). Law of Ukraine "On the Protection of Animals from Cruelty" in Art. 1 gives basic definitions of actions in the treatment of animals.



Figure 1. Categories of animals, according to Art. 1 of the Law of Ukraine "On the Protection of Animals from Cruelty"

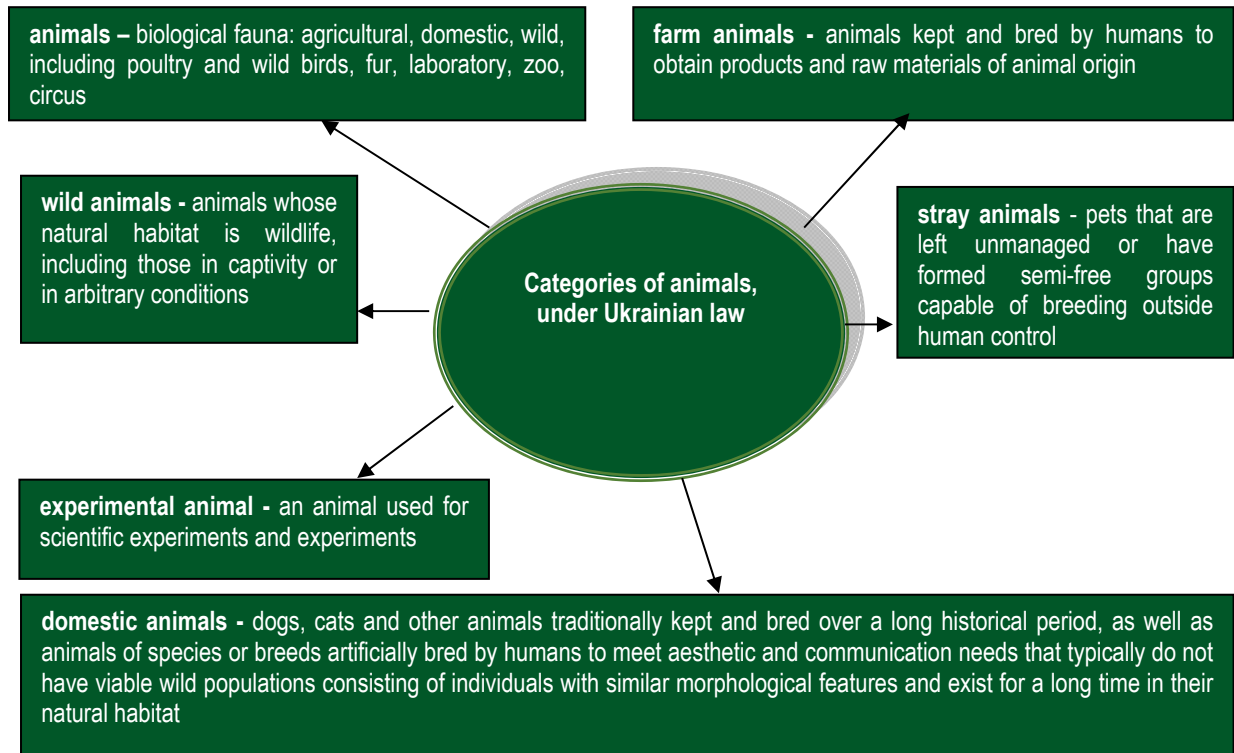
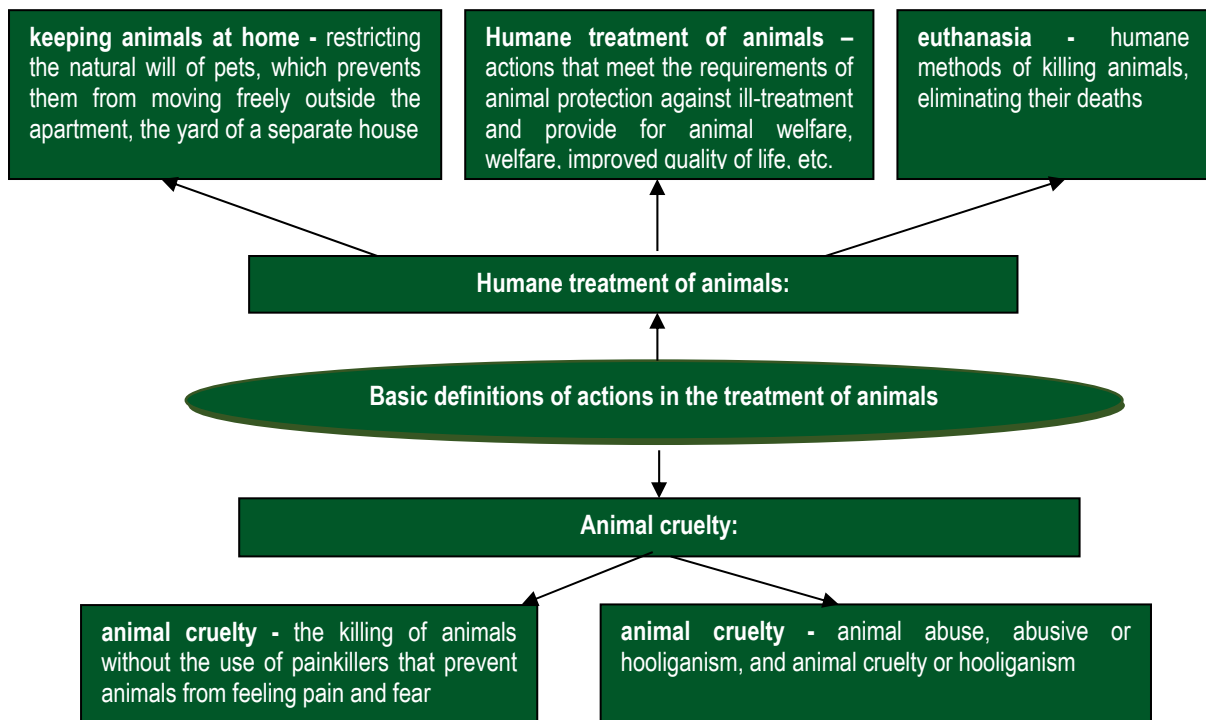


