

Public Administration and the Law of Animal Protection in Croatia¹

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Abstract

Humans and animals have co-existed throughout history. Animals were used for food, clothing, work, but Tobit's dog in Bible is probably one of first pets ever mentioned. Not just Bible, but other written documents show those relations, mainly concerning either selling animals or resolving damages incurred by animals or by human to someone's animal. Public administration played its role in trials towards animals and in conducting imposed sentences. Veterinarians have been providing inspections concerning animal health, food safety, etc. Lately, as our behaviour towards animals changed, public administration started providing protection for pets and later for abandoned and lost animals. The objective of this study is to show how relations drastically changed in less than 200 years. Previous legal documents concerning animal status and protection were analysed. The empirical research was conducted among 555 Croatian local self-government units. The results will show current situation vis-à-vis protection of abandoned and lost animals, and financial implications for local self-government units. Concluding remarks are based on survey results suggesting need for certain legal changes.

Keywords: public administration, animal protection, local self-government, animal shelter.

JEL Classification: K38

1. Introduction

Croatian new Animal Protection Act put heavy burden on local self-government units, not only financially, but also in their working and organizational structure obligations. Until 2017, local self-government units had option how to manage abandoned and lost animals, but only if deemed necessary. Local self-government units could set up shelter individually or jointly with one or more local self-government units or even sign a contract with already existing shelter. City of Zagreb was the only unit that established their own shelter, while minority of units signed a contract with some privately owned shelters. Majority of local self-government units considered that there are no problems with abandoned or lost animals in their territory. Article 61 of new Animal Protection Act regulates local self-government units' obligation to establish animal shelter. According to paragraph 1, any natural or legal person may establish a shelter. Paragraph 2 stipulates that if no animal shelter is established according to paragraph 1, the shelter is to be established by one or more local self-government units or City of Zagreb. Paragraph 3 mandates that if no shelter is established in the territory of regional self-government unit, either by natural or legal person, or by any local self-government units, regional self-government unit is obliged to establish the shelter. The costs of establishing shelter will be borne by local and regional self-government unit. Article 62 paragraph 4 enables local self-government units to fulfil their obligation by signing a contract with previously established shelter (according to paragraph 1 on article 61) situated within the territory of regional self-government unit where this local self-government is situated also. Article 61 paragraphs 1-3 complies nicely with principle of subsidiarity. Bearing in mind that Croatia's 3,871,353 inhabitants live within 555 local self-government unit plus City of Zagreb, it is easy to foresee that majority of local self-government units did not establish their own shelter, but chose to sign agreement with previously established shelters. Article 92 even set the deadline for establishing animal shelter as 31 December 2018, but without imposing any penalty for omitting to comply with the deadline.

Léon Duguit considered government as primarily a collection of public services, which are activities whose suspension would likely cause certain social disturbances.³ There is no definite list of public services. Public service emerges with time as a result of many factors, and one of the latest

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³ More in Duguit, Léon. *Les transformations du droit public*, Librairie Armand Colin, Paris, 1913, p. 173 et seq.

public services in Croatia, performed in majority at local level, is taking care of abandoned and lost animals. Pauliat emphasize that animals can have direct and indirect role in administrative activities and influence identification of public service mission.⁴

Due to nature of its object, it is not possible to include animal law into any of traditional branches of law⁵. Within animal law, there are elements of many branches of law.⁶ Public administration and administrative law are key factors in ensuring provision of public services and protection of animals.

The affirmation of the change in our attitude towards animals could be seen in the fact that “In 2021, out of 193 UN Member States, at least 152 countries (79%) had some form of animal protection law.”⁷

2. Local self-government in Croatia

The territory of the Republic of Croatia is divided in 20 counties, being regional self-government units and 555 municipalities and towns (local self-government units), while Capital City of Zagreb is simultaneously county and local regional self-government unit. Unusual shape of Croatia had its influence on territorial boundaries, as well as many low inhabited islands. According to Local and Regional Self-Government Act there is no real difference between municipal and town obligations, there are only differences for so-called big towns. Big towns are those with more than 35,000 inhabitants or those being county seats. Currently there are 23 Big towns, while all other 532 local self-government units have the same status. Since 1993 and new territorial division in Croatia the number of local self-government units only grew up.

