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Country report: an overview of animal protection in Latvia

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SOMMARIO: **1.** Introduction. - **2.** Animal protection framework. - **3.** Protection afforded to animals. - **3a.** Protection of Animals Kept for Farming Purposes. - **3b.** Protection of Pet Animals. - **3c.** Protection and Welfare of Sport, Work and Exhibition Animals. - **3d.** Protection of Experimental Animals. - **3e.** Protection of Wild Animals. - **4.** Animal protection, informative obligations, oversight enforcement. - **5.** Conclusion.

1. Introduction

With regard to the protection of animal rights in Latvia, a threefold mechanism applies. First, Latvia has acceded to several treaties that are relevant for the protection of animal rights, and these treaties upon ratification prevail over the national law.¹ Second, Latvia as part of the EU is bound by the EU legal framework with regard to animal protection. Third, Latvia has further used its legislative competence to implement its international law commitments, to transpose or specify relevant EU law, as well as for further autonomous regulations. This country report aims to provide an overview of animal protection in Latvia as granted by the national law (Acts of the Parliament and Regulations

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¹ Among those are, for example, the treaties concluded under the auspices of Council of Europe, such as European Convention for the Protection of Animals kept for Farming Purposes (ETS 87, 1976). European Convention for the Protection of Animals for Slaughter (ETS 102, 1979). European Convention for the Protection of Vertebrate Animals used for Experimental and other Scientific Purposes (ETS 123, 1986). European Convention for the Protection of Pet Animals (ETS 125, 1987).

of the Cabinet of Ministers). First, it introduces the general framework for the protection of animal rights in Latvia. Then, it considers the protection of certain categories of animals, provides information regarding oversight and enforcement of the animal protection requirements, as well as liability for violating the afforded protections to animals, which is exemplified with case law. In the concluding part, this country report provides insights into the expected changes in the animal protection framework in Latvia.

2. Animal protection framework

The primary national legal act for the protection of animals in Latvia is the Animal Protection Law, which was enacted in December 1999 and came into effect on January 1, 2000. It sets out the rights and obligations of a person within the sphere of animal protection and welfare,² which can further be specified in the Cabinet of Ministers Regulations³ or Binding Regulations of Municipalities.⁴ Currently, there are 29 different Cabinet of Ministers Regulations that delineate provisions of the Animal Protection Law and Regulations of 7 municipalities which further delineate rules on keeping pets in the respective municipalities.

The Animal Protection Law seeks to ensure welfare and protection of animals by setting out rules on keeping, treating and using animals, as well as defining rights and obligations, and setting up mechanisms for ensuring animal protection and welfare through information and awareness-raising, regulatory and compliance oversight, and law enforcement. As emphasized by the Constitutional Court of the Republic of Latvia, the legal obligations that are defined in the Act shall not be read in isolation from its preamble, which relatively uniquely⁵ sets out an ethical obligation towards animals.⁶ It states that:

“The ethical obligation of humankind is to ensure the welfare and protection of all species of animals, because every unique being is in itself of value. A human being has a moral obligation to honour any creature, to treat animals with empathic understanding and to protect them. Without a substantiated reason no one is permitted to kill an animal, to cause it pain, create suffering or to otherwise harm it.”

² Section 2, Animal Protection Law, “Latvijas Vēstnesis”, 444/445 (1904/1905), 29.12.1999.

³ Delegation to the Cabinet of Ministers is set forth in Article 10, as well as in 24. two prim. The delegation is limited to the scope set forth in Animal Protection Law.

⁴ Section 8.3 and 8.4, Animal Protection Law (n 2) can serve as delegation grounds.

⁵ Michael Bowman, Peter Davies, Catherine Redgwell ‘Lyster’s International Wildlife Law’, 2nd edition, CUP, 2010, p.674.

⁶ Case No.2002-01-03, Constitutional Court of the Republic of Latvia, 20 May 2003.

