

The significance and legal assessment of Zoophilia and Zoophilic Acts, with special reference to Hungary

Abstract

The recognition of the inherent intrinsic value of living beings clearly characterizes the legislation of Europe in the last few decades, a process that can be seen in the refinement of the legal status of animals, in the increasingly detailed regulations of animal welfare rules, in the tightening of regulations against animal cruelty, in some constitutional changes, and in the prohibitions related to zoophilic acts. Zoophilia is as old as humanity, and although the attitude towards it was not uniform in different historical eras, it was rather negatively judged and prohibited. It is important to distinguish between zoophilia as a psychiatric paraphilia and zoophilic acts as legally relevant acts. In the past few years, sexual abuse committed against vulnerable groups has been in the spotlight in Europe, society's sensitivity is growing and we can witness the tightening of regulations. Although animals cannot be considered victims in the narrow legal sense due to their lack of legal capacity, these processes will also affect the legal assessment of zoophilic acts. In the case of zoophilia, there seems to be a high latency, few cases come to light, but they cause strong public indignation. In the long term, it is likely that even those countries that currently do not sanction or do not sanction zoophilia at the criminal law level (such as Hungary) will take stronger action against it in the future.

Keywords: zoophilia, zoophilic acts, animal protection, animal protection law, sexual offences

1 | Prof. dr., Specialist in Animal Protection, University of Miskolc, Faculty of Law, Department of Constitutional Law; e-mail: anita.paulovics@uni-miskolc.hu.

2 | PhD, Specialist in Animal Protection and Legal Psychology, Head of the Centre, Centre for Animal Welfare, University for Veterinary Medicine; e-mail: Vetter.Szilvia@univet.hu.

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1. Introduction

Mankind has been in contact with the animal world for thousands of years, but this contact has not always been exclusively nutritional or utilitarian, but has also included emotions and even sexual desire for animals. At times throughout history, sexual relations with animals have been desirable and encouraged, while others, in other periods, have been punished or even tortured and murdered for bestiality. What is certain is that zoophilia is with us, and is still an integral part of many people's lives, whether as an artistic or literary activity, or as a sexual behaviour that is desired or achieved.

Zoophilia is a subject that raises many questions that are still taboo today. For example, it can affect the welfare, health and safety of animals, as well as human mental health, sexual dysfunction and health problems. Animal pornography and the 'industry' based on it can generate significant income for those involved, while raising a number of concerns about public morals and national image.

Although research on the topic is limited,³ and, with few exceptions, the Hungarian literature is still waiting to be published, some research⁴ and personal accounts from animal welfare workers suggest that zoophilia is present with a high latency in Hungary.

The aim of the present publication is to raise questions about the recognition of zoophilic acts and finally to propose future legislation in Hungary in order to ensure that zoophilic acts, in line with international trends, are also recognised in Hungary adequately.

2. The concept and history of zoophilia

2.1. The concept of zoophilia

Zoophilia is classified as a paraphilia by psychiatry. Paraphiliae are chronic sexual disorders that deviate from what society considers normal behaviour and can cause physical or psychological harm to others. They are repetitive and compulsive, requiring unusual or bizarre stimuli to arouse desire. The condition can be diagnosed if it persists for at least six months.⁵ The personality of paraphilias is usually 'immature' and they have difficulty or no sexual contact with potential human partners.⁶ The World Health Organisation's BNO classification

3 | Edwards 2009, 335–346.

4 | Bolliger & Goetsche, 2005, 23–45.

