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## ДІЯЛЬНІСТЬ ГРОМАДСЬКИХ ОРГАНІЗАЦІЙ ПОЛЬЩІ ЩОДО ВИЯВЛЕННЯ ТА СУДОВОГО РОЗГЛЯДУ ЗЛОЧИНІВ ТА АДМІНІСТРАТИВНИХ ПРАВопорушень у сфері охорони тварин

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### PERFORMANCE OF POLISH PUBLIC ORGANIZATIONS IN REVEALING AND PROSECUTING CRIMINAL AND ADMINISTRATIVE OFFENCES IN THE FIELD OF ANIMAL PROTECTION<sup>1</sup>

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In the process of humanitarian protection of animal's welfare organizations play an extremely significant role. It is somewhat reflected in the regulations of the law of the 21st day of August 1997 on animal protection [1], where the legislator obligates the Veterinary Inspection and other competent authorities of government administration and local government to cooperate in the subject scope with welfare organizations, whose statutory purpose is animal protection. That especially concerns such issues as temporary seizure of an abused animal and accomplishment of the court decision about forfeiture of the animal; running animal shelters; communal homeless animal care programs and preventing homeless animals; activities aimed at restricting the population of animals constituting extreme threats for human life, health or economy; executing supervision over complying with the regulations on animal

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protection. Besides, such welfare organizations have been authorized to ascertain the necessity of immediate authorizing the animal in order to end its suffering; to execute the right of an injured party in criminal proceedings, in proceedings in cases for offences and in the proceedings in cases for the minors; as well as to cooperate with competent state and local government institutions in revealing and prosecuting crimes and offences referred to in the law on animal protection. Unfortunately, the normative value of these regulations is insignificant, just like the scale of their practical application [2, p. 270]. The best example of that is the title possibility of cooperation in the field of revealing and prosecuting crimes and offences. That leads to the situation when welfare organizations themselves frequently postulate removing from the law on animal protection of the regulations they are the addressees of, and which, in their assessment, due to their general character and anachronism, lead exclusively to blurring of the responsibility for the fate of animals. Meanwhile, it must be taken into consideration that the level of co-operation between the society and state institutions is the measure of democracy in a given society and a feature characterizing civil society.

Here it is worth reminding that the first legal act providing for humanitarian protection of animals, which was the ordinance of the President of the Republic of Poland of the 22nd day of March 1928 on animal protection [3], provided in art. 10 the possibility for the Ministers of Justice and Home Affairs to authorize (by virtue of that ordinance) the particular associations and organizations aiming at protecting animals, breeding them, or supporting their breeding, as well as hunters' societies to cooperate with state authorities in revealing crimes against humanitarian protection of animals. Associations and organizations authorized in this way also acquired the right to support the accusation at courts as auxiliary prosecutor.

The first regulation of that kind was issued on the 27<sup>th</sup> day of December 1930 [4]. On its basis The Warsaw Society for Animal Care, Polish Animal Friends' League in Warsaw and eight other societies aiming at animal protection were authorized to cooperate with state authorities in disclosing crimes referred to in the ordinance of the President of the Republic of Poland of the 22<sup>nd</sup> day of March 1928 on protection of animals. That cooperation included: a) participation in police investigation, namely: being present at investigation activities, questioning persons under investigation on consent of the person conducting the investigation; lodging motions that the person leading the investigation was obliged to take into consideration, if possible; b) independent conducting investigations instead of the police in cases when they

have not started their investigation yet, transferred the commenced one to the association, which involved: considering the suspects and persons who may know something about the crime or its culprit; collecting indispensable information concerning the suspect (and especially as to the motives of their activity, attitude towards the injured animal, level of mental development, nature, hitherto life and behavior after committing the crime); conducting interviews and performing other activities resulting from the essence of the investigation. These activities were performed by the delegates appointed from among the members of the association by its managing board. The activities connected with independent investigations instead of the police, in turn, might have been performed exclusively by the delegates who received a separate authorization to do so at the motion of the managing board of the association from the district general administrative authority. That authorization gave the right to perform activities on the premises of the whole country and could be revoked. The delegates conducting the investigation were not entitled to any other rights of the state police in the scope of investigation. If there was the necessity to perform an activity exceeding the rights of the delegate, they were obliged to apply to refer to the police, who, in turn, were obliged perform the act referred to above, if the request was justifiable. The state police could at any time take over the investigation conducted by the delegate, who, at that time, was only entitled to participate in the police investigation.