The primary obligations for animals are with their owners, except as otherwise specified in law,⁷ for example, animal keepers (when the owner has entrusted an animal to another person or when an animal is in the possession of a person in any other way).⁸ Thus, a person who is looking after an animal temporarily can be held liable if during that time laws relating to animal protection are violated and the violation is attributable to the keeper. Among the owner's responsibilities are over the health, welfare and use of an animal in accordance with its species, age and physiology; preventing the possibility of injuries and not subjecting it to pain and suffering; ensuring that society displays a favourable attitude towards the animal in the possession of the owner; and ensuring that the animal does not disturb or threaten human beings or other animals. The owner is also responsible for uncontrolled animal reproduction; ensuring the compliance of animal-keeping conditions, equipment, food and water with its physiological and ethological needs by taking into account the species of the relevant animal, degree of development, adaptation and domestication, as well as with due regard to the physiological and ethological needs of an animal, ensuring physical activity for the animal unless the animal has limited movement, in which case sufficient area to keep it in. Should the owner have a cat, which is sterilised and lives in a city or rural inhabited territory near dwelling houses, the cat shall be clearly marked.⁹ These obligations are subject to a considerable enforcement mechanism which is delineated below in section 4. With regard to the enforcement of these obligations, the owner has a further duty upon request of a competent authority to present an animal immediately for inspection, its place of keeping, as well as the animal's passport or vaccination certificate and other documents related to it.¹⁰

3. Protection afforded to animals

The law sets out provisions that relate to all animals (for example, regarding animal sanctuaries and animal boarding facilities, treatment and killing, as well as transportation), defines certain prohibitions (for example, acquisition and possession of certain animals unless exemptions apply), restricts the use of surgically modified pets for competition or commercial purposes, as well as detailed protection requirements for specific animal groups. Under Animal Protection Law, animals are divided into two groups: 1) wild animals which includes "game animals" or animals that are intended for hunting and "non-

⁷ Section 5.1, Animal Protection Law (n 2).

⁸ Section 5.4, Animal Protection Law (n 2).

⁹ Section 5.2, Animal Protection Law (n 2).

¹⁰ Section 5.2, Animal Protection Law (n 2).

game animals” or those not intended for hunting; and 2) animals bred in captivity which includes farm animals; pet animals; sport, work and exhibition animals; experimental animals; animals kept in zoos; and animals of wild species kept in a specifically registered place.¹¹ Protection for different animal groups is considered below.

3a. Protection of Animals Kept for Farming Purposes

Animals kept for farming purposes are those animals that are bred and kept for the acquisition of products of animal origin or for other agricultural purposes, including an animal of wild species kept in an enclosed area and an animal obtained by the methods of genetic modifications. The law restricts keeping animals of wild species in enclosed areas for the acquisition of products of animal origin or for other farming purposes and only in accordance with the procedures laid down in laws and regulations,¹² whereas for other animals that are kept for farming purposes, such a restriction is not defined. Instead, only compliance with the rules on welfare needs to be ensured.¹³ In practice, however, requirements for keeping animals of wild species for farming purposes are not overly-restrictive and appear to be limited to registration requirements¹⁴ and addressing predominantly the limits of fenced areas.¹⁵ However, for keeping, for example, calves and pigs, as well as different types of birds and fish, detailed specific welfare regulations must be observed.¹⁶

¹¹ Section 3, Animal Protection Law (n 2).

¹² Section 13, Animal Protection Law (n 2).

¹³ Cabinet of Ministers Regulation No. 5 Adopted on 2 January 2008 “General Welfare Requirements for Farm Animals”.

¹⁴ Regulations of the Cabinet of Ministers Arrangements for keeping wildlife animals 21.12.2010 (into effect 01.01.2011) “Latvijas Vēstnesis”, 204 (4396), 28.12.2010.

¹⁵ Regulations of the Cabinet of Ministers Procedure for the keeping of animals of animal origin for the purpose of harvesting or breeding species for breeding in fenced areas and requirements for the installation of such areas 04.01.2011 (into effect 07.01.2011) ”Latvijas Vēstnesis”, 3 (4401), 06.01.2011.

¹⁶ Regulations of the Cabinet of Ministers Welfare Requirements for Keeping and Use of Chicken for Meat Production 02.02.2010 (into effect 01.07.2010) “Latvijas Vēstnesis”, 21 (4213), 05.02.2010. Regulations of the Cabinet of Ministers Calf Welfare Requirements 02.09.2003 (into effect 06.09.2003) “Latvijas Vēstnesis”, 121 (2886), 05.09.2003. Regulations of the Cabinet of Ministers Welfare requirements for keeping goose, duck and musk spit 06.07.2010 (into effect 01.01.2011) “Latvijas Vēstnesis”, 108 (4300), 09.07.2010. Regulations of the Cabinet of Ministers Welfare Requirements for Keeping and Use of Chicken for Meat Production 02.02.2010 (into effect 01.07.2010) “Latvijas Vēstnesis”, 21 (4213), 05.02.2010. Regulations of the Cabinet of Ministers Regulations Regarding Welfare Requirements of Laying Hens and Procedures for Registration of Establishments Keeping Laying Hens 07.07.2009 (into