5 | Fekete & Grád 2012

6 | McManus et al. 2013

of zoophilia is classified as 'Other disorders of sexual preference', a category that falls under 'Adult personality and behaviour disorders'.⁷ The American Psychiatric Association defines zoophilia as 'repetitive and intense sexual arousal directed at... animals'.⁸

The definitions of *zoophilia* and *bestiality* vary widely, making it difficult to compare research on the subject.⁹ The two terms are used synonymously, but some researchers define zoophilia at the level of intention or attraction, while bestiality refers to when the act is actually performed.¹⁰ Other authors see the difference in the fact that bestiality does not involve emotional fibres, but merely the satisfaction of needs.¹¹ Attempts have also been made to introduce the much more neutral term *zoosexuality* (*bestiosexuality*), and the terms *zoerasty* and *zoorasty* are also used.¹²

People with an affinity for animals form communities, secret 'subcultures'. The Internet is a very important platform for people who often call themselves 'zoos'. Andriette (1996) has pointed out that most zoos' lives have been changed by connecting with others with similar preferences, because the sense of belonging to a group has given them a 'new self-understanding'.¹³ Many of the zoophilic communities report deep feelings of love, affection and respect for the animals involved, often citing the animals' good housing conditions and cooperation. In contrast, another group of zoophilic acts are physically aggressive, coercive, violent, and *zoosadistas* even take pleasure in the suffering of animals.¹⁴ Sexual attraction to dead animals is called *necrozoophilia*, also known as *necrobestiality*.¹⁵

There are many variations of zoophilia, zoophilic acts, and some authors have attempted to categorise them. An interesting attempt is the mathematical classification of zoophilia, which would group the nuances of zoophilia into different numerical classes, similar to the ten-level classification of necrophilia (Table 1).

7 | Krueger et al. 2017

8 | DSM 2013

9 | Beetz 2015, 19–36.

10 | Ranger & Fedoroff 2014, 421–426.

11 | Aggrawal 2011, 73–78.

12 | Beetz 2008, 201–220.

13 | Andriette 1996

14 | The latter is defined by the American Psychiatric Association as a paraphilia in which sexual excitement and satisfaction is caused by the torture of an animal. This can occur by direct sexual contact with the animal, or by the person later masturbating, using memories of the event as masturbatory fantasies. American Psychiatric Association.

15 | Aggrawal 2011

Table 1
10-stage classification of zoophilia, based on data from Aggrawal (2011)
(own ed.).

	Title	Features	Does sexual activity happen with a live animal?	Is it relevant for animal welfare?
I.	Role-playing zoofil	Does not like to have sex with real animals, plays 'animal' role- plays with human partner.	No	No
II.	Romantic zoofil	The pet animal is a psychosexual stimulation for them, they do not engage in sexual activity with it.	No	No
III.	Imaginative zoophile	Fantatising about sexual relations with animals, possibly masturbating in their presence [<i>voyeurism</i> is also included].	No	No
IV.	Tactile zoophile	Touching or rubbing animals [<i>frotteurism</i>], including their genitals	No	Possibly
V.	Fetishistic zoophile	Using an animal body part or other object made from an animal during sexual activity.	No	Possibly
VI.	Sadistic zoophile	Sexual pleasure comes from torturing animals [<i>zoosadism</i>].	No	Yes
VII.	Opportunistic zoophile	They have human partners, but when the opportunity to have sex with animals occurs, they take advantage of it.	Yes	Yes
VIII.	'Classic' (regular) zoophile	They may have sexual relations with animals and humans, but prefer sexual activity with animals.	Yes	Yes
IX.	'Homicide' zoophile	They may have sexual intercourse with live animals, but they prefer dead animals, so they usually kill them to have intercourse with the carcass.	Yes	Yes
X.	Exclusively zoophilic	They only have sex with animals, not with human partners.	Yes	Yes

The psychopathology of sexual relations with animals is complex and multifactorial, with zoophilia often occurring in combination with other paraphiliae.¹⁶

A clear distinction must be made between zoophilia as a psychiatric disorder and the zoophilic acts that take place. The former has no legal relevance if, although paraphilia can be established, no act is committed with a living animal. However, the acts committed may be legally relevant even if the background does not reveal a pathology of zoophilia, but is motivated by other reasons (e.g. difficulty in finding

16 | One study, for example, found that of seventeen isolated cases of zoophilia found in association with other psychiatric disorders, nine of the zoophilic patients also had psychosis. Lesandrić et al. 2017, 27–32.

a partner, negative experiences in previous sexual relations, lack of a human partner in physical proximity, etc.). If the Aggrawal classification is taken as a basis, the legal relevance of zoophilia may be observed in some cases as early as category IV, but the legal consequence can certainly be linked to categories VI-X.