Figure 2. Basic definitions of actions in the treatment of animals, according to Art. 1 of the Law of Ukraine "On the Protection of Animals from Cruelty"



In Art. 3 of the Law of Ukraine "On Fauna" (2001) also states that wild animals are chordates, including vertebrates (mammals, birds, reptiles, amphibians, fish and others) and invertebrates (arthropods, mollusks, echinoderms and others) throughout their species and population diversity and at all stages of development (embryos, eggs, larvae, etc.), which are in a state of natural will, are held under arbitrary conditions or in captivity);

The European Convention for the Protection of Animals (1976), ratified by Ukraine, contains a somewhat different definition, in particular: "a pet means any animal that is kept or about to be kept by a person, in particular in his home for his own pleasure and companionship".

Thus, the specifics of the legal regulation of animal relations affect many moral aspects to be taken into account in jurisprudence, since animals are sentient beings, have feelings and will, the need to constantly meet physiological needs: food, water, sleep, air, sufficient movement, contacts with oneself in nature, in natural activity and other needs, which is also reflected in the legislation.

The peculiarities of property rights and other property rights in animals are regulated by Art. 12 of the Protection of Animals from Brutal Treatment (2006). Owning animals, as a thing, from the point of view of civil law, means a person's right to act with the thing he or she owns at their own discretion. However, animals, being a particular subject of civil rights, are an exception to interpretation. In our opinion, the interpretation of the animal ownership right now is rather blurred, which often hinders procedural actions in litigation involving animals. Yes, most "owners" (i.e. people who keep or care for an animal) are often absent: the act of buying or selling an animal or fiscal check. Which indicates the purchase of an animal by a certain person (use of an individual's payment card), an animal's breeding card passport of the animal with certain details, the individual animal number is registered by the appropriate service. It also does not specify a list of persons forbidden to keep roosting species of animals, i.e. owning them for health reasons. However, all these issues are easily resolved, as many countries experience, by installing chips that capture most of the information listed.

Ownership or other property rights of the person holding the animal are limited by the obligation to comply with the rules and requirements of Ukrainian law, which directly prohibits the abuse of animals.

Article 4 of the Law on the Protection of Animals from Cruelty indicates that during the treatment of animals, which includes breeding and reproduction, keeping, feeding, use, transportation, handling, etc., both by legal and natural persons, should be based on established fundamental principles (Figure 3).

Ensuring the proper living conditions of animals, especially those that are domesticated, bred and used for the satisfaction of their holders, the conditions for breeding, keeping and using animals must be appropriate to their biological, species and individual characteristics. The killing of animals (for example, slaughtering productive animals for meat, clipping animals for wool, etc.) should be done via humane, painless methods, or after turning off the animal's consciousness (for example, stunning at meat processing plants before slaughter).

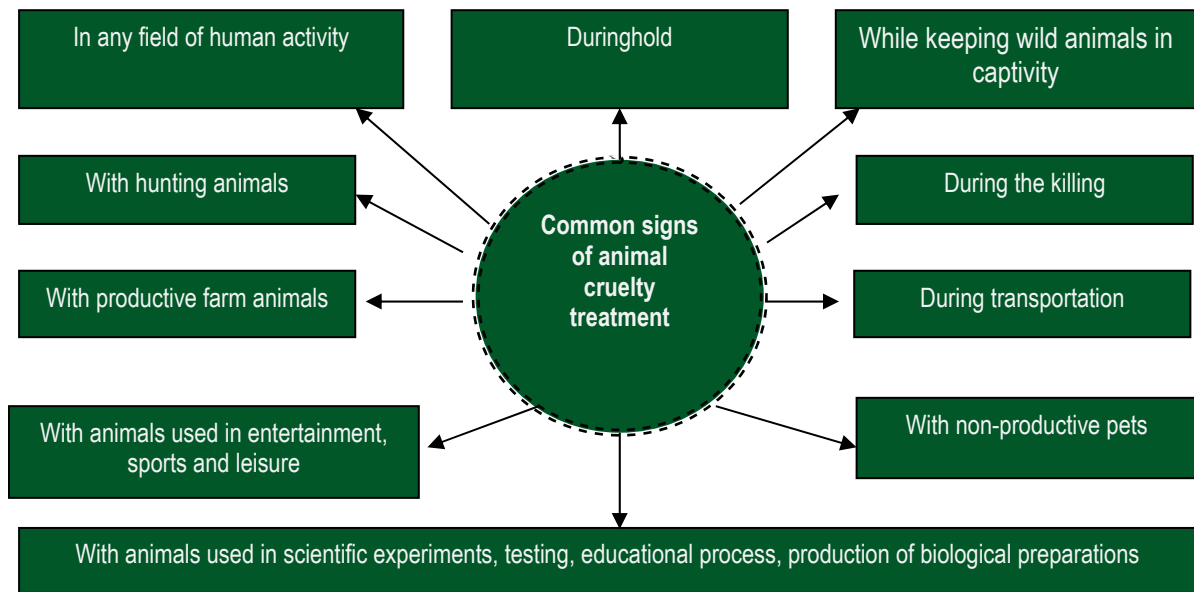
Figure 3. Basic principles for the protection of animals from abuse.