The owner of an animal is obliged to take good care of it, and should an animal for farming purposes become ill or injured, it shall immediately be ensured the necessary care and a practising veterinarian shall be invited for the provision of medical aid,¹⁷ which is different from the general obligation towards other types of animals where the law requires providing care to an ill or injured animal and leaves discretion for deciding on whether to take advice from a practising veterinarian.¹⁸ This means that the owner of animals kept for farming purposes is not permitted to rely on previous knowledge or experience on the health of an animal, and provision of professional veterinary care must be provided on all occasions of ill health.

3b. Protection of Pet Animals

A pet animal is an animal that is kept by a human being for his or her pleasure. The Cabinet of Ministers Regulation sets out detailed welfare requirements for the holding, sale and display of domestic animals in public exhibitions, as well as dog training.¹⁹ With regard to pet animals, it is prohibited to use them for haulage work (except for breeds of dogs suitable for this purpose, in special harness), to breed and use them for the acquisition of food and furs,²⁰ or to subject them to surgical interventions for non-medical purposes, except for when a practising veterinarian has prescribed the intervention or a tail is being docked from one of those dog species explicitly defined in law.²¹ This means that the law currently leaves considerable discretion to the veterinarian in deciding on non-medical surgical interventions. In practice, this discretion does not appear to have caused concern about unethical use of this discretion.

3c. Protection and Welfare of Sport, Work and Exhibition Animals

The law does not place restrictions on which animals can be regarded as sport

effect 15.07.2009) "Latvijas Vēstnesis", 110 (4096), 14.07.2009. Regulations of the Cabinet of Ministers Welfare Requirements for the Keeping and Killing of Live Fish at Retail Trade Sites of Food Undertakings 13.12.2005 (into effect 01.01.2006) "Latvijas Vēstnesis", 201 (3359), 16.12.2005.

¹⁷ Section 14, Animal Protection Law (n 2).

¹⁸ Section 7, Animal Protection Law (n 2).

¹⁹ Regulations of the Cabinet of Ministers Welfare requirements for the holding, sale and display of domestic (indoor) animals in public exhibitions as well as dog training 04.04.2006 (into effect 12.04.2006) "Latvijas Vēstnesis", 58 (3426), 11.04.2006.

²⁰ Section 17, Animal Protection Law (n 3).

²¹ Section 18, Animal Protection Law (n 2).

or work animals provided that they are lawfully kept and the person concerned has relevant knowledge of the training and keeping of the respective species, as well as in regard to competitions involving animals the Food and Veterinary Service is notified,²² and welfare requirements set out in the Cabinet of Ministers Regulation are met²³. With regard to attraction animals, in the wake of public scandals concerning violence in circuses, in 2017 the Parliament of Latvia amended the Animal Protection Law by prohibiting the training of and use of wild animals as exhibition animals (an animal which is kept for display to the public for public entertainment or educational purposes, as well as a circus animal, except for an animal which is kept in a zoo).²⁴

In selecting an animal for sport, work and exhibition purposes, the law mandates taking into consideration the type of use, conditions of use and the carrying out of intended functions,²⁵ as well as prohibits the use of medical enhancement substances.²⁶

3d. Protection of Experimental Animals

From July 13, 2017, the protection of experimental animals has been strengthened in the national regulatory framework. The law sets out some general principles, such as reducing the use of animals for research in all circumstances when it is possible to do so.²⁷ In order to further replace, reduce and improve the use of animals used for scientific purposes in experimental projects, as well as to promote improvement of the conditions for the accommodation and care of animals, a specific committee was established.²⁸ Furthermore, the law sets out an obligation on persons involved in breeding, supplying and using experimental animals.²⁹ These persons are under an obligation to improve the methods of breeding, keeping, care and procedures of the animals in order to eliminate or minimize any possible pain, suffering, distress or lasting harm to animals.³⁰

²² Section 19 and 23, Animal Protection Law (n 2).

²³ Regulations of the Cabinet of Ministers Welfare Requirements for the Keeping and Training of Sport, Work and Exhibition Animals and Use Thereof in Competitions, Work or Exhibitions 20.12.2005. (into effect 01.03.2006). "Latvijas Vēstnesis", 206 (3364), 23.12.2005.

²⁴ Section 27 prim, Animal Protection Law (n 2).