2.2. History of zoophilia

Sexual attraction to animals is as old as mankind, although its perception has changed throughout history. It has been a known phenomenon since prehistoric times,¹⁷ Rosenberger (1968) suggests that the practice of human-animal sex was present between 40,000 and 25,000 years ago.¹⁸ Depictions of zoophilia are found in ancient Egyptian tombs, and hieroglyphics also mention bestiality.¹⁹ In ancient Egypt, according to some sources, a method of sexual intercourse with a crocodile was also found, and the goat was used to 'treat' nymphomaniac women. Men mostly had sex with cattle and other large herbivores, and women with dogs.²⁰ A recurring motif in ancient mythology is that of a god (such as Zeus) seducing a woman in the form of an animal.²¹ Zoophilic depictions can be found in countless works of art, paintings and sculptures.²² The Colosseum in ancient Rome depicted people raped by animals, and several emperors (e.g. Claudius, Tiberius, Nero) were known to have taken pleasure in bestiality.²³ Sexual intercourse with animals was severely punished in other eras or cultures, but it was not uncommon for different perceptions of zoophilia to coexist

or rapidly alternate. The code of Hammurapi (18th century BC), for example, punished those involved with death. Zoophilia was widespread and accepted in Western society in the Middle Ages, and in many cases sexual intercourse with animals was even believed to be healthy and a cure for various diseases. However, bestiality was also associated with black magic and witchcraft,²⁴ often considered to be the work of a demon in animal skins, and zoophilic people were burned at the stake with 'sinful' animals.²⁵ In both the Old Testament and the Talmud, zoophilia was seen as a disrespect for divine creation.²⁶ St Thomas Aquinas considered bestiality to be the most serious sin against nature.²⁷

17 | Miletski 2002b

18 | Rosenberger 1968

19 | Bullough 1976

20 | Love 1992

21 | Miletski 2009, 1–23.

22 | Davis 1954

23 | Love.

24 | Rosenberger 1968

25 | Evans 1987

26 | Weidner 1972

27 | Salisbury 1994

Hundreds of bestiality trials during the Renaissance have been documented.²⁸ Parisian brothels provided turkeys to their clients. As the men were close to the end of their sexual activity with the bird, they would break its neck, causing the bird's sphincter to contract and spasm, giving the brothel's visitors a pleasurable sensation.²⁹ At the beginning of the 19th century, the Napoleonic legislation decriminalised consensual sexual acts between adults, and zoophilic acts were decriminalised in France. During this period, several countries significantly abolished or reduced the penalties for bestiality to a few years' imprisonment.³⁰

At the turn of the 20th century, the research of Kinsey and his co-authors (1948) attracted a lot of attention, which showed that adolescent males in the American farm community had a very high level of zoophilic activity.³¹ The Kinsey report has been the subject of much criticism in recent decades, but it has highlighted the widespread nature of the issue.

While for a long time in Europe's modern history, zoophilia was decriminalised, partly as a matter of decoupling ethics from law, and by the mid-20th century 80% of European states did not sanction zoophilic acts,³² the trend has reversed in the last 10-15 years.

For both human and animal protection reasons, zoophilia has been reintroduced in some form into the criminal law of most European countries, typically with penalties of a few years' imprisonment.