Table 1. Territorial structure of the Republic of Croatia

Year	Municipalities	Towns	Total
1992	418	70	488
1994	419	70	489
1995	424	75	499
1997	417	122	539
1998	420	123	543
1999	422	123	545
2000	423	123	546
2001	424	123	547
2002	425	123	548
2003	426	124	550
2006	429	126	555
2013	428	127	555

Majority of Croatian local self-government units lost inhabitants since last census in 2011, but the number of local self-governments remained the same. It is justified to ask if existing local self-government units would be able to continue fulfilling all their obligations, because smaller number of inhabitants means smaller financial income. Croatian Government announced plans in 2023 that surtax will be abolished from 2024⁸. Local self-government units receive surtaxes from employers residing in their territory, irrelevant of their workplace. Currently 299 local self-government units (53.78%) decided to collect surtax. Losing this income will result in local self-government units being less capable of fulfilling their obligations. Taking care of abandoned and lost animals is one of public services that will be affected by this Governmental decision.

⁴ Pauliat, H el ene. *Les animaux et le droit administratif*, in: “Pouvoir”, vol. 131, no. 4, Editions du Seuil, Paris, 2009, p. 58.

⁵ See Hil al Nur  arbak (2022) *The Future of Animal Law*, Journal of International Wildlife Law & Policy, 25:2, pp. 191-200, DOI: 10.1080/13880292.2022.2103921 and Cristina Elena Popa Tache, *Vers un droit de l’ ame et des bio nergies du vivant*, Ed. L Harmattan, Collection: Logiques Juridiques, 2022, preface by Jean-Luc Martin-Lagardette, pp. 114-152.

⁶ Stojanovi , Nata a. *Pravo  ivotinja*. Pravni fakultet Univerziteta u Ni u, Ni , 2017, p. 7.

⁷ Fasel, Raffael L. Butler, Sean C. *Animal Rights Law*, Hart Publishing, Oxford, 2023, p. 14.

⁸ <https://www.poslovni.hr/hrvatska/vlada-ukida-prirez-4388224> (Accessed 3 May 2023).

Table 2. Municipalities and number of inhabitants

Inhabitants	Number	Percentage
Less than 1,000	55	12,85%
1,001 – 2,000	150	35,05%
2,001 – 5,000	191	44,63%
5,001 – 10,000	28	6,54%
10,001 and more	4	0,93%
T O T A L	428	100%

Table 3. Towns and number of inhabitants

Inhabitants	Number	Percentage
Less than 2,000	4	3,12%
2,001 – 5,000	21	16,41%
5,001 – 10,000	45	35,16%
10,001 – 35,000	42	32,81%
35,001 – 100,000	13	10,16%
100,001 and more	3	2,34%
T O T A L	128	100%

As previously mentioned, there is no legal difference between municipalities and towns with 35,000 and less inhabitants. Modern theories teach us that 5,000 inhabitants are borderline when units are capable of effectively fulfilling their obligations. Currently there are 421 local self-government unit (75,72%) having less than 5,000 inhabitants, while only 135 Croatian local self-government units (24,28%) have more. “It is believed that more than 5,000 inhabitants create sufficient economic base to finance the minimal level of contemporary local public services and utilities.”⁹

Table 4. Counties and number of inhabitants

Inhabitants	Number
Less than 100,000	4
100,001 – 200,000	12
200,001 – 300,000	3
300,001 and more	1
T O T A L	20

3. Animal protection in Croatia

History of animal protection legislation in Croatia and subsequently administrative obligations in providing animal protection, due to historical and political reasons are divided in two periods. The first one goes from 19th Century until 1918 and the other began in 1999 when Croatian Parliament enacted Animal Welfare Act¹⁰.

The Croatian Association for the Protection of Animals was founded in 1894 in Zagreb. Among many famous founders and patrons, we emphasize Austro-Hungarian Empress Queen Elizabeth, princess widow archduchess Stephanie and Archduke Franz Ferdinand. They started printing their magazine *Živobran* (1894 – 1904). *Živobran*, among others, had informative function as it “... warned citizens of monetary and jail fines for the abuse, torture and killing of animals, warned the citizens on new legal proceedings regarding animal protection and informed on the ways of their enforcement ...”¹¹ *Živobran* also named perpetrators (even young children) of crimes against

⁹ Koprić, Ivan et al. *Upravna znanost*, Pravni fakultet Sveučilišta u Zagrebu, Studijski centar za javnu upravu i financije, Zagreb, 2014, p. 263.

