Legal regime of agricultural animals as objects of civil law rights

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Abstract. The article is devoted to the study of the legal regime of farm animals in civil turnover. To disclose the topic the authors analysed the concept and considered the types of animals, investigated the features of agricultural animals as objects of civil rights. The authors used logical and dialectical methods, methods of induction, deduction, synthesis, and analysis, systemic and structural-functional methods of scientific cognition, and method of interpretation of legal norms. According to the results of the conducted research on the peculiarities of farm animals as objects of civil law regulation, the authors came to the conclusion that it is necessary to establish a special legal regime in respect of such objects. In the authors' opinion, animals as special objects of civil turnover should be regulated in a separate chapter of the Civil Code of the Russian Federation. At the same time, farm animals should be singled out as a separate type of domestic animals with the establishment of the peculiarities of civil legal regime in respect of them. The authors also emphasise the need for proper regulation of the issues of acquisition and termination of ownership rights in respect of unattended farm animals. Proposals to improve the mechanisms of legal regulation of farm animals will help to create the necessary legal framework for the functioning of the livestock industry as one of the important branches of agriculture in the Russian Federation.

1 Introduction

Agriculture is one of the key sectors of the Russian economy and the economies of many other countries [1], [2], [3]. The development of this industry provides the necessary level of food security and food independence of the country [4], which has been repeatedly reflected in the programme documents of the President of the Russian Federation [5], [6].

In particular, the document of strategic planning, which reflects the official views on the goals, objectives and main directions of the state socio-economic policy in the field of food security of the Russian Federation is the Doctrine of Food Security of the Russian Federation approved by the Decree of the President of the Russian Federation from 21.01.2020 No. 20. It takes into account the provisions of the Strategy of Economic Security of the Russian

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Federation for the period until 2030, approved by Presidential Decree No. 208 of 13 May 2017, and other strategic planning documents. At the same time, the Doctrine takes into account the recommendations of the Food and Agriculture Organisation (FAO) of the United Nations on the maximum share of imports and stocks of food resources.

The RF Government Order No. 1516-r dated 09.06.2020 "On approval of the action plan for the implementation of the provisions of the Doctrine of Food Security of the Russian Federation" outlines a "road map" for the implementation of the Doctrine of Food Security of the Russian Federation, and to date, the main areas of development of the agricultural sector, noted in the Doctrine have been successfully implemented. But there are some shortcomings. Thus, in the explanatory note to the Draft Federal Law No. 194262-8 "On Amendments to the Federal Law "On Breeding Livestock" (version submitted to the State Duma of the Federal Assembly of the Russian Federation, text as of 21.03. 2023) in 2021, the level of self-sufficiency of the Russian Federation in milk and milk products (in terms of milk) was 84.2%, which is 5.8 p. p. below the threshold (90%) set by the Food Security Doctrine, which is due to the shortage of high-yielding pedigree cows.

In addition, the Russian Government Order No. 1131-r of 9 May 2022 added to the roadmap the need to approve a list of the main types of farm animals and annual targets for the country's self-sufficiency in domestically produced breeding products (material) for each of these types (until 2030). Thus, a further action plan has been outlined for the development of the agricultural sector in terms of the development of breeding livestock breeding.

At the same time, it is important to create an appropriate regulatory and legal framework defining the legal regime of farm animals. To address the issues of livestock breeding development in Russia, it is necessary to provide legal mechanisms for the participation of farm animals as objects of civil turnover.

2 Methodology

Methodological basis of the research was formed from general scientific and private-scientific methods of scientific cognition of economic and legal phenomena. In particular, logical and dialectical methods, methods of induction, deduction, synthesis and analysis were used. Systemic and structural-functional approaches were used, as well as the method of interpretation of legal norms.

3 Results

Humans have interacted with various animals since ancient times: they hunted them, domesticated them, used them to hunt other species, and so on. Nowadays, animals are actively used in agriculture as a source of food, raw materials, etc.

Table 1 presents data on the number of farm animals in Russia, which are kept in farms of all categories: in agricultural organisations, in peasant (farm) households, and by the population.