3. Health, welfare and economic assessment of zoophilic acts

One Health is an emerging concept that links human, animal and environmental health.³³ Sexual contact with animals can pose a number of human health risks.³⁴ In the literature, there are typically five different categorisations of these acts: (1) Genital acts (anal and vaginal intercourse, insertion of fingers, hands, arms or foreign objects), (2) Oral genital acts (*fellatio*, *cunnilingus*), (3) Masturbation, (4) *Frotteurism* (rubbing genitals against animals) and (5) *Voyeurism* (the observation of third parties during sexual intercourse with animals).³⁵

28 | Dekkers 1994

29 | Love.

30 | Dekkers 1994

31 | The Kinsey report strongly refuted the assumption that sexual acts with animals were a rare phenomenon in 20th century society. Among rural populations with more direct access to animals, 17 per cent of men surveyed reported intimate experiences with animals that led to orgasm. In some communities, the latter rate was as high as 65 (!) percent. Kinsey et al. 1948.

32 | Bolliger 2016

33 | At the beginning of the twentieth century, this was not the case, but subsequently researchers such as Pasteur and Koch, and doctors such as Osler and Virchow, crossed the boundaries between animal and human health, drawing attention to the close connection between the two fields. Atlas 2012

34 | Miletski 2002a, 273–283.

35 | Masses 1994

Both animal welfare and human health risks also depend on the animal involved in the act. Schaffer and Penn (2006) categorise the following orientations, which are not exhaustive: *Aelurophilia* (sexual attraction to cats), *Anolingus* (arousal by licking lizards), *Arachnephilia* (attraction to spiders), *Avisodomy* (intercourse with a bird and breaking its neck in the process), *Batrachophilia* (sexual attraction to frogs) *Bee stings* (using bees to stimulate the genitals), *Canophilia* (sexual attraction to dogs), *Cynophilia* (arousal by sexual activity with dogs), *Entomophilia* (sexual attraction to insects, or use of insects in sexual intercourse), *Formicophilia* (a person derives pleasure from the sexual use of ants or other insects), *Melissophilia* (sexual attraction to bees), *Musophilia* (sexual attraction to mice), *Necrobestyality* (sexual attraction to dead animals), *Ophidiophilia* (sexual attraction to snakes), *Ornithophilia* (sexual attraction to birds), *Phthiriophilia* (sexual attraction to lice).³⁶

Animals can carry various micro-organisms that can be dangerous to humans. Although the prevalence of zoonoses transmitted through sexual contact is relatively low, it cannot be excluded (e.g. hookworm infections, chlamydia, salmonella, dog and cat faecal infections, etc.).³⁷

In terms of animal welfare, the consequences can range from no physical or psychological harm to the animal dying in particular suffering. What the animal feels is a difficult question to answer. It can be assumed, as in the case of humans, that a reduction in the welfare of the animal can only be partially ascertained from clinical examinations. Even in cases where the animal appears to be seeking sexual intercourse with humans,³⁸ we cannot be sure of the animal's subjective experience, as other circumstances (e.g. habituation, training) may override the animal's actual welfare concerns. Nor does it necessarily seem to be an argument for animal welfare if the animal is easily aroused, physically cooperative to human touch.³⁹ As these questions are not settled to our present knowledge, further animal welfare-centred investigation of zoophilic acts is a dead end for the time being.

In the case of animal pornography products, typically videos, that 'record' sexual activity with animals, there are serious economic interests at stake, in addition to sexual preference.⁴⁰ The damage to the image of the country is difficult to quantify, but it is undoubtedly present.⁴¹ Just as the Internet makes it easier for live specimens and animal products from the illegal pet trade to find a market, it also

36 | Shaffer & Penn 2006

37 | Chomel & Sun 2011, 167–172

38 | Bolliger 2016

39 | Obviously, it is a far-fetched analogy because of the animal-human difference, but the fact is that the non-consensual sexual stimulation and rape of either women or men can lead to unwanted sexual arousal or even orgasm. The relevant human literature concludes that the elicitation of arousal and orgasm does not indicate that the subjects consented to the stimulation. Levin & van Berlo 2004, 82–88.

