

Animal cruelty includes the improper management of dairy cattle. A case study

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Summary

Polish law protects animals kept by people from abuse and cruelty. At the same time, legal norms indicate the minimum requirements in which farm animals should be kept. This also applies to cows, and improper management on a farm can become a source of serious irregularities that will be detrimental to the health and life of cows, constitute a risk to public health and will be a crime. In this work, two opinions of a veterinary expert were examined using the case method. They were issued in preparatory prosecutorial proceedings. In the examined factual situations, drastic violations of the humanitarian minimum standards of keeping cows occurred. The common features of both discussed cases are keeping dairy cows to fatten them, failure to provide animals with hygienic and adequate housing conditions, an insufficient feed supply, lack of veterinary care, and finally – the unusual geographical proximity of both cases analysed can be indicated.

Keywords: veterinary forensic medicine, veterinary expert, penal law

Animal cruelty is a serious crime that is objectionable from an ethical and social point of view. Cases of cruelty to dairy cows are relatively rare, although when they do occur, they are exceedingly shocking. Most of these cases require an opinion from an expert in the field of veterinary sciences.

This study analysed two original cases in which veterinary expert opinions were issued concerning cruelty to dairy cattle. The basis for issuing the opinions was the prosecutor's decision during preparatory proceedings in criminal cases (20, 25). In both cases, a veterinarian was appointed as an expert to examine whether animals were subject to animal cruelty, as defined by the Animal Protection Act of 1997 (8, 24). However, the tasks of the veterinary expert were not limited to this, as the District Prosecutor's questions conditioned them (5, 22).

These cases are examined using the case study method. A legal interpretation methodology is used, and the legal status at the time of the actual events is accepted.

In the current study, various types of animal abuse are indicated, examined and commented on under the legal definition. In particular, malnutrition, dirt, disorder in the barn, and failure to provide veterinary care are assessed. The paper aims to discuss the normative definition of abuse using actual cases of this crime.

While general aspects of this crime are evident, the subsumption of certain behaviours may be questionable.

Results and discussion

The Polish Holstein-Friesian black and white cows (typical dairy cattle) were kept for fattening on both farms. Individual farmers ran both farms. The farms were located approximately 3 km from each other in Northern Poland. Although located in different communes, they were subordinate to the same Police Station within the same county. They were also subordinate to the same District Prosecutor and Court within the judicial district. The analysed cases were separated by a period of approximately 1.5 years.

Serious deficiencies in animal breeding and welfare disorders were revealed in both analysed cases. One of the cases concerned eminent cruelty exemplified in half-dead cows and carcasses which remained in the barn, although the reasons for this state of affairs on the farmer's side remain undetermined. The other case involved primarily neglect of nutrition and maintenance resulting from poverty and unawareness of the owner. The first case was solved shortly after being reported to the police, and the perpetrator's guilt was beyond doubt; however, in the second case, the proceedings lasted very

long, and the farmer was given numerous chances to improve the living situation of the animals before the Prosecutor decided to accuse the animal owner.

Case 1 – Factual situation. The cows on the first farm were not bred but bought as calves from various local farmers. The owner kept adult cattle in a confinement system on litter and calves aged eight weeks to four months in pens.

Until mid-December, the cattle were fed twice a day in the morning and evening (corn silage and hay), while from this period the owner took care of the animals once a day or less often. There were days when the cows received no fodder at all and only got water.

Around December/January, the calves began to die without visible disease symptoms. Despite this, the animal owner did not seek any veterinary medical help. Animals were subject to the owner's unprofessional treatment. No tests were performed, and no veterinary consultation or tests occurred. Illegally bought anti-inflammatory injections, antibiotics, calcium and multivitamin extract with water were administered (19, 21). In addition, the farmer did not report the deaths of calves to the Agency for Restructuring and Modernisation of Agriculture (abbrev. ARiMR) or the District Veterinarian. The dead animal carcasses were not removed from the farm or disposed of. They were not even buried, only left in the barn to rot.