¹⁰ Animal Welfare Act, Official Gazette, No. 19/1999.

¹¹ Bakota, Lidija. *Živobran, A Journal (Magazine) of the Croatian Association for the Protection of Animals and its Educational Role in the Promotion of Animal Rights in the School Population at the Turn of 20th Century* in: “Panoniana”, vol 3, Nos. 1 - 2, Fakultet za odgojne i obrazovne znanosti, Sveučilište Josipa Jurja Strossmayera u Osijeku, Osijek 2019, pp. 9 - 31. More about the education role

animals and filed reports against them to administrative and judiciary bodies. Croatian Association managed that one of City of Zagreb administrative officer was designated to take care of animal protection. Association called for nominating animal protection officers in every Croatian municipality and at all other administrative levels, emphasizing that all animals' species contribute to public wealth.¹²

Zagreb City government had authority not only to impose monetary fines, but also to impose short prison sentence for violence against animals. Two coach drivers spent 24 hours in prison for over loading horse carriage.¹³ Coach driver spent 48 hours in prison for beating his horses, another one for overloading the carriage spent 36 hours, etc.¹⁴ Three days spent in prison was a sentence for coach driver beating his horses at Zagreb Main Square.¹⁵ Society members expressed their satisfaction how City authorities perform vis-à-vis animal protection.¹⁶

With the end of World War I and dissolution of Austro-Hungarian Empire Croatia joined in new Kingdom of Serbs, Croats and Slovenes and lost all legislation concerning animal welfare and protection. It would be incorrect to claim that there was no legislation between 1918 and 1999 covering animal protection. In reality, certain elements could be found in acts on veterinarian services, protection of animal health, hunting, etc.

Taking into consideration the reality of first decade of Croatian independence, it could be understandable why special legislation on animal protection was not high on Parliament's agenda. The very first act is very short, only 43 articles, The Act deals mainly deals with animals used for food, research, industry in situations which mainly establish inspections obligations for administration organs, namely veterinary inspectors. Very modern term companion animals is used instead of pets. Few articles related to circuses and ZOOs, while only one article dealt with abandoned and lost animals. Neither state nor local or regional governments have anything to do with abandoned and lost animals. Private, for-profit companies, which can euthanize animals that are not adopted within 30 days, collect those animals. Although Croatia used German legislation as an example, Croatian Act is much shorter, and therefore has lost the concept and true meaning of German example. Animal Protection Act¹⁷ enacted in 2006 had 72 articles and had been amended twice in 2013. Modern term *companion animals* was replaced by older term *pets*. As previously mentioned, only City of Zagreb established their own shelter, while other local self-government units signed a contract with previously established privately owned shelter, if decided that it is necessary. Those that signed a contract only had to pay for services provided, while only Zagreb established a shelter as local company and employed personnel having status of local civil servants. Animals in shelters could have been euthanized if not adopted within 60 days. Major change, not just in practice, but in mind set-up, happened with current Animal Protection Act¹⁸ enacted in Croatian Parliament in 2017. The Act consists of 98 articles and completely changes how abandoned and lost animals are dealt with. It is not possible to euthanize animals in shelters anymore and the animals will remain in shelters until their natural death, if not adopted previously.

Animal slaughter, food production, research on animals, animal health, etc. was already previously legally regulated, but the role of veterinary inspectors concerning animal protection have been emphasized by current animal protection regulation. Recent veterinary inspectors' case-law shows serious disadvantages in fact that veterinary inspectors are exclusively veterinarians.

Veterinarians lack legal education and consequently legal reasoning. After receiving complaint in 2017 veterinary inspector conducted supervision over unregistered ZOO on island of

see Rachel Dunn, Debbie Rook, Paula Sparks & Tiffany Mitchell (2023), *Teaching Animal Law in UK universities: the benefits, challenges and opportunities for growth*, *The Law Teacher*, 57:1, 15-37, DOI: 10.1080/03069400.2022.2129333.

¹² "Živobran" – *Glasilo hrvatskog društva za zaštitu životinja u Zagrebu*, vol. II (VII), no. 6, Zagreb, 1900, pp. 1 - 2.