Pets must be kept and handled in such a way that they do not harm the environment or the animal itself. The person keeping the animal must ensure that veterinary care is provided to it in a timely manner, incl. ensure timely vaccination for the prevention of infectious diseases.

Animal abuse can be manifested in any area of human activity related to animals (Figure 4). The circle of existence of this asocial phenomenon is the reproduction, breeding, movement, directions of use of animals.

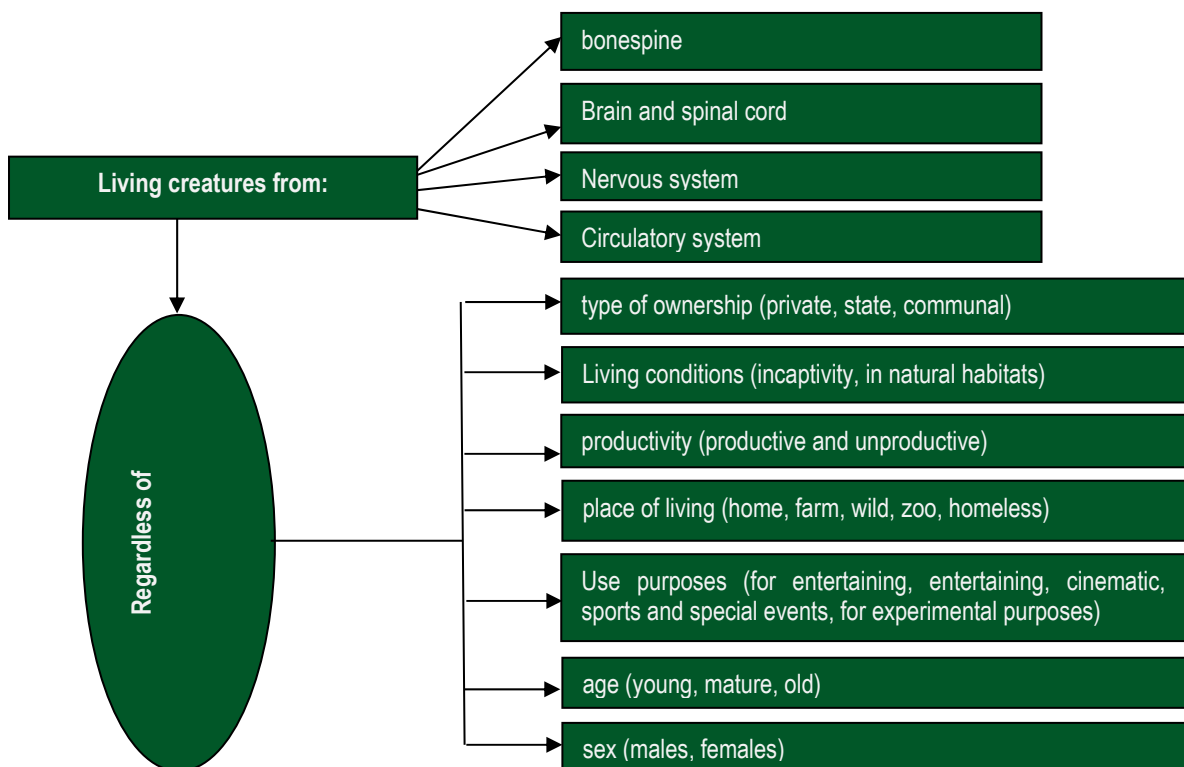
Figure 4. Common signs of animal cruelty treatment



According to O.O. Turskaya (2014), by the criteria of spheres of human activity to which vertebrate animals are involved, typical forms of animal cruelty can be distinguished, in particular, family-life, pathological, hunting, research, agricultural, entertaining-entertainment, communal.

For a comprehensive analysis of the phenomenon of animal abuse as an asocial, criminal act, it is necessary to find out what is the object of it. Thus, the object of the crime is the things of the material world, about which or in connection with which the crime is committed, is what the offender is affected by. The subject of the crime of animal cruelty is any taller animals (Figure 5).