At the beginning of February, one of the neighbours called the police. After entering the barn, the officers who intervened found pens with uncleared manure, containing a dozen calf carcasses in a state of progressive and advanced decomposition (including eight identifiable by ear tags and four without ear tags) (17), as well as nineteen live young bulls, whose condition indicated that they were malnourished and neglected. All the live animals were emaciated; their dimensions differed from the norm for their age, and they were covered in manure. Some were lying down, had locomotory problems or overgrown hooves.

Due to the late evening hours, a more detailed inspection was carried out the following day. The District Veterinarian participated in the inspection. In addition to those mentioned above, live and dead cows were covered in mould, and the barn contained un-removed manure over 40 cm high. A lack of fresh bedding, a general mess, and scattered equipment were revealed. A more thorough search revealed a live cow lying and buried up to its head in manure. After being dug out of the manure, the animal tried to stand up but could not and fell over. Large quantities of animal feed, silage, haylage, bales and hay were found on the farm.

At the request of the District Prosecutor, a necropsy was performed on one of the bulls. The dissection revealed pressure sores, wasting, traumatic inflammation of the reticulum and peritonium, and purulent pericarditis. Based on the results of the post-mortem examination, it was stated that the primary cause of death of this individual was traumatic inflammation of the reticulum

and peritonium (*reticuloperitonitis traumatica*). As a result of perforation by a foreign body (a nail) of the wall of the reticulum and the diaphragm, the peritoneum became infected, and the nail was displaced towards the heart, which led to the accumulation of pus in the pericardial sac (*pyoperocardium*).

The case was evident, but the Prosecutor wanted to obtain a veterinary expert's opinion to support observations before referring the indictment to the District Criminal Court. The opinion was issued shortly after the crime was revealed.

Case 2 – Factual situation. Twelve milking cows, three dry cows, eight heifers, six fattened cattle, and thirteen calves (forty-two) were kept on the second farm. The animals were kept both without a leash, on deep litter (calves), and without a leash (adult cows, heifers and fattened cattle), and went out to pasture. The farmer kept solely own-breed cattle.

The first intervention took place on call and was an inspection by the municipal guard (at the beginning of September); the intervention aimed to check the herd's condition. The cows on the pasture and the five calves in the pen had water and food. The calves were a bit emaciated but not very thin, and the cows were not emaciated. Before the inspection activities began, the bodies of three cattle (fattening cattle) aged about fifteen months were removed from the farm (the animals strangled themselves on the chains they were tied to).

Then, after about two or three weeks, the District Veterinary Inspection conducted inspections twice, with an interval of four days (the inspectors treated these as one inspection, with a four-day break). They were carried out by a senior veterinary inspector for animal health and protection (veterinarian) and an inspector for animal welfare and identification and registration (MSc. Eng. in animal husbandry). The inspection was documented in official „SPIWET" protocols: „Checklist – Farms (Animal Welfare)" and „Checklist – Farms Where Animals Are Kept (Cattle)" (14, 16, 18, 24).

The protocols revealed a discrepancy between the number of cattle on the farm and the data from the ARiMR (there were forty-two cattle on the farm, ten fewer than the official records data) (15).

The cow stalls were found to be too narrow and not cleaned, there was a layer of manure about 50 cm thick in the pens where the calves were kept, the animals were covered in excrement, and there was no constant access to water (cracked troughs with no traces of water).

Irregularities were indicated, such as the lack of constant access to water for the calves. The animals were fattened in the barn, calves with symptoms of diarrhoea were not separated from the other animals, and the cattle were not fed twice a day. This irregularity was indicated based on the assessment of the cattle's condition. The nutritional status of the calves was satisfactory, while the condition of the remaining cattle was described by the inspectors as poor to very poor.

In addition, the protocols included the following comments and reservations: lack of treatment records

from the previous 3 years (the inspectors were shown treatment cards from 4 years ago and from a few weeks before the inspection, from the beginning of September), which was interpreted as a lack of documented veterinary care. The farm was found to have no stock of animal feed. There were only small amounts of straw and hay, an incomplete bag of concentrated feed for fattened cattle (25 kg), a pile of wet beet pulp, and no other bulk and concentrated feed.