40 | Bartow 2016

41 | The Independent newspaper noted in 2000 that in Hungary, animal pornography magazines are openly available in bookshops. Byrd 2000

makes zoophilic content easier to find and download, which makes it more difficult to combat effectively.⁴²

4. The ethics of zoophilic acts and the basis for legal regulation

According to the Jellinek principle of ‘law is the minimum of morality’, ethics and morality are sometimes more and sometimes less prominent behind legislation and law enforcement. If, for example, a value is enshrined in the constitution, the legally elusive concept of morality becomes a tool for interpreting the law. According to Deli (2013), while the morality clause is primarily seen as a gap-filling function (i.e. it can be used when legal rules do not apply, and mostly in the area of civil law), the function of the *contra bonos mores* clause was also, from the beginning, to provide a benchmark for the classification of certain specific acts in the absence of visible, physical harm, i.e. to create a kind of protected legal subject matter.⁴³ This could also serve as a legal theoretical and ideological basis for the criminalisation of zoophilic acts that do not cause demonstrable harm but are contrary to good morals.

The majority of societies condemn and sanction zoophilia in some way, but zoophilia remains largely a social taboo even where it is not otherwise prohibited, and even animal welfare organisations are reluctant to address the issue.⁴⁴ What is outlined in the legislation is the attitude of some states towards ‘animal dignity’, even if not in a legal sense: animals deserve a certain respect by their very existence. ‘Dignity’ is traditionally associated in law with ‘human-centred’ or at least ‘person-centred’ values.⁴⁵ One group of scholars questions the justification for animal dignity,⁴⁶ 47 Zuolo, for example, argues that extending dignity to animals is inappropriate, but that recognising the moral importance of animals is important under other normative concepts.⁴⁸ Other authors argue that the existence of ‘animal dignity’ is beyond doubt⁴⁹ 50 51, Ortiz goes so far as to state that respect for animal dignity provides an irrefutable reason not to modify an animal’s genetic makeup, even if the modification would improve its well-being.⁵²

42 | Typing the term ‘bestiality’ into a Google search returned 114,000,000 results, and ‘zoophilia’ returned 16,500,000 results (many of which were obviously educational). In Yahoo search, turning off the Safe Search mode, the term “bestiality” returned 8,080,000 results, with hardcore animal pornography on the first page. Search date: 30 April 2023.

43 | Deli 2013

44 | Bolliger 2016, 311–395.

45 | Hadley 2017, 993–1004.

46 | Martin 2019, 83–99.

47 | Steinbock 1999, 141–147.

48 | Zuolo 2016, 1117–1130.

49 | Chauvet 2018, 387–411.

50 | Nussbaum 2007

51 | Abbate 2020

52 | Ortiz 2004, 94–120.

If we assume the existence of animal dignity, we must also assume the right of animals to sexual integrity. The violation of the sexual integrity of an animal does not depend on the question of what an animal feels during a zoophilic act (since we can only speculate about this), but on whether such an act is in accordance with its free will. Rather, Bolliger (2016) argues, we should start from the assumption that an animal's cooperation can be considered coerced through the artificial creation of fixation or some other method of influencing animal behaviour. To call such acts 'animal love' or 'partnered sexuality' is a misreading of the circumstances.⁵³ However, in the absence of legal personality of animals, the reference to their dignity has essentially no context from a legal aspect, although it does provide indicative legislative guidance and expresses respectful behaviour towards animals. Some countries, although not referring to the 'dignity' of animals at the constitutional or legislative level (with the exception of Switzerland), presumably take this into account when criminalising zoophilic incidents that do not involve serious health damage.⁵⁴

An argument could be the lack of 'victim' consent on the part of the animal, although this argument is hampered by the fact that the animal is not a legal entity. It is important to note that the recognition of the animal as a special, sentient being is gaining ground in relation to the legal status of animals. In the spirit of a legal fiction (i.e. a legislative technique that accepts a manifestly untrue fact as real in order to achieve a higher purpose), it may be worthwhile to continue the reflection on the consent, or lack thereof, of animals. According to Roman law, '*volenti non fit injuria*', that is, actions committed with the consent of the victim are not illegal – based on the *argumentum a contrario*, this means that actions committed without the victim's consent are illegal. The consent of the victim can also be seen as a matter of self-determination.⁵⁵ Currently, the consent of the victim is an obstacle to criminal liability, provided that it does not harm the interests of society.⁵⁶ Among humans, sexual acts without consent are considered rape.