¹³ *Ibid.*

¹⁴ "Živobran" – *Glasilo hrvatskog društva za zaštitu životinja u Zagrebu*, vol. III (VIII), no. 2, Zagreb, 1901.

¹⁵ "Živobran" – *Glasilo hrvatskog društva za zaštitu životinja u Zagrebu*, vol. IV (IX), no. 2, Zagreb, 1902.

¹⁶ Only examples from Zagreb are mentioned, because "Živobran" focused mainly on situation in Zagreb concerning violence towards animals. The magazine had many articles on animal protection from various parts of Croatia and abroad, but examples of negative behaviour towards animals were almost exclusively from the City of Zagreb.

¹⁷ Animal Protection Act, Official Gazette, Nos. 135/2006, 37/2013, 125/2013.

¹⁸ Animal Protection Act, Official Gazette, Nos. 102/2017, 32/2019.

Hvar. Although certain irregularities were affirmed, inspector concluded that facility is not a ZOO, because it is not registered. The very reason for complaint being filed is the fact that facility is not a registered ZOO, but inspector confirmed that it is not a ZOO, because it is not registered. (!!!) Veterinary inspection in a case where a lioness chewed more than one third of her leg in Osijek ZOO affirmed that all procedures were followed and that ZOO provided appropriate care. We have to emphasize how difficult it is to believe that a lioness chewed more than one third of her leg in one day and that nobody noticed it. Animal Friends filed a complaint in October 2020, but veterinary inspection visited ZOO almost three months later (15 January 2021), in time when the case was highlighted in majority of national media.

Animal Protection Act stipulates that all bears held in captivity, except those being in registered ZOOs or shelters, are to be transferred to shelter by the end of 2018. Ministry of Agriculture signed agreement with Austrian Four Paws International (Austrian NGO) in order to facilitate bears transfer. By the beginning of 2019 six bears still remained in captivity, while in 2020 Ministry of Agriculture registered ZOOs where bears were illegally held in captivity and decided that everything is in bears' best interests. Instead of transferring animals and imposing fines on legal perpetrators, Ministry decided to award them with registration and possibility to keep the bears. It is very difficult to believe Ministry of Agriculture's blatant example of violating valid legal norms.¹⁹

Municipalities and towns have communal monitors²⁰ to check if citizens observe local regulation acts concerning parking, waste management, building, etc. According to article 80 of Animal Protection Act communal monitors are authorized to read dogs' microchips, because all dogs are required to be microchipped. In doing so, Act authorizes communal monitors to enter private premises, although this norm that is definitely contrary to Article 34 of Croatian Constitution²¹. According to Constitution home is inviolable and only court may order the search of a home, pursuant to a written order. Only police officers, not communal monitors, may enter a home without prior written warning, but only to enforce arrest warrant or apprehend an offender, or to prevent any grave threat to life or substantial property. Microchipping control would prevent many dogs being abandoned, especially during the time when dogs need to get their obligatory vaccination. The same problem even existed back in 1902.²²

Animal Protection Act Established County Coordinative Work Groups (Article 70) consist, among other members, of representatives of local self-government units. The problem is that these groups coordinate efforts to promote animal protection, raise awareness, influence public, etc. but do not hold any executive authority. Many of these working groups are also overly loaded with members, which burdens any effective discussions and actions.

4. Animal shelters

Establishing shelter and financing its work, or signing a contract with privately owned shelter and paying its services creates significant financial burden on local self-government unit. The problem is that local self-government units see obligations established by Animal Protection Act only negatively. The truth is that by providing for abandoned and lost animals local self-government units do not only help people reunite with their lost animal, protect animals' lives, etc., but they take care of possible health and safety problem. Local self-government units consider animal protection as a financial burden on their budget, but they miss the opportunity to collect money for their local budgets. Legislation provides for pet owners to renounce ownership rights on their pets, but in doing

¹⁹ More details of the cases and some other examples in: Bakota, Boris. Bakota, Lidija. *Etička, pravna i lingvistička propitivanja položaja zatočenih životinja u zoološkim vrtovima* in: "Filozofska istraživanja", vol. 42 (2), No. 166, Hrvatsko filozofsko društvo, Zagreb, 2022, pp. 229 - 250.