The next inspection by the Veterinary Inspectorate took place after another week, escorted by the municipal guard. The animals were thin but had access to water and feed, and for the first time, a stock of feed was observed on the farm.

Further inspections by the municipal guard took place after another two and four weeks, but the condition of the animals was not assessed at that time.

The next inspection was carried out after another two weeks (in November) – the inspection aimed to see whether the cattle were still outside or already in the barn. During the investigation, it was found that all the cows and calves were in the barn, and none were outside. The animals had bedding, food, water, and ample hay and feed on the property.

Such frequent inspections were aimed at checking the behaviour of the animal owner and the actions undertaken to improve the condition of the animals.

The owner assured that the cows were systematically and regularly fed. The shortages of feed resulted from the shortage and lack of money. The owner knew the cows were getting much less food than they should have been, but he could not guarantee the appropriate amount of feed for economic reasons. It was maintained that veterinary care should be provided when observing pathological symptoms (but no such symptoms have been noticed by the owner so far).

Despite these explanations, considering the results of the numerous inspections mentioned, the District Prosecutor decided to start criminal proceedings due to animal cruelty – a violation of the law in keeping animals. The Prosecutor's decision to present charges against the animal owner was made at the end of December of the year, and the announcement of the charges at the beginning of March of the following year. The opinion was issued a year later based on the case files.

Legal commentary. The facts revealed during the criminal proceedings and opinion-making demonstrated many common features, such as a lack of food for cows, appalling hygiene and living conditions, a lack of veterinary care and other scopes of poor farm management in both cases analysed (14). Different acts and omissions within the meaning of the legal definition of animal cruelty were observed.

As indicated, the highly close location of the farms that were the subject of the investigation and opinion-making process is symptomatic.

On the one hand, their proximity and many common features established during the analysis of both cases

indicate that local public authorities, such as the Police, Prosecutor or District Veterinarian, take the problem of animal cruelty in farm animals seriously. In addition, these authorities used the services of the same expert twice, which may indicate the great recognition enjoyed by this expert. After examining the first case, the impressions were so positive that it was decided to ask the same veterinary specialist again for an expert opinion in the second case.

On the other hand, based on these connections and similar reports, another disturbing regularity can be assumed. Perhaps one should consider that in this particular area, some distorted models of breeding animals, such as dairy cows, have been adopted. Maybe this area is characterised by insufficient knowledge and awareness of farmers, and public authorities should devote a lot of time and energy to public education on the issue of keeping, feeding, and veterinary care, as well as other animal needs and compliance with legal obligations.

For further consideration of the analysed cases, it is necessary to thoroughly understand two fundamental legal norms: first, the legal definition of animal cruelty, and second, the minimum conditions for keeping cattle according to Polish law.

Scope of animal cruelty under the Animal Protection Act, 1997 (24). Humane treatment of animals is the opposite of animal cruelty and abuse. This positive value should be understood in the light of applicable legal norms as a treatment that considers the animal's needs and provides it with care and protection. It is, therefore, a legal asset considered significant enough for its violation to be punishable by administrative and criminal means (7).

This concept includes care, i.e. all aspects of the relationship between humans and animals, in particular the material and non-material resources activated by humans to achieve and maintain the physical and mental state of the animal in which it best tolerates the living conditions imposed by humans. An equally important aspect is the proper living conditions – by which we mean providing the animal with the possibility of existence following the needs of a given species, breed, sex, age, production and utility group.

As already indicated, at the opposite end of the spectrum is animal cruelty, which, in the light of the statutory definition (24), means inflicting or consciously allowing pain or suffering to be inflicted. Therefore, a criminal act (action or omission) can be committed with both direct and eventual intent.