In legal terms, the protection of public order and public morals can be seen as a better argument for the sanctioning of zoophilia than the issue of animal dignity or the lack of consent of the victim, since the regulatory roots of legal action against animal cruelty can be found here.⁵⁷ In the past, the protection of the public, public order and public safety were considered to be the legal object of animal cruelty, but this has changed to the protection of nature and the environment, which is closer to the ideology of animal protection. Although the point of view that animals

53 | Bolliger 2016

54 | Vetter et al. 2020

55 | Németh 2015, 302.

56 | Bérces 2017, 47–55.

57 | "Anyone who publicly tortures or grossly ill-treats an animal in a scandalous manner, or who violates an ordinance or regulation against animal cruelty, shall be punished by imprisonment for a term of up to eight days and a fine of up to one hundred forints". Article XL of the Hungarian Penal Code of 1879 on offences. Chapter VII. Offences against public order and public decency.

are protected only for the protection of public order has been overcome, in some aggravated animal abuse cases the point of view that an act committed against animals is considered more serious can still be seen in Europe if, e.g. it takes place in front of a large public (like the Hungarian regulation since 2022), or it takes place in the presence of a minor (like the Spanish regulation).⁵⁸

5. Criminalisation of zoophilic acts in Europe

In Europe, there are big differences in the way different countries regulate zoophilia. In some countries the criminal code itself, in others other legislation (such as animal welfare legislation) provides for criminal sanctions. The Netherlands, Norway and Switzerland have very detailed criminal legislation which criminalises all forms of zoophilic acts, including the distribution and possession of animal pornography. According to the Dutch Criminal Code, anyone who engages in a sexual act with an animal ('lewd act') is punishable by imprisonment of up to one and a half years or a fine (Section 254). Anyone who distributes, offers, publicly displays, manufactures, imports, transports, exports, obtains or possesses any visual material or any medium containing visual material which depicts or appears to depict sexual abuse involving human or animal contact is punishable with a maximum of six months' imprisonment or a fine (Sec. 254a). In Switzerland, the legislation has also attempted to introduce a legal concept of animal dignity, although in the absence of legal personality of animals, the reference to their dignity is almost without context in international and legal history, the legislator is providing guidance and expressing a respectful attitude towards animals. Animal dignity not only means that the interests of animals must be considered against, where appropriate, certain human interests, and that they must not be subjected to undue suffering or pain, but in practice the protection of animal dignity in the Swiss Constitution also requires that animals must not be humiliated, used as mere tools or have their appearance altered.⁵⁹ In Switzerland, animal protection legislation explicitly prohibits sexually motivated acts with animals.⁶⁰ This prohibition shall apply irrespective of whether the act has harmed the animal's welfare. According to the Swiss Criminal Code, acts involving writings, images, sound recordings, illustrations or similar objects that contain sexual activity with animals (so-called 'harte Pornographie') are punishable. For certain less serious offences (such as possession of animal pornography products, production for private use), the legislator provides for a maximum penalty of one year's imprisonment or a fine, and for more serious cases (such as distribution, advertising, offering for

58 | Vetter

59 | Vetter & Ózsvári 2020

60 | Animal Welfare Decree (TschV) Sec. 16 (2) j)

sale), a maximum penalty of three years' imprisonment or a fine. Depictions are considered pornographic if their sole purpose is to arouse sexual arousal in the consumer and animals are unmistakably and directly integrated into the sexual act with humans. Acts, objects or performances are not pornography if they have a cultural or scientific value worthy of protection.⁶¹