Figure 5. Animals as a crime under Art. 299 of the Criminal Code of Ukraine

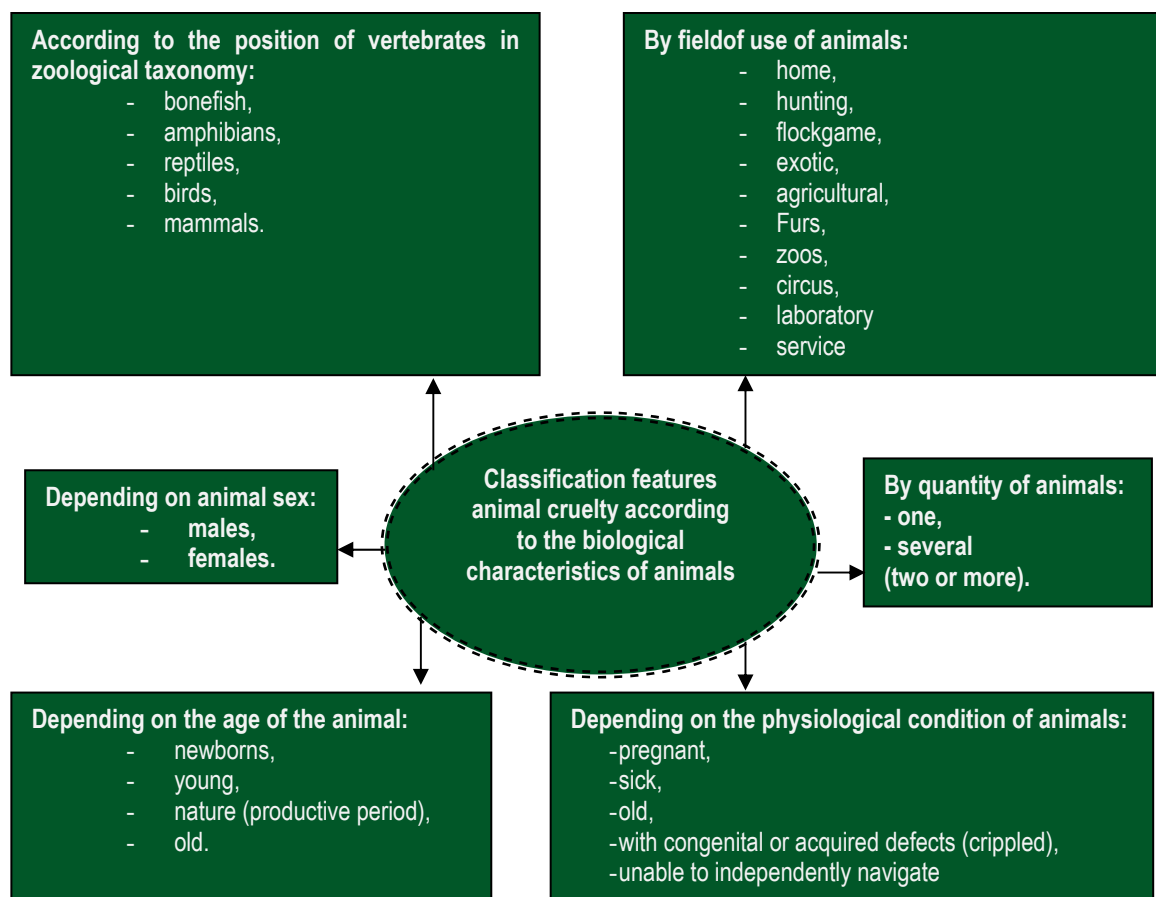


Animals such as pets (cat, dog, etc.), wild (wolf, fox, eagle, lynx, etc.), farm animals (cattle, horses, pigs, goats, sheep, rabbits, nutrias, etc.), laboratory (rats, mice, hamsters, guinea pigs, etc.). The crime can be

committed not only against animals that are owned by the suspect of the crime, but also any other conditions (owed to other owners, homeless, etc.). People suspected of committing criminal acts leave their animals on the street, in the forest and forest strips, being thrown out of windows of high-rise buildings, drowning, harassing, deliberately angered animals, beating when they do not obey human commands, being left alone regardless of the season near veterinary institutions and other social objects.

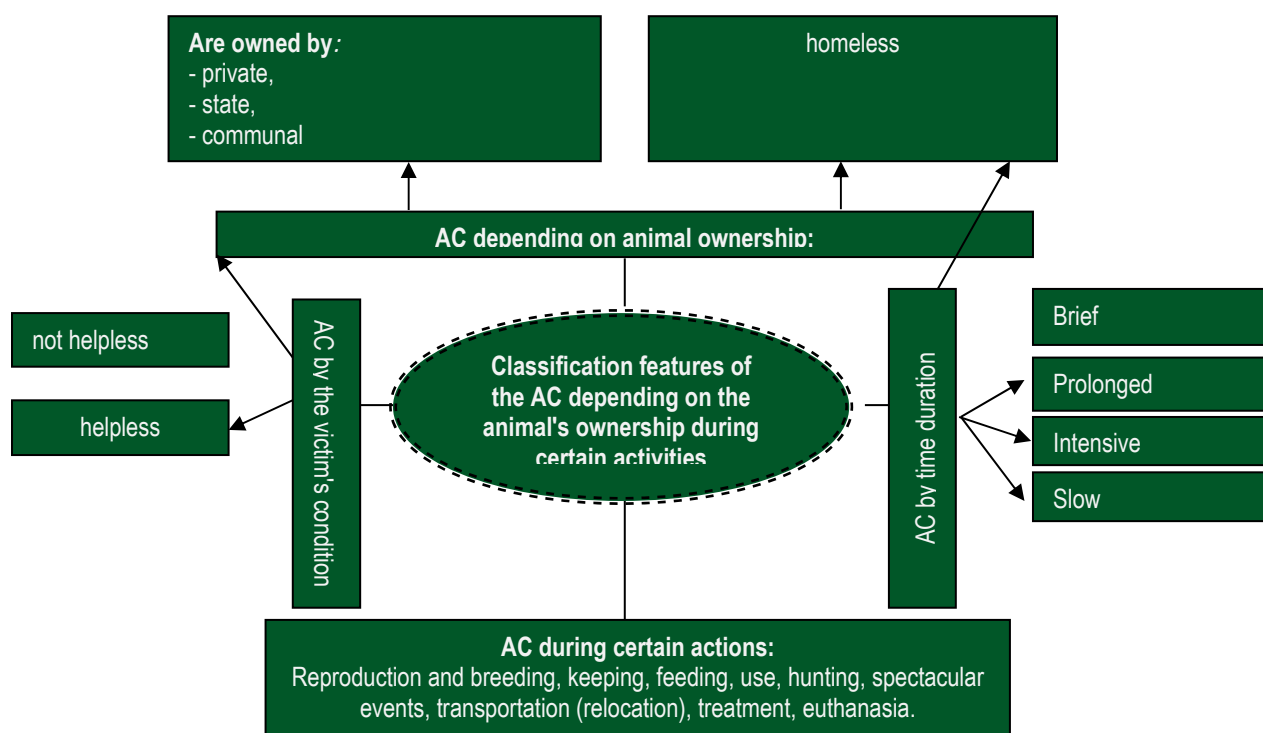
Cruelty to animals causes moral harm to humans and is therefore incompatible with the principles of morality and humanity. The disposition of Art. 299 of the Criminal Code of Ukraine provides for criminal liability for ill-treatment not of any animal, but only of those related to vertebrates, regardless of their sex, age, physiological condition, etc. (Figure 6).