An element of animal cruelty is cruel treatment – that is, any action by any person leading to negative consequences for the animal in the form of pain or suffering. Gross negligence is a drastic deviation from the rules of conduct with animals specified in the provisions of law, particularly in the scope of keeping the animal in a state of starvation, dirt, untreated disease, in an inappropriate room and excessively cramped (11).

The cases of animal abuse listed in Art. 6 sect. 2 of the Animal Protection Act (24) are only examples and

do not exhaust the scope of prohibited practices: it is an open catalogue. The authors negatively assess such legislative practice. It is contrary to the principles of proper legislation and legal logic. Even more importantly, it is contrary to the basic rules of criminal law, which state that a crime must be a legally specified prohibited act. In contrast, analogous and expansive interpretations are not permitted. In connection with this, it is postulated that the provision of the act be changed so that it becomes a general and abstract legal norm.

An interesting element of the dogmatic construction of the provisions of the analysed statutory act is the dual nature of these norms.

The administrative and criminal nature of the act overlap. At the same time, they are administrative regulations: e.g., allowing the removal of an animal in a specific administrative procedure where the competent body is the mayor of the commune or the mayor of the city, but also penal regulations that define crimes and are applied by criminal courts. This factor also affects the interpretation of legal norms in animal protection.

Moreover, due to the subject of the analysed cases, it should be noted that specific behaviours towards calves are explicitly prohibited: although these prohibitions are not absolute and without exception (3, 24). It is prohibited to keep calves over 8 weeks of age in individual boxes on farms where at least six calves are kept simultaneously and on a leash, except for feeding time, which should last no longer than one hour.

It should be noted that the Animal Protection Act, apart from prohibitions and penalisation of cruelty and unlawful killing of animals, also requires positive actions. According to Art. 12, anyone who keeps farm animals is obliged to provide them with care and appropriate living conditions, and these conditions cannot cause any injuries, bodily harm or suffering (24).

Minimum legal conditions for keeping cattle. The minimum conditions that must be ensured for cattle kept are generally specified in Polish implementing regulations (16, 18). There are separate norms for calves and adult cattle.

According to the applicable legal acts, calves can be kept in an open system or indoors (in a pen individually or in a group). As a rule, only young calves, up to eight weeks of age inclusive, can be kept separately in pens. However, on farms where fewer than six calves are kept simultaneously, they can be kept in single pens, regardless of age.

Pens should have openwork walls to allow the animals to have visual and physical contact, and the place to lie down should be comfortable, clean and dry. The size of the pen should be: width – equal to at least the height of the animal's body at the withers; length – equal to at least 110% times the length of the body measured from the tip of the nose to the caudal edge of the ischial tuberosity.

Animals kept in livestock rooms should be inspected at least once a day. Calves' feed over two weeks of age

should include fibrous feed, with the amount of feed for calves from eight to twenty weeks of age increasing from 50 to 250 g per day. Calves' feed should contain enough iron to ensure a haemoglobin level of at least 4.5 millimoles/litre in their blood.

For cattle over six months of age, legal requirements stipulate that animals are kept tethered or free to move in buildings or on pastures.

In the system of keeping fattened cattle tethered, the dimensions of the stall should be as follows. For fattened cattle weighing up to 300 kg: length – at least 1.3 m, width – at least 0.8 m; for fattened cattle weighing over 300 kg: length – at least 1.45 m, width – at least 0.95 m.

Adult cows are inspected at least once a day, and those kept on a leash are fed at least twice daily. All cattle are provided with constant access to water. Calves over two weeks of age must have continuous access to water of good microbiological and physicochemical quality (intended for human consumption); they are fed at least twice a day.

All cows must be kept in conditions that are not harmful to their health and do not cause injuries, bodily harm or suffering, provide them with freedom of movement (in particular, the ability to lie down, stand up and lie down) and enable visual contact with other animals. In the indoor method of keeping cows of all ages, the premises must be cleaned and disinfected, and the equipment used must be made of materials that are not harmful or unhealthy and are suitable for cleaning. The floor should be tricky, even, and stable, and its surface should be smooth and non-slip. The premises must be protected against flies and rodents. Artificial light or access to natural light is required. Excrement and uneaten feed residues must be removed from the premises where such animals are kept, often enough to avoid the release of unpleasant odours and contamination of feed or water.