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<tbody>
<tr>
<td>Cattle</td>
<td>18346.1</td>
<td>18294.2</td>
<td>18151.4</td>
<td>18126.0</td>
<td>18027.2</td>
<td>17649.6</td>
<td>17489.0</td>
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<tr>
<td>Pig</td>
<td>21924.6</td>
<td>23075.5</td>
<td>23726.6</td>
<td>25163.2</td>
<td>25850.1</td>
<td>26192.9</td>
<td>27606.1</td>
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<tr>
<td>Sheep and goat</td>
<td>24716.9</td>
<td>24389.1</td>
<td>23129.3</td>
<td>22617.6</td>
<td>21659.9</td>
<td>20959.3</td>
<td>20831.2</td>
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Thus, it follows from the analysis of Table 1 that for the statistical observation purposes the number of farm animals includes cattle, pigs, sheep and goats, horses, birds, reindeer, rabbits and domestic bees.

At the same time, the concept of farm animals, which is given in the regulatory legal acts of the Russian Federation, differs in different sources and for different purposes. Thus, for the purposes of the All-Russian Agricultural Census, the Federal Law of 21.07.2005 No. 108-FZ (ed. 24.04.2020) "On the All-Russian Agricultural Census" establishes that "farm animals are livestock, valuable fur-bearing animals, rabbits, poultry and bees used for the production of livestock and other agricultural products". Another legal act, Federal Law of 25.07.2011 № 260-FZ (ed. 30.12.2021) "On state support in the field of agricultural insurance and on amendments to the Federal Law "On the development of agriculture" in the norm of Article 2 demonstrates a different approach to the definition of the concept of farm animals: "farm animals - animals of all species, of any sex and age composition, breeding of which is carried out in order to obtain livestock products". And finally, GOST R 56694-2015. National Standard of the Russian Federation. Renewable sources of raw materials. Agricultural resources. Terms and definitions (approved and put into effect by the Order of Rosstandart of 11.11.2015 No. 1755-st) contains the following definition of the term farm animal: "Domestic animal kept by humans for the purpose of obtaining food, raw materials for the production of industrial products (including food, medical, feed, technical, textile, etc.), as well as performing transport and working functions".

Thus, the Russian legal system has not developed a unified approach to the understanding of the term "farm animals". In our opinion, this situation gives rise to legal uncertainty. This applies to the concept of animals in general, as well as to the definition of their legal nature.

In different legal systems the legislator defines the legal status of animals differently. Thus, the legal acts of the Kingdom of Spain and the Argentine Republic do not consider animals to be either a subject or an object of legal relations. In Russia, however, they are recognised as the object of civil legal relations by virtue of Article 137 of the Civil Code of the Russian Federation, which states that "general rules on property apply to animals insofar as the law or other legal acts do not establish otherwise. Cruel treatment of animals contrary to the principles of humanity shall not be permitted in the exercise of rights". At the same time, this article is an integral part of subsection 3 of the Civil Code of the Russian Federation, entitled "Objects of civil rights".

Thus, this article essentially establishes the legal nature of animals, indicating that they are subject to general provisions on property, from which the legislator, however, somewhat separates them, accompanied by an indication of the prohibition of cruel treatment. At the same time, there is no legal definition of the concept of "animal". There is also no clear classification of animals into species. Only the Federal Law No. 498-FZ dated 27.12.2018 (ed. 24.07.2023) "On the Responsible Treatment of Animals and on Amendments to Certain Legislative Acts of the Russian Federation" singles out the categories of wild animals kept or used in captivity, animals without owners, domestic, service animals and animals used for cultural and entertainment purposes. However, the legal characteristics of such an object as a whole are not reflected in this legal act either.
If attention is paid to the "Model Law on the Treatment of Animals" of 31.10.2007, adopted at the Plenary Session No. 29 in St. Petersburg of the Interparliamentary Assembly of the CIS Member States by Resolution No. 29-17, it can be seen that the model law gives the concept of an animal by listing the types of animals, resulting in the following: domestic animals, companion animals, animals used in cultural and entertainment events, service animals, laboratory animals, wild animals. However, this similarly does not reveal the characteristics of an animal, but only provides some sort of recognition of their different species in terms of the law. Nevertheless, this is the only definition of an animal that is contained in a legal act. Although this act is not binding, its norms are proposed to be enshrined in the legislation of the member states of the Commonwealth of Independent States.