Figure 6. Classification features of the gastrointestinal tract according to the biological characteristics of animals



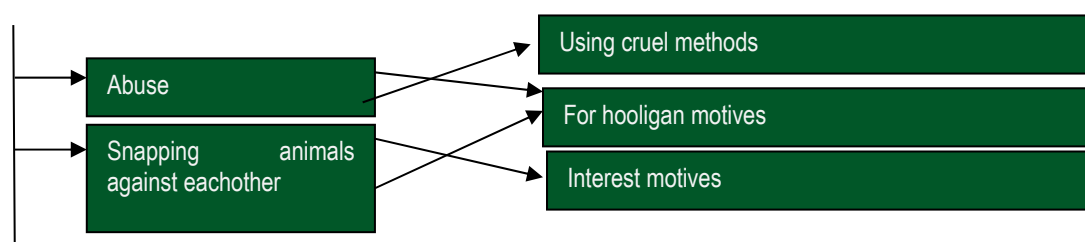
The disposition of Art. 299 of the Criminal Code of Ukraine explicitly states that criminal liability for animal cruelty occurs in the case of such acts, regardless of the ownership of the animals, during certain actions with them, the condition of the animal, etc. (Figure 7).

Figure 7. Classification features of the AC depending on the animal's ownership and during certain actions with them



The concept of AC is now debated in scientific publications. Thus, according to V.N. Kudryavtsev (2004), this act refers to criminal aggression. Antonyan (2014) attributes this phenomenon to violent crime. S.F. Denisov and V.O. Makarov (Makarov 2015) consider it a crime against morality, O.O. Shumilo (2015) calls the OCT as "criminal cruelty, a kind of aggressive behavior that causes great harm to the victim and is carried out without experience feelings of sympathy and regret on the part of the subject of such behavior". HRT was criminalized in 1988 with the inclusion in Art. 299, established the forms of its manifestation (Figure 8).

Figure 8. Types of animal cruelty manifestation



## Discussion

According to many researchers, the term "mockery" is evaluative and multifaceted because it depends on the degree of suffering of the animal. Thus, according to the semantic interpretation, the concept of "bullying" means infliction of suffering and suffering. Analyzing the meaning of the term "cruelty" based on the interpretation given in the dictionaries, we obtain the following meaning:

- ill-treatment, abuse;
- severity, sharpness, high degree, great power of expression of anything;
- ruthlessness, ferocity, not humanity, sadism, barbarism, atrocities, hiding;
- such is a moral and psychological trait that is the opposite of spirituality, kindness, humanity. Such a person does not sympathize with others, but deliberately degrades their dignity, causes pain;
- infliction on persons or animals, both physical and moral suffering;
- animal abuse committed with the use of cruel methods or hooligan motives, as well as the harassment of animals against each other by hooligan or selfish motives.

In specific legal sources, the concept of "animal abuse" is interpreted in many ways, in particular:



- ruthless, rude behavior that causes physical and psychological suffering;
- extreme severity, ruthlessness, ruthlessness;
- the sign of the objective side of the crime, which is the way of committing it;
- It is not only the infliction of suffering, torture on animals, which is expressed in actions or omissions with impulsive, deliberate, conscious or unconscious expression;

objectively not forcing animals to cause pain, physical suffering, committed by hooligan or useful motives, or by using sadistic methods or in the presence of minors, leading to their death, destruction.

The term "bullying" in dictionaries is interpreted as: inflicting pain or suffering on anyone; bad and offensive ridicule of anyone (anything), mockery of someone, abusive act against someone. Causing an animal to suffer particularly severe or extremely long-term suffering means actions that lead to a health disorder, injury that can be fatal. Such actions include the casting of an animal with potent chemical reagents, intentional feeding of potent poisons, the effect of thermal factors on the animal (flame of fire, freezing of the animal with mercury, etc.), leaving the animal for a long time without food, water, air access, setting over the animal inaccurate. experiment that causes her suffering, deliberate use in sports and entertainment activities of sick, injured, lame animals, the use of devices that puts the animal in an unnatural position, causes excessive pain, damage to the body or death.

Causing an animal particularly severe or extremely prolonged suffering means actions that testify to the absence of any pity for the animal, repeating repeatedly with boldness and a smile watching the torture of the animal, chuckling at it before observing these actions.