²⁵ Section 21, Animal Protection Law (n 2).

²⁶ Section 22, Animal Protection Law (n 2).

²⁷ Section 23 prim, Animal Protection Law (n 2).

²⁸ Section 26 prim three (2), Animal Protection Law (n 2), Regulations of the Cabinet of Ministers, By-laws of the Committee for the Protection of Animals Used for Scientific Purposes, 10.03.2015 (into effect 14.03.2015) "Latvijas Vēstnesis", 52 (5370), 13.03.2015.

²⁹ Section 23 two prim, Animal Protection Law (n 2).

³⁰ Section 23 two prim, Animal Protection Law (n 2).

Defining a negative list of situations under which it is prohibited to use animals for scientific experiments allows situations to be delineated when such use in principle can be possible. The prohibited uses involve using animals if there exists another scientific method or testing strategy which is not related to the use of live animals and using animals which belong to internationally protected endangered species. Although animals taken from the wild, non-human primates, as well as stray and pet animals are listed in the negative list, nonetheless, the law allows using them in research procedures as further elaborated in the Rules of the Cabinet of Ministers.³¹ In addition, the law sets out situations when it is allowed to use an experimental animal in procedures if the purpose thereof is basic research; translational or applied research with aims strictly defined in law; the development, manufacture or testing of the quality, effectiveness and safety of medicinal products, foodstuffs, feed-stuffs and other substances or products; protection of the natural environment in the interests of the health or welfare of human beings or animals; research aimed at preservation of animal species; higher education, or training for the acquisition, maintenance or improvement vocational skills; as well as for forensic inquiries.³² Furthermore, these experimental procedures shall be in compliance with the requirements specified in law, in particular the Regulation of the Cabinet of Ministers Regarding the Protection of Animals Used for Scientific Purposes,³³ and where possible the use of experimental animals shall be avoided.³⁴

3e. Protection of Wild Animals

It is prohibited to capture and keep in captivity wild birds and mammals, except for the cases specified in this law (for example, registered zoos are allowed to keep these animals³⁵ provided that requirements set out in law are met³⁶) and regulations governing nature protection and hunting,³⁷ and the use of these animals for exhibition purposes.³⁸ The wild animals shall be lawfully acquired

³¹ Section 24 and 24 prim two, Animal Protection Law (n 2).

³² Section 25, Animal Protection Law (n 2).

³³ Regulations of the Cabinet of Ministers Regarding the Protection of Animals Used for Scientific Purposes, adopted on 22.01.2013 (into effect 22.01.2013) "Latvijas Vēstnesis", 24 (4830), 04.02.2013.

³⁴ Section 23 prim, Animal Protection Law (n 2).

³⁵ Section 32.1, Animal Protection Law (n 2).

³⁶ Regulations of the Cabinet of Ministers Requirements for Keeping Animals of Wild Species in a Zoo and the Requirements for the Establishment and Registration of a Zoo, adopted on 09.11.2010 (into effect 01.01.2011) "Latvijas Vēstnesis", 180 (4372), 12.11.2010.

³⁷ Section 27, Animal Protection Law (n 2).

³⁸ Section 27 prim, Animal Protection Law (n 2).

and the owner shall be able to demonstrate the legal acquisition of these animals.³⁹ However, if a wild animal which is not accustomed to live in the wild has been tamed, it is prohibited to return it back to the wild.⁴⁰ These animals shall be kept in conditions as close to the natural environment of each animal species as possible to ensure satisfaction of their physiological and zoo-psychological needs.⁴¹ Furthermore, the zoos have a further obligation to provide visitors with information regarding species displayed for public viewing and their natural living environment.⁴²

A wild animal may be imported into the State and exported from the State in accordance with the requirements of the relevant laws and regulations.⁴³ Owners (keepers) of animals of wild species shall be required to have a document, as set out in the laws and regulations, regarding the origin (lawful acquisition) of each animal.⁴⁴

4. Animal protection, informative obligations, oversight enforcement

Within animal protection, a number of authorities, non-governmental institutions and law-enforcement bodies (authorities and judicial mechanism) are involved.⁴⁵ While authorities have certain tasks entrusted for furthering and ensuring compliance with the law, NGOs can also be involved for ensuring compliance with the law.