²⁰ Communal monitors are local self-government employees with authority to impose penalties. They are not police officers; they wear uniforms but no weapons. From psychological point of view, it might be better for communal monitors to be transformed to communal police, because they will have power that is more authoritative.

²¹ Constitution of the Republic of Croatia, consolidated text, Official Gazette, Nos. 85/2010, 5/2014 or in English: <https://www.sabor.hr/en/constitution-republic-croatia-consolidated-text> (Accessed 12 May 2023)

²² "Živobran" – Glasilo hrvatskog društva za zaštitu životinja u Zagrebu, vol. IV (IX), no. 2, Zagreb, 1902.

so they have to pay certain fee (instead of a fine) for shelter management. Municipal monitors are authorized to check if dogs are microchipped and issue a fine when it is not a case. If dogs would be microchipped it would be much more difficult for owners to just throw them out of their houses or leaving them far away, because each municipal monitor would read a chip and inform the owners. Although it would not mean a lot emotionally for abandoned dog, it would at least represent a revenue for local shelter. All operating shelter need employees. Locally employed people would decrease municipal unemployment rate. Employee being paid would create financial source for a living of that person, previously being on either state or local social care. Local taxes will be received from salary and more revenues will ensue to local budget by spending salaries. Smaller local self-government units might opt for signing a contract with privately established shelter, but this decision should be reached after carefully studying all financial aspects resulting from animal shelter management.

Croatian NGO Animal Friends conducted the empirical research among 555 Croatian local self-government units and City of Zagreb.²³ On 22 March 2021 they sent questionnaires to each local-self-government unit asking to reply by 15 April. The last questionnaire received was on 10 October 2021. All answers incorporate figures and data for 2020. For the purpose of this paper, we have analysed answers to the question pertaining to the amount of financial resources spent in 2020 for taking care of abandoned and lost pets in respective local self-government unit.

Municipalities and towns were asked how much budgetary money they have spent on taking care of abandoned and lost animals in 2020. Out of 556 units, we have received 539 answers, while 482 local self-government units answered this question.²⁴

Table 5. Croatian local self-government units and total financial amount spent on taking care of abandoned and lost animals

Amount	Number of municipalities	Percentage
0 EUR	13	2,70
1,000 EUR and less	64	13,28
1,0001 – 10,000 EUR	294	61,00
10,001 – 25,000 EUR	69	14,31
25,001 – 50,000 EUR	29	6,02
50,001 – 100,000 EUR	10	2,07
100,001 EUR and more	3	0,62
TOTAL	482	100

As we can see the waste majority of local self-government units (76, 98%) spent up to 10,000 euros in 2020. The amount of 10,000 euros is not realistic and it does not provide for all legally prescribed obligations towards abandoned and lost animals. Some of the units have not even signed agreement with any shelter, but still claimed certain budgetary amount being spent. If we would correlate amount spent with number of inhabitants the result would be surprising, but it goes beyond the aim of this paper. Abolishing local surtax in 2024, according to Government’s plans, will probably result in even less money provided for taking care of abandoned and lost animals.

Nevertheless, it is necessary to mention that 87 out of 439 local self-government units neither established a shelter nor did they sign a contract with already established shelter. Those 87 units did not fulfil their legal obligation, but without any repercussions, although Animal Protection Act defines it as a misdemeanour and fines for these omissions are between 1,990 and 3,980 euros.²⁵

Local self-government unit’s local monitors should improve control whether dogs are microchipped in order to prevent dogs being lost and some owners in getting rid of their dogs by disposing them in woods and other isolated places. This control would mean less financial resources spent on

²³ Animal Friends NGO has distributed me with all the answers, but without any analyses. All interpretations, analyses and conclusions are solely mine.

²⁴ The answers received were in HRK (Croatian kunas), but since 1 January 2023 official currency are Euros. Kunas were calculated to Euros to facilitate easier comparison.

²⁵ Fines were in Croatian kunas from 15,000 to 30,000. To adjust all the prices and fines fixed exchange rate for changing kunas to euros was set at 1 EUR = 7,53450 HRK.

shelters. Shelters are also allowed to charge up keeping of puppies that owners do not want to care for. Local self-government units' councils prescribe conditions and manners of keeping pet animals by their general acts. Communal monitors can charge a monetary fine stipulated by the representative body of the local self-government unit in three cases not complying with local self-government general act on: 1) manner of handling wild animals outside of their natural habitat, 2) conditions and manner of keeping pet animals and 3) manner and handling of abandoned or lost animals. Funds collected from these fines are the revenue of the local self-government unit and have to be used for abandoned and lost animals' needs (Article 84).