Problems on cattle farms that are classified as animal cruelty and their impact on animal health. In the following part of the work, problems on farms classified as animal cruelty and their impact on cows' health will be indicated.

The fundamental problem in both analysed cases is the improper use of animals. This is a problem of the most general nature, which can remain somewhat in the shadow of the drastic abuse of hygiene, the horrific condition of the premises, insufficient nutrition, and improper nutrition revealed in both cases. Nevertheless, in the authors' opinion, it remains key and fundamental to the assessed criminal cases.

The Polish Holstein-Friesian cow breed of the black and white variety has a typical dairy utility. Meanwhile, the purpose of keeping the cattle in both analysed cases was to fatten them.

Dairy cattle kept for fattening cannot receive appropriate conditions for feeding and maintenance; they do not receive a sufficient feed ration or amount of water and are not as resistant to the conditions of the external

environment as beef cattle. The key is the factual, scientific and legal differences in the requirements that must be met when keeping dairy cattle – and the requirements in which fattened cattle are kept as beef cattle (10). In light of the legal norms (18, 24), the type and amount of feed used must be adapted to the animal's physiological state, body weight and use. Violating these basic principles already meets the above-mentioned features of a prohibited criminal act prohibited by and punished under the Animal Protection Act (24).

Nevertheless, as indicated, many other specific features of the prohibited act of animal cruelty were identified in the analysed cases.

In light of the evidence collected, probably the death of the dozen cattle whose carcasses were discovered in the first case was caused by improper feeding and lack of proper care. Moreover, these factors coincided and lasted for an unspecified time, but not less than two months.

Undoubtedly, cattle were bred at the first farm in conditions and in a manner that did not meet the requirements for this type of activity, and the deficiencies were drastic and multi-faceted. The improper method of breeding consisted primarily of health-harmful conditions, which could cause injuries and bodily harm (e.g. equipment lying around in the barn, unsecured elements of barn equipment); failure to clean and disinfect the room in which the cattle were kept; wet and dirty stalls; inability to maintain the technical condition of barn equipment. Excrement, leftover feed or carcasses were not removed from the barn.

The evidence in the first case clearly indicates that the cattle, including calves, were fed too rarely and infrequently (once a day and sometimes not even fed for 24 hours). No feed suitable for calves was found at the first farm, and other evidence also indicates that they were fed inappropriately (feed unsuitable for young animals).

In addition, keeping some of the calves in pens individually was also a violation of the law – even though they were over eight weeks old. In addition, the statutory definition of cruelty and abuse is also met by the fact that care procedures were not carried out (such as hoof trimming and cleaning the fur) and the failure to provide the animals with veterinary medical assistance.

According to the statutory definition, the cattle were not treated humanely on the first farm. They were kept in a state of gross neglect and sloppiness, starvation and dirt, as well as a vast microbiological risk due to the decomposing carcasses.

All the abuses and illegalities identified in the first case analysed were drastic, noticeable and manifested.

Although the evidence gathered in the second case indicates that cattle were kept in conditions and in a manner that did not meet the requirements specified for this type of activity, these irregularities were not immediately visible. Their permanent nature and lack of expected improvement were decisive.

The improper method of breeding consisted primarily of keeping cattle in conditions that were harmful

to their health, which could cause injuries and bodily harm (a thick layer of manure in calf pens meant that the animals could not move freely and assume a natural body position; failure to remove manure caused the barriers in the pens to be significantly lowered, which could lead to injuries; too narrow tethering positions also posed a risk to the health of the animals), and in extreme situations could result in loss of life. Failure to clean and disinfect the premises and remove excrement and manure was also revealed. The cows were kept in gross neglect, sloppiness and dirt.