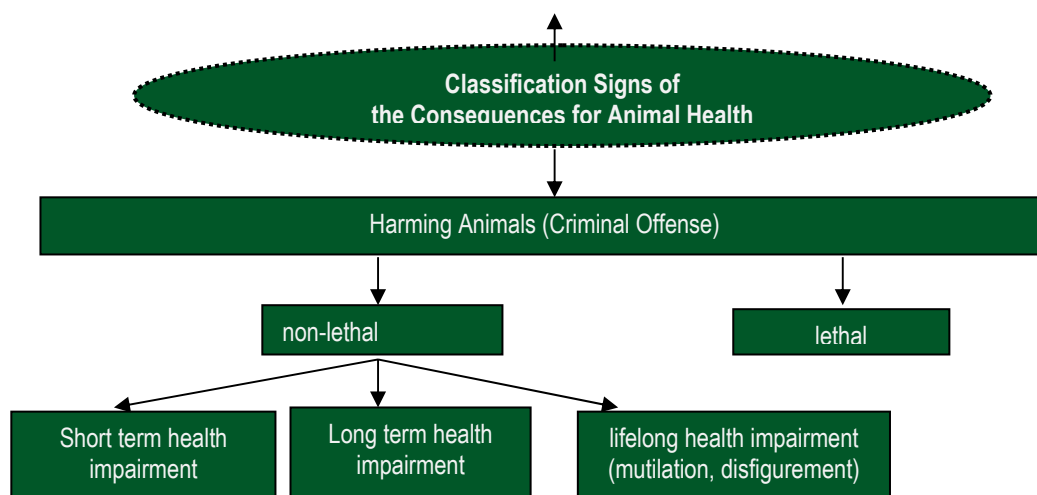
Abuse of an animal through the use of cruel methods is the infliction of particularly severe or extremely prolonged suffering on the animal, or in such a way as to indicate that there is no pity for the animal.

Titska LI (2012) gives such a generalized definition of the concept of abuse - a deliberate, ruthless act, which is directed against another person or against an animal and is characterized by such methods of influence on the organism, which result in harming life, health (human or animal).

According to V.V. Alexandrenko (2015), the term "bullying" means an unjustified task for a vertebrate sufficiently long-lasting pain, torment.

Analyzing the definition of "bullying", we conclude that they are evaluative because they do not indicate clear boundaries of action. So, when it comes to an "unjustified task for a vertebrate animal of pain" it is difficult to find the boundary between a "justified" and an "unjustified" task of pain. Another question arises, based on this definition, why the abuse of vertebrate animals alone constitutes a crime under Art. 299 of the Criminal Code of Ukraine, since invertebrates also have a nervous system at different levels of its evolutionary perfection, so they can also feel irritated by environmental factors, including negative ones that cause pain.

Figure 9. Classification signs of animal abuse by effects on animal health.



The essence of the term "torture" also includes evaluative, vague judgments, such as a long time of petting animals with hunger and thirst does not give a clear, unambiguous answer - a long time, what is the interval? In addition, there are no criteria for establishing the degree of pain (significant pain, excessive pain, etc.). In our opinion, the answer to these questions can be clarified by forensic veterinary expertise, based on the general biological laws of wildlife organization.

Mocking an animal can lead to health disorders, injury or even death of the affected animal (Figure 9). Such acts are subject to administrative or criminal liability.

Yes, administrative responsibility is for animal abuse, which is to abuse them, to cause beatings or other violent acts that caused the animal physical pain, suffering, and did not cause bodily harm, injury or death, including leaving animals intact, including violation of the rules of keeping animals.

Criminal liability for animal abuse is possible in the presence of at least one of two attributes: the use of cruel methods or a bullying motive.

The interpretation of the concept of "cruel methods" in the scientific and reference literature is ambiguous. Thus, according to V.V. Alexandrenko (2015), cruelty means "harshness, harshness, ruthlessness, rage; a heartless, ruthless act."

Yu. M. Antonyan (2014) notes that cruelty can manifest itself in various forms: deliberate, thoughtful, impulsive, conscious and unconscious.

AD Sitkovskaya (1999) draws attention to the fact that in assessing the nature of the cruelty, it is necessary to take into account the duration and intensity of violence combined with the helpless condition of the victim solely for the purpose of observing others' suffering. L.V. Golovko (2017), generalizing acts that constitute cruelty, understands by this concept the use of the most unacceptable, from the point of view of morality, methods of abuse with animals (influence of thermal factors, chemicals, etc.).

Classical legal sources provide information that the notion of "cruel methods" is characterized by particular, impudent cruelty (for example, painful killing, skinning a living animal, burning by mercury, burning the body with fire or gas, etc.). But nevertheless animals are able to feel physical and mental suffering, so any using of them should not be accompanied by causing pain, fear, depression or other discomfort (Zapara 2019).

Scientific and practical commentary to the Criminal Code of Ukraine (2001) explains that cruel methods of animal abuse are the use particularly painful methods (by fracturing limbs, torture, strangulation, groping of one animal by another, since one of them is subjected to significant physical pain from bites, skin damage, auricles, skeletal bone fractures, muscle trauma causing the animal to suffer significant pain).

In our perspective, the full and generalizable definition of the term "animal abuse" is as follows: "animal abuse is a socially dangerous, unlawful, guilty, punishable, intentional action, provisioned by the Criminal Acts deed of the subject of the crime, which is the deliberate encroachment of an established manner of keeping and treatment animals by applying ruthless mockery of an animal, using cruel methods or hooligan motives, setting animals against each other, committed for hooligan or selfish motives, causing a health disorder or death of an animal."