Considering that all figures and data correlate to 2020, it is necessary to mention that in 2020 there were 36 registered animal shelters in Croatia, 19 exclusively for dogs and 17 some for dogs and cats.²⁶ Even though maximum capacity registration is legal precondition for shelters to start operating, five of them were registered without maximum capacity. Four of registered shelter did not sign agreement with any local self-government unit, while simultaneously 439 units signed agreement with 37 shelters, 5 of them being not registered. City of Zagreb, two towns and one municipality established their own shelter; some of the shelters were established by non-profit NGOs for animal protection, while majority of the shelters were established by for profit legal persons. This solution enabled local self-government units, at least in theory, to choose the most appropriate solution. Bearing in mind that 75,72% of them have less than 5,000 inhabitants it is understandable why only four decided to establish their own shelter.²⁷

Counties as regional self-government units are obliged to establish animal shelter if there are not any in their respective territory or existing shelter does not have a capacity providing for at least 50 animals. In two counties, there are no shelters, and in one county, there is only one shelter for 41 dogs. Those three regional self-governments did not fulfil their obligation by establishing regional animal shelter.

We wish to draw attention to the fact that "Živobran" in 1900 pleaded for municipal shelter for dogs. The Croatian Association for the Protection of Animals realizes that some owners in order to get rid of their dogs try to either starve them to death or leave them outside of the city. Dogcatchers had to kill those dogs, because in that time these dogs were considered dangerous to people. Association proposed to establish some facility where *usable* dogs could be re-homed or send *unusable ones* to dogcatchers.²⁸

5. Conclusion

Humans and animals have co-existed from the beginning of times. Humans used animals for food, clothing and work, while providing animals with food, water, shelter and care. Although certain animal species were considered as pets, mainly dogs and cats, historical documents do not show any specific legislation pertaining to animal protection. Certain anti-cruelty provisions were included in already existing laws.²⁹ Irrelevant whether animal rights are recognized or not, humans have duty to protect and care for animals³⁰. This duty is not just a moral standing, but it is recognized by many legal documents in various countries. Not all countries have specific protection or welfare document, but all countries at least do regulate administration bodies' responsibilities in connection with animals (their health, transportation, vaccination, food safety, hunting, etc.).

Current economic situation either in Croatia or all over the world does not help. In the situation where local self-government units' budgets have been receiving less income, surtax might be abolished and depopulation arising, it is inevitable to conclude how public service of protection for abandoned and lost animals will receive even less financial resources than before, even though that

²⁶ Current list of all registered animal shelters is at <https://jic.mps.hr/sklonista/#!sklonista> (Accessed 12 May 2023)

²⁷ The City of Zagreb established their shelter even before it became obligatory.

²⁸ "Živobran" – *Glasilno hrvatskog društva za zaštitu životinja u Zagrebu*, vol. II (VII), no. 3, Zagreb, 1900

²⁹ For more on the history of animal protection see Fasel, Raffael N. Butler, Sean C. *Animal Rights Law*, Hart Publishing, Oxford, 2023, pp. 15, 16.

³⁰ Tony Bogdanoski (2010) *Towards an Animal-Friendly Family Law*, Griffith Law Review, 19:2, pp. 197-237, DOI: 10.1080/10383441.2010.10854675.

our research showed insufficient resources being spent even before.

Passing of new Animal Protection Act in 2017, meant for Croatian local self-government units to be almost exclusively responsible for protection of abandoned and lost animals. Regional self-government units' obligations are minor in comparison to local self-government units. The announced amendment to Animal Protection Act will not change problem arising from its implementation. The more important is to enforce all the regulations in the current Act and to establish proper control over Act's implementation.

Local self-government units should not just sign a contract with existing shelter and see it as an end, but monitor financial reports, monitor condition of dogs in shelter, strengthen the role of communal monitors in enforcement dog owners' obligations, raise awareness promoting adoption of shelter dogs, etc.

Veterinarians before becoming inspectors should pass some formal legal training in order to understand legal norms, hierarchy of legal norms, but above all the concept of the rule of law.

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