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PHYSICAL DEFECTS OF ANIMALS ACCORDING TO THE STATUTORY ACTS

The subject of the doctoral thesis covers veterinary and legal aspects of physical defects – diseases, vices and ailments of animals sold and their non-compliance with the contract. The cope of the study is interdisciplinary and is incorporated in the nature of forensic veterinary medicine and the approach of the comparative legal studies.

The aim of the dissertation is to examine, compare and discuss the main development trends of the responsibility for physical defects of animals within the Western legal tradition in a problem, historical and comparative perspective.

Research carried out on the basis of specific statutory acts, allowed to identify various attempts made to solve the same, common, crucial problems of law and trade, such as: the presence of physical defects in animals, which is requiring legal reaction, as well as the universal purpose of this reaction – restoration of the violated equivalence of benefits.

Legal regulations from various historical periods and legal systems, concerning *sensu largo* liability for physical defects in animal sales of animals, were subject to the analysis performed. Selection of legal systems and statutory acts, based on objective and justified criteria, was performed. Both contemporary and historical forms of legal acts, as well as the processes and factors shaping them, were analyzed in order to achieve the intended goals.

The following research methods of analysis and interpretation were used to examine the content of legal provisions: linguistic, logical, dogmatic, comparative, historical-legal, systemic, teleological, functional, socio-legal. As an auxiliary factor, historical analysis of veterinary, literary and iconographic sources as *fontes iuris cognoscendi*, was carried out.

In the course of the research, a triad of basic developmental paths and types of civil liability for animal defects was distinguished: the Roman model, the German model, and the uniform concept of the breach of contract, including provisions of common law, international law and European consumer law. The characteristics of the above-mentioned models were demonstrated, the effectiveness of their application was compared in relation to the types of physical defects and specific *rationes legis*. The scope of physical defects was characterized and systematized, and their veterinary identification was performed.

Main trends, controversies, conflicts of principles and counter-principles were noticed. The basic features of a general nature and individual normative solutions of the regimes of warranty, guarantee, liability for damages and veterinary sales-related tests were shown.

The key formative factors in contemporary systems of responsibility for animal physical defects were identified.

It has been proven that the key common point of the analyzed legal institutions, independent of particular regulations, is the immanent need of protection of the equivalence of benefits. It was found that in the vast majority of legal systems analyzed, the warranty and guarantee rights of buyer were limited while the interests of the seller were favored. The continuity of development of the analyzed legal provisions was revealed. No relation was, however, found between the legislative changes and the level of legal protection of animal buyers.

The Napoleonic Code, the laws of Quebec and Louisiana in their original form, and the current Polish civil law were identified to be the most favorable legal systems from the point of view of the buyer. It was found that the mixed legal systems, including legal transplants and globalization processes, set the most likely trends in the development of the discussed part of the forensic veterinary medicine.

It has been observed that the application of the new definition of a defect, derived from the breach of contract concept in common law and consumer legal standards, to animals constitutes the most significant change in the studied scope since the ancient times. It has been proven that there a change in the concept of defectiveness occurred: from a physical defect of the animal sold – to the primacy of compliance of with the contract.

The shortage of comprehensive analyses carried out by the scientific veterinary community, as well as the lack of in-depth knowledge of the sources were revealed in the scientific literature. Moreover, the statutory and literature research revealed the lack of sufficient consideration of the wide spectrum of possible legislative solutions.

It has been shown that the postulates of veterinary researchers were ignored in the law-making process in the studied aspect, including the unconscious duplication of avoidable mistakes. Lack of desirable influence of veterinary medicine development on the content of legal acts was demonstrated. Numerous examples of conservatism and anachronism of normative acts, together with the lack of compliance of the regulations with veterinary knowledge have been shown.

The role and duties of a veterinary surgeon as a participant in animal sales were examined and defined in a manner different from those previously proposed in the literature.

The significance of the analyzed problems from the point of view of veterinary practice, as well as in national and global processes of legal unification and harmonization within the common Western legal tradition, was demonstrated.

The author's intention, realized in the current study, was to find out what are the most favorable normative solutions and to enable the potential practical application of the observations made, both *de lege ferenda* and in the daily veterinary practice.