## Conclusions

1. The definition of the term "animal abuse" has been improved by referring to them in the author's editorial, which should influence their clearer scientific and practical understanding, in particular, "animal abuse is a socially dangerous, unlawful, guilty, punishable, intentional action, provisioned by the Criminal Acts deed of the subject of the crime, which is the deliberate encroachment of an established manner of keeping and treatment animals by applying ruthless mockery of an animal, using cruel methods or hooligan motives, setting animals against each other, committed for hooligan or selfish motives, causing a health disorder or death of an animal."

2. The subject of animal cruelty is the living creatures belonging to the animal kingdom with: bone spine, brain and spinal cord, nervous and circulatory systems, regardless of the ownership of the animal (private, state, communal), living conditions (in captivity), in natural habitats), productivity (productive and unproductive), places of detention (home, agribusiness, wild, zoo, homeless), uses (for entertaining, entertaining, cinematic, sports and special events; experimental, test) laboratory, research, treatment, euthanasia, educational process, production of biological preparations, reproduction, breeding, keeping, feeding, use, hunting, transportation, preparation for primary processing in slaughterhouses or meat-processing enterprises), age (young, mature, old), gender (males, females), victim status (helpless).

According to the animal's health consequences, animal abuse may cause: non-lethal damage to its health (short term, long term or lifelong health impairment (mutilation, disfigurement) or death.

## Acknowledgements

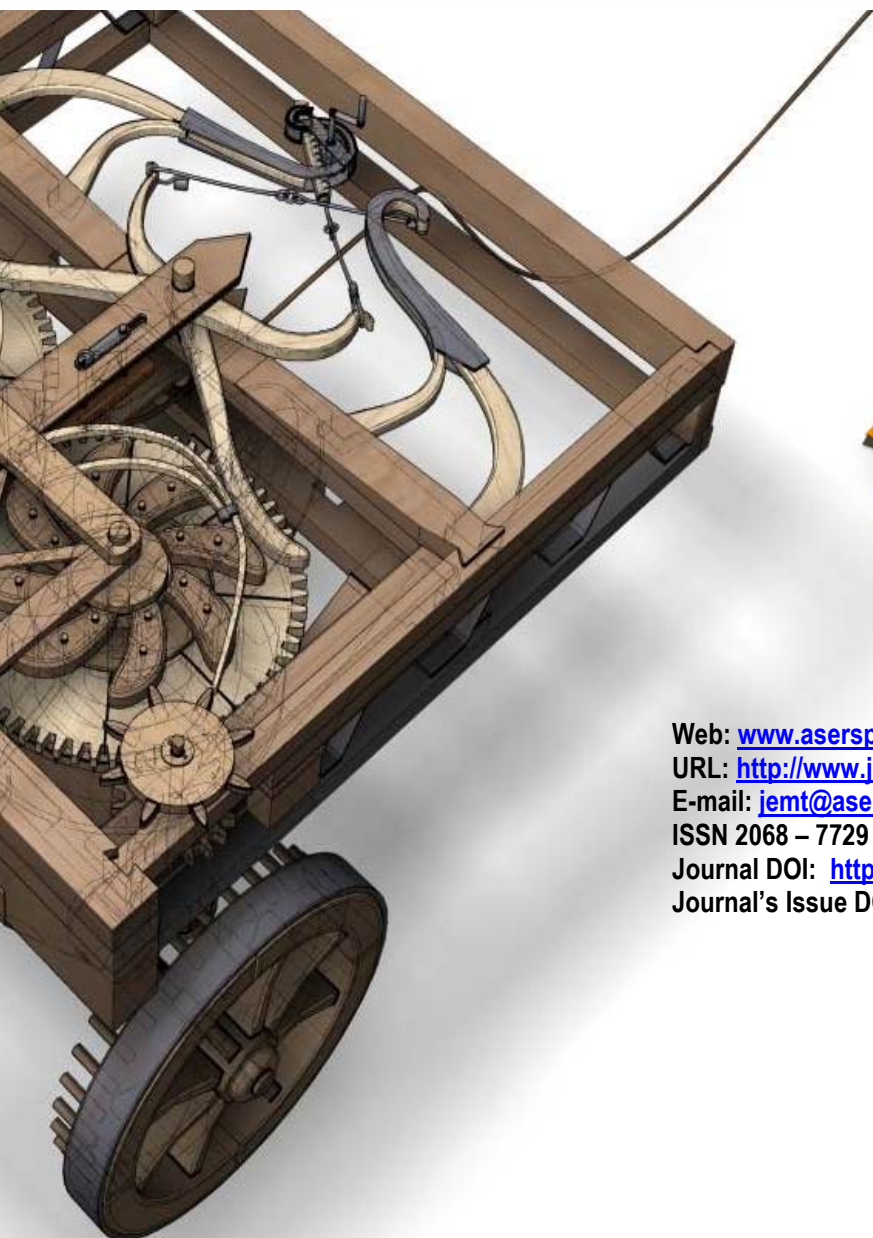
An article is prepared in the frames of the project for the young scientists of Ukraine of 2017 (project registration number 0117 U 006531) "Improvement of the legislation of Ukraine as to the provision of the protection of the banking in the conditions of European integration: economic and legal aspect".