In contrast, the criminal laws of Italy, Slovenia and Hungary do not contain penal sanctions specific to zoophilic acts. The other countries fall between the two ends of the scale, there are criminal sanctions, but they are not as differentiated as the Dutch and Swiss legislation. In Poland, animal cruelty is sanctioned by the 2017 Animal Protection Act. It prohibits a number of acts, including intentional mutilation, cosmetic alterations, transport causing unnecessary suffering and distress, organising animal fights and bestiality. The offence of cruelty to animals is punishable by a fine or up to two years' imprisonment, or up to three years' imprisonment in cases of extreme cruelty, or confiscation of the animal if the offender is the owner.⁶² Any person who produces, imports or propagates pornographic material using animals for the purpose of distribution shall be punished by a term of imprisonment of between 3 months and 5 years.⁶³ The Czech Republic has a similar solution: under the Czech Criminal Code, anyone who produces, imports, exports, offers, distributes or makes publicly available photographs, films, computer, electronic or other pornographic works depicting or otherwise showing sexual intercourse with an animal is liable to imprisonment of up to one year in the main or up to three years in aggravated cases.⁶⁴ In 2022, Romania has taken a major step forward in the strict sanctioning of zoophilia: under the new legislation, the intentional, unauthorised killing of animals; torture of animals; organising a fight between or with animals and zoophilia are criminal offences punishable by imprisonment from 2 to 7 years.⁶⁵

According to a 2020 study on the criminal law on zoophilia in 15 European countries, countries with differentiated criminal law on zoophilia were 3.62 times more likely to rate animals higher in terms of their legal status.⁶⁶

6. Proposal to amend the Hungarian Criminal Code

Currently in Hungary, zoophilic acts that do not involve animal cruelty are not a criminal offence, but have been prohibited since 2012 by Law No. XXVIII of 1998 on Animal Protection ('it is prohibited to use an animal in an act intended to satisfy

61 | Swiss Criminal Code (StGB) Sec. 197.

62 | Polish Animal Protection Act, Sec. 6.

63 | Kodeks karny (Polish Criminal Code) Sec. 202.

64 | Czech Criminal Code, Sec. 191.

65 | Romanian Law on Animal Protection (205/2004)

66 | Vetter et al. op. cit.

sexual desire'). The question we are examining is whether it would be necessary to criminalise zoophilic acts in Hungary, i.e. to make them a criminal offence. There is no doubt that there are arguments for and against the penalisation of zoophilic acts.

Counter-arguments include that criminalisation does not always produce the expected results (and may even be counterproductive under certain conditions⁶⁷), and that perceptual research on deterrence tends to conclude that the inevitability of punishment is inversely related to participation in illegal behaviour, rather than the severity of the punishment.⁶⁸ A significant proportion of zoophilic acts are not due to the lack of a potential human partner, but are associated with a specific paraphilia.⁶⁹ The difficulty of proving zoophilic acts may also be a problem, but this is a procedural rather than a substantive issue.

The criminalisation of zoophilic acts is supported by the public morality of the offence, its offensive nature and consequent danger to society, its close association with animal cruelty and other related crimes. In the absence of adequate public sanctions compared with other European countries, the country is becoming a production site for animal pornography and a destination for zoophile tourism, a trend which is not desirable in terms of the country's image (*Figure 1*).