Another glaring irregularity in the second case was feeding cattle, including calves, too little fodder. The amount of bulk feed collected and fed did not provide a sufficient dose for the number of livestock kept, the amount of concentrated feed was symbolic and low quality (e.g. wet beet pulp), and the cattle did not have constant and free access to drinking water.

As already mentioned, numerous inspections in the second case found that the condition of most animals was poor to very poor. The cows were emaciated, with visible signs of malnutrition: clearly outlined rib lines, clearly visible spinous and transverse processes of the vertebrae, all bone tumours visible, sunken hunger pits, and minor muscle and fat tissue. Heifers and fattened calves' height and body weight were too small for their age. The cows' malnutrition was also evidenced by their low milk yield (around 7 litres of milk/day). This state of the animals indicates they were not provided with the appropriate amount of feed.

Similarly to the first case, the failure to provide veterinary care in the second case may also be classified as animal cruelty.

The death of the animals on the second farm was probably caused by improper feeding and lack of necessary care. These factors co-occurred and lasted for an unspecified period, at least 1/2 year.

To sum up the latter case, all the conditions in which the cattle were kept on the farm posed a threat to the health and life of the animals and undoubtedly constituted cruelty in light of the statutory definition.

As indicated, in this case, the conditions in which the suspect kept the cattle, the method of feeding, the scope of care provided, and the lack of medical and veterinary assistance needed to be permanent. Despite the time given to the owner to improve the situation and numerous inspections verifying the progress of changes, such improvement was not observed. The only noticeable difference was a temporary improvement in how the cattle were fed due to pasture use, but this was a short-term change and insufficient.

In both analysed cases, all the discussed factors led to the accusation of the animal owners of animal cruelty crime. Criminal procedure in which analysed veterinary expert opinions were prepared constituted a part of the criminal prosecution preparatory proceedings and was followed by proceedings before the District Criminal Court (25).

Other violations of the law. In addition, it should be noted that the reported crimes against animal welfare manifested additional situations inconsistent with other statutory regulations from various areas of broadly understood veterinary law.

In both cases, gaps and irregularities in the documentation were identified. Veterinary documentation was not kept in both cases because veterinary services were not used. In both cases, there was also a failure to comply with animal identification and registration requirements. While in the second case, the missing ten animals were sold without registration, in the first case, several dead animals did not have ear tags at all, and no deaths were reported. Both cow owners did not comply with the statutory obligation to report to the ARiMR (9, 13, 23).

In the first case, the obligations of the cattle owner, which is to inform the District Veterinarian about each case of cattle death, were also not fulfilled, primarily when the death occurred unexpectedly and without previous clinical symptoms. In addition, the analysis showed that, in this case drugs of illegal origin were used independently and contrary to the law (6). Other drugs cannot be used without consulting a veterinarian and without at least a clinical examination of the cows.

The provisions of the law regarding the disposal of carcasses (1, 2, 12), which posed an outstanding microbiological risk to animal health and public health, were also violated in the first case. In addition, other provisions regarding basic hygiene principles and biosecurity (4) were not complied with in both cases.

Summation

Imperfect cattle management is unacceptable under legal standards, involves unnecessary animal suffering, and leads to criminal proceedings for perpetrators who commit such acts. The law does not accept drastic violations of the conditions of feeding and keeping cows and minor irregularities that negatively affect the fate of the animals being bred. The study indicates that the broad statutory definition of animal cruelty improves animal welfare. However, improving the statutory definition of the crime is necessary to remove even the slightest temptation to interpret this provision analogously and extensively, which would be unconstitutional and illegal – even if it were substantively and technically justified.

The cases analysed allowed the veterinary expert to reveal serious violations of veterinary law and the law protecting animals against inappropriate human behaviour. Veterinary expertise provided significant assistance in the criminal proceedings conducted by the prosecutor, constituting the basis for the evidence assessment and discussion, as well as procedural arguments for the state plaintiff. Although the cases investigated condemn the acts committed by the perpetrators, they also affirm the work of a veterinarian as an expert in serving public authorities in prosecuting crimes and improving the lives of farm animals.

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