## References

- [1] Akimoval, A. 2009. *Red Book of Ukraine*. Fauna. K.: Globalconsulting. - 600 p.
- [2] Aleksandrenko, V.V. 2015. The concept and methods of cruelty to animals. *Legal Science*, 6: 117-120.
- [3] Antonyan, Yu. M. 2014. *The identity of the offender. Criminological-psychological research: Monography* / Yu.M. Antonyan, V.E. Eminov. Moscow: Norm: SIC INFRA-M. - 368 p. Available at: <https://znanium.com/catalog/product/435940>
- [4] Boreyko, V. E. 2008. *Ethics and practice of biodiversity conservation*. 360 p.
- [5] Civil code of Ukraine. January 16, 2003. Verkhovna Rada of Ukraine. Available at: <https://zakon.rada.gov.ua/laws/card/en/435-15>
- [6] Criminal code of Ukraine. April 5, 2001. Verkhovna Rada of Ukraine. Available at: <https://zakon.rada.gov.ua/laws/show/2341-14?lang=en>
- [7] European Convention for the Protection of Animals kept for Farming Purposes/ Strasbourg, 10.III.1976. Available at: [https://ec.europa.eu/food/sites/food/files/animals/docs/aw\\_european\\_convention\\_protection\\_animals\\_en.pdf](https://ec.europa.eu/food/sites/food/files/animals/docs/aw_european_convention_protection_animals_en.pdf)
- [8] Golovko, L.V. 2017. *Course of criminal process*. 2nd ed. Moscow: Statute.
- [9] Grandin, T. 2015. *Improving Animal Welfare, 2 Edition: A Practical Approach*. CABI. ISBN 9781780644677.
- [10] Kudryavtsev, V.N. 2004. *General theory of crime qualification*. Moscow: Lawyer. 304 p.
- [11] Lockwood, R. and Hodge, G. 2015. "The tangled web of animal abuse: The links between cruelty to animals and human violence". *Readings in Research and Applications*: 77–82. Archived from the original on 23 June 2015.
- [12] Makarov, B.O. 2015. Criminal sanctions and their application for crimes against morality: the PhD thesis abstract in specialty 12.00.08 - Criminal Law and Criminology; Penitentiary Law. *Classic Private University*. Zaporizhzhia. - 20 p.
- [13] MykolaKurylo, A. K., Timchenko, G. and Gulyk, A. 2017. Banking in Ukraine as an object of criminal and legal protection. *Banks and Bank Systems*, 12(4): 114-120.
- [14] Nechiporuk, L.D. 2006. Separate aspects of the legal regulation of the objects of the animal world. *Scientific Bulletin of Uzhgorod National University. Series Law*, 6: 197-201.
- [15] On Fauna. Law of Ukraine. Law of Ukraine. Verkhovna Rada of Ukraine; Law № 2894-III. December 13, 2001. Available at: <https://zakon.rada.gov.ua/laws/show/en/2894-14/card4#History>
- [16] On the Protection of Animals from Brutal Treatment. Law of Ukraine. Verkhovna Rada of Ukraine; February 21, 2006. Available at: <https://zakon.rada.gov.ua/laws/show/3447-15?lang=en>
- [17] On Veterinary Medicine. Law of Ukraine. Verkhovna Rada of Ukraine; Law № 2498-XII, June 25, 1992. Available at: <https://zakon.rada.gov.ua/laws/show/2498-12?lang=en>
- [18] Repetsky, S.P. 2010. Social morality as an object of criminal defense: *Thesis for obtaining the PhD in Law degree on the specialty 12.00.08 – Criminal Law and Criminology; Penitentiary Law. National Academy of Internal Affairs*. Kyiv. - P.127
- [19] Rusanovsky, V.M. 2010. Dictionary of the Ukrainian language. In 20 volumes Ukrainian Language and Information Fund of NAS of Ukraine; Kiev: *Scientific Thought*, Vol. 1. A - B. 911 p.
- [20] Shumilo, O.O. 2015. Latent measurement of animal abuse in Ukraine. the Journal of Eastern European Law. *Journal of Eastern European Law*, 22: 126-130. Available at: [http://easternlaw.com.ua/wp-content/uploads/2015/12/shumilo\\_22.pdf](http://easternlaw.com.ua/wp-content/uploads/2015/12/shumilo_22.pdf)
- [21] Sitkovskaya, O.D. 1999. *Psychological Commentary on the Criminal Code of the Russian Federation*: Moscow: ZERZALO, 96 p.

- [22] Titska, L.I. 2012. Foreign experience regulation responsibility of the crimes with cruelty as a constituent element. *Scientific Bulletin of Lviv State University of Internal Affairs*, 1: 349-357.
- [23] Turskaya, V.O. 2014. The Problem of Separating Administrative and Criminal Liability for Cruelty to Animals. *Scientific Bulletin of the International Humanities University. Series: Jurisprudence*, 8: 250-253.
- [24] Zakharov, D.E. 2010. "Animals as objects of civil rights", Thesis abstract for Cand. Sc. (Jurisprudence), 12.00.03, Ural State Law Academy, Ekaterynburg, Russia.
- [25] Zapara, I. S., et al. 2019 Revisiting Legal Understanding of Wild Life as a Sustainable Value. The Case of Ukraine. *Journal of Environmental Management and Tourism*, 1(33): 14-21.  
DOI:[https://doi.org/10.14505/jemt.v10.1\(33\).02](https://doi.org/10.14505/jemt.v10.1(33).02)

# ASERS



 **ASERS**  
Publishing

Web: [www.aserspublishing.eu](http://www.aserspublishing.eu)

URL: <http://www.journals.aserspublishing.eu/jemt>

E-mail: [jemt@aserspublishing.eu](mailto:jemt@aserspublishing.eu)

ISSN 2068 – 7729

Journal DOI: <https://doi.org/10.14505/jemt>

Journal's Issue DOI: [https://doi.org/10.14505/jemt.v11.1\(41\).00](https://doi.org/10.14505/jemt.v11.1(41).00)