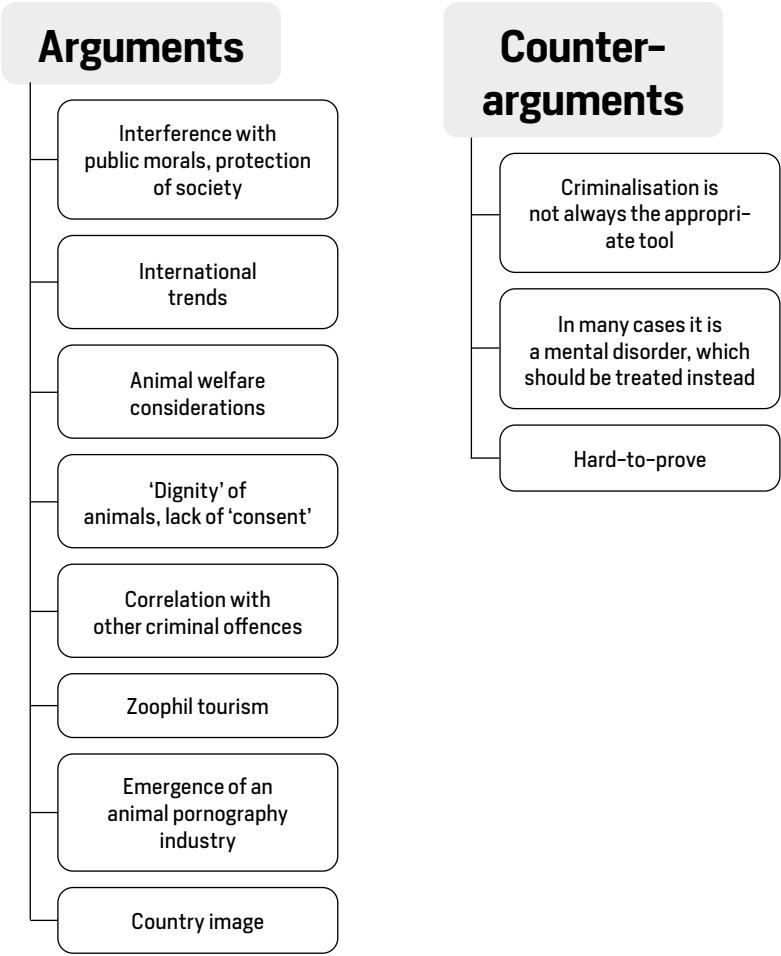
Ultimately, we believe that the Hungarian criminal sanctioning of zoophilic acts would fit into the European 'evolution' of sexual crimes in the 20th and 21st centuries. It would also make punishable by criminal law codification cases that are not currently considered animal cruelty under the current Criminal Code, which would have ideological and practical significance. It is important to protect human morals, to protect minors and to show respect for living beings, which also sends out a strong message in terms of sustainability, environmental and climate protection. In addition, however, it is strongly recommended to avoid re-directing zoophilic sex tourism and animal pornography 'industry' from Europe.

67 | Sherman 1993, 445-473.

68 | Harold et al. 1980, 471-491.

69 | It should be noted, however, that the same is true for many other crimes and related pathologies, such as paedophile motivated acts or the antisocial personality disorder that underlies many violent crimes. Even in the latter cases, the fact that a psychiatric disorder may be linked to the offence was not a barrier to criminalisation.

Figure 1
Arguments for and counter-arguments against criminalisation of zoophilic acts in Hungary (own edit.)



7. Conclusions

The recognition of the inherent intrinsic value of living creatures has characterised European legislation over the past few decades, a process that can be seen in the refinement of the legal status of animals, the increasingly detailed animal welfare rules, the tightening of anti-cruelty legislation, some constitutional changes and bans on zoophilic acts.

The prohibition or sanctioning of sexual intercourse with animals is although known, but not uniform across Europe, and national laws have different solutions. The production and distribution of animal pornography is prohibited in most European countries and in most countries zoophilia is also criminalised as a criminal offence, however, in Hungary there are no specific provisions in the criminal law.

In case of zoophilia, there seems to be a high latency rate, with few cases revealed, but they are causing a strong public outcry. In the long term, even countries that do not currently sanction or criminalise zoophilia (such as Hungary) are likely to take stronger action against it in the future.

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