For violations of the protection that is afforded to animals under the Animal Protection Law, either administrative or criminal liability can be applied and in certain situations the animal can be confiscated.⁴⁶ The composition of the administrative liability provisions is formal and thus the consequences of an act or omission are irrelevant in terms of its application. However, for the purposes of applying criminal law provisions, the manifestation of consequences is essential. In accordance with the *ne bis in idem* principle, both liabilities are mutually exclusive. Overall, the Latvian Administrative Violations Code (LAVC) and the Criminal Law set out sanctions for different violations within the area of animal protection. Among those, of particular attention is Section 77 of the LAVC which sets out liability of natural and legal persons for the violation of the requirements

³⁹ Section 33, Animal Protection Law (n 2).

⁴⁰ Section 29, Animal Protection Law (n 2).

⁴¹ Section 31 and 34, Animal Protection Law (n 2).

⁴² Section 31, Animal Protection Law (n 2).

⁴³ Section 35, Animal Protection Law (n 2).

⁴⁴ Section 33, Animal Protection Law (n 2).

⁴⁵ Section 9 (n 2).

⁴⁶ Section 12 Animal Protection Law (n 2).

for protection of animals specified in regulatory enactments. This norm has an overarching nature as it is aimed at covering all legal obligations vis-à-vis natural and legal persons towards animals, and it applies unless a more detailed provision defines liability for a certain act or omission,⁴⁷ or a criminal law provision applies. Therefore, if a natural or legal person is violating obligations concerning animal protection set out in law, that person can be punished with a fine.

There are also several occasions when a person can be held criminally liable for violating the norms that provide protection to animals. For example, a person can be held criminally liable if s/he carries out cruel treatment of an animal that results in its death or mutilation, or carries out the torture of animals. A person has also been held liable under this provision for beating a female calf and engaging in intercourse during which the calf suffered scratches and was thrown into a pen where it was chained-up by the neck, as a result of which she died. The person was sentenced to 250 hours of community service.⁴⁸ In a different case, a person was sentenced to 4 months' imprisonment for beating a dog with an iron pipe, thus causing it considerable injury.⁴⁹ Stricter sanctions are possible if the same treatment of an animal is committed in a public place, in the presence of a minor, by a group of persons according to a prior agreement, or if it has caused substantial harm.⁵⁰

Should a person be punished for the cruel treatment of animals, the law prohibits any further ownership of animals.⁵¹ Likewise, liability is also envisaged to a person⁵² under the Violation of Keeping of Animals Regulations as a result of which a human has suffered bodily (slight, moderate or serious) harm or has died after being attacked by an animal.⁵³ For example, a person was sentenced to 20 hours of community service for not having been duly attentive to her dog as a result of which it attacked and caused slight bodily harm.⁵⁴

⁴⁷ For example, further to Section 77 functioning as an overarching norm, administrative liability is also foreseen for, for example, violating requirements for the Conservation of Species (Section 78), regarding the International Trade of Rare or Endangered Animals (Section 79), and regarding hunting (Section 80).

⁴⁸ Case No. 11200016212, Procedural No. K13-0075-13/4, Dobele District Court, 12 November 2013.

⁴⁹ Case No. 11350336007, Procedural No. KA04-887-13/9, Riga Regional Court Criminal law division, 18 October 2013.

⁵⁰ Section 230, Criminal Law "Latvijas Vēstnesis", 199/200 (1260/1261), 08.07.1998.

⁵¹ Section 4, Animal Protection Law (n 2).

⁵² As clarified by the Criminal division of the of the Supreme Court Senate, an owner or a keeper of an animal who has reached 14 years can be held liable in accordance with this provision. Case SKK-157/2012, Criminal division of thw of the Supreme Court Senate, 8 May 2008.

⁵³ Section 230.¹ Criminal Law (n 50).

⁵⁴ Case No.11355003113, K35009813 Sigulda Court, 20 September 2013.

5. Conclusion

As the overview above demonstrates, the national regulatory framework is designed to safeguard the status and well-being of animals. It is based on Latvia's commitments as an EU Member State and commitments under the Council of Europe treaties. To afford effective protection, not only are rights and obligations defined but an enforcement mechanism has also been established, which sets out an overarching (catch-all) administrative liability, further specific administrative liability and criminal liability. With regard to liability, in line with the reforms carried out in the area of administrative sanctions, it is expected that all administrative liability will be defined in the Animal Protection Law instead of the LAVC. These changes are yet to be adopted. From January 1, 2018, however, slight changes regarding project approvals and costs for experimental animals will change.⁵⁵

⁵⁵ Amendments to the Animal Protection Law "Latvijas Vēstnesis", 128 (5955), 29.06.2017.