The second regulation, that of the 15th day of July 1957 [5] authorized only the Nature Protection League and Animal Protection Society in the Polish People's Republic to act in the subject scope. That cooperation involved: a) right to check the identities of persons committing crimes against animal protection; b) helping the authorities of citizens' Militia with conducting investigation, as well as participating in the investigation, namely: being present at investigation actions, inquiring the examinees on consent of the person conducting the investigation and lodging motions that the person conducting the investigation was obliged to take into consideration, if possible. The associations performed the acts mentioned above through delegates appointed from among members of the association. The delegate acted on the basis of authorization of the competent district, local or municipal committees of national council, according to their place of residence. The authorization was granted at request of the association's managing board or its local authorities indicated by it. The authorization was valid on the premises of the whole country and could be revoked.

The current legal status lacks a legal regulation, which would similarly



specify the rights of welfare organizations within the scope of their cooperation with the competent state and local government institutions in disclosing and prosecuting crimes and offences specified in the law on animal protection being currently in force. That may be surprising, especially that in recent years the detection index for crimes against humanitarian animal protection has significantly deteriorated [6, pp. 17-30.]. That is why, in order to increase the efficacy of the police activity and the increased positive social assessment of their work in the context of protecting animals, it should undertake closer cooperation in this field with non-governmental organizations [7, p. 201]. They can significantly support the work of the police through: giving advice and instructions concerning the manner of acting in a given situation; initially assessing the living conditions of animals and their condition; providing temporary care for those, which were seized from their owners (carers) by police officers, or which require seizure from their owners (guardians); granting immediate help to animals that have suffered or may suffer in the effect of human activity (e.g. animals injured in road accidents, abandoned, lost or wild animals, which, staying outside their regular habitat, create a threat); supplying the evidence of acts forbidden by the law on animal protection being in force, secured as a result of the conducted activity, which significantly restricts the scope of inquiry actions that must be conducted by the police [8, p. 8].

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#### РЕАЛІЗАЦІЯ ПРАВА НА ЕКОЛОГІЧНУ ІНФОРМАЦІЮ В УМОВАХ СУЧАСНОЇ УКРАЇНИ (НА ПРИКЛАДІ ДІЯЛЬНОСТІ КРИВОРІЗЬКОЇ МІСЬКОЇ РАДИ)

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Процес становлення та розбудови сучасної незалежної та демократичної країни неможливий без дотримання базових конституційних та інших прав передбачених чинним законодавством.

В свою чергу, інформація як рушійна сила змін, показник проблеми та можливий стимул до її вирішення може і зазвичай є неочікуваною. І саме з отримання інформації, особливо екологічного спрямування, здебільшого виникають проблеми в промислових містах, в тому числі і такому місті як Кривий Ріг.

В якості аналізу, використана реальна ситуація, яка відбулась 04 лютого 2019 року, коли одним з 64 депутатів Криворізької міської ради, секретарю міської ради Маляренку С.В. було подано депутатське звернення з вимогою забезпечити кожному члену територіальної громади міста Кривого Рогу доступ до екологічної інформації, а саме: звіту зі всіма додатками, складеного за результатами виконаної в 2018 році на замовлення управління екології виконкому Криворізької міської ради роботи «Визначення хімічного складу та оцінка ступеня забруднення атмосферного повітря в місті Кривому Розі, ідентифікація та інвентаризація основних джерел викидів забруднюючих речовин ПАТ