Obviously, in everyday life, due to the prevalence of general information about animals, the concept of "animal" does not need interpretation and clarification. However, for the purposes of legal regulation, for the formation of law enforcement practice, the concept of "animal" should still find its interpretation and legal fixation.

In order to develop such a concept, it is necessary to refer to various points of view on the essence of an animal as an object of law. Some researchers consider animals to be only a subspecies of things, namely animate things, because people have owned, bought and sold, used, inherited, rented and even destroyed them for thousands of years, just like other objects, such as books or cars of our time. For example, D.E. Zakharov in his dissertation research gives the following definition of an animal: "a movable, indivisible, non-consumable thing, in civil turnover possessing the quality of marketability, characterised by the ability to experience negative pain sensations from external stimuli, as well as the ability... to change from one qualitative state to another... to change from one qualitative state to another (biological death leads to the destruction of an animate thing and the appearance of an inanimate thing) and... having needs, the fulfilment of which ensures its very existence" [7].

Other researchers for example E.F. Evseev [8], point out that it makes sense to refer animals not to things, but to other objects of civil rights, as they can not only have a will, but also to some extent express it, which is supported by the legislator's provision of Article 231 of the Civil Code of the Russian Federation on the return of the animal to the former owner when demonstrating the continued attachment to it. Similar conclusions are enshrined at the legislative level in the acts of Germany, Estonia, Moldavia and Azerbaijan, which civil legislation does not classify animals as things, but they are subject to the right in rem within the framework not regulated by other special laws and regulations.

Indeed, if animals are characterised in terms of their psychological interaction with humans, it can be noted that animals have a number of mental characteristics that make their use require specific legal regulation. Such features include the following:

- sensitivity or irritability - the ability to respond to vital (biologically significant) stimuli;
- instincts - innate and fixed at the genetic level acts of behaviour that are aimed at satisfying elementary biological needs of the organism, which are formed and manifested at all stages of evolution (at that, the higher an animal stands on the evolutionary ladder, the less it is guided by instincts and needs to form skills and conditioned reflexes);
- skills are the ways of behaviour which arise and are fixed as a result of regular repetitions of the same situation in the animal's life, as well as in the course of regular exercises initiated by man; skills are automated and are carried out without the participation of consciousness and without control by the animal;
- conditioned reflexes - such reactions to stimuli, which are initially neutral and close to unconditional reflexes by the mechanism of formation and manifestation; reflexes in animals living near humans are developed with the participation of the latter;
operant behaviour - such behaviour is formed in an animal in specific conditions and turns out to be aimed at satisfying different levels of needs of the animal exactly in those conditions in which it found itself [9].

The legal literature also expresses the opinion that animals are creatures with their own will [10]. Animals, like humans, can manifest their desires and preferences, choose and make decisions, and respond to various stimuli. This is confirmed by observations and studies of the animal world, where one can often find the manifestation of individuality and character in animals.

We believe that on this basis animals as objects of civil rights should be considered not as things, but as a special type of property. In this case, it is advisable to provide for norms defining the specific legal regime of certain types of animals. In this case, it is advisable to identify the following main types of animals:

- wild animals;
- domestic animals;
- animals that are not domestic, but are kept by humans and kept in captivity.

At the same time, domestic animals, which are understood to be those that are kept by the owner - a natural person, under his temporary or permanent supervision and whose place of keeping is not zoos, zoological gardens, circuses, zoo theatres, dolphinariums, oceanariums, can also be divided into several subspecies:
- companion animals, towards which people feel a certain affection, satisfying the need for companionship and aesthetic pleasure, as well as the need for constant supervision in case of special disorders of physical health;
- farm animals;
- breeding animals, which are a slightly narrower type of farm animals.

In the third group of animals we have identified, the following subspecies can be distinguished:
- Animals used in cultural and entertainment activities (in zoos, circuses, mobile menageries, sports, in the process of production of advertising, in the creation of works of cinematography, for the production of photo and video products, on television, in educational activities, for demonstration purposes), providing commercial value;
- service animals that are specially trained and used to ensure national defence and security of the state, protection of public order and public safety, protection of military, important state and special facilities, facilities that ensure the vital activity of the population, functioning of transport, communications and communications, energy facilities and other facilities, as well as for other purposes established by the legislation of the Russian Federation;
- laboratory animals used in scientific experiment or testing, biological trials, educational process, as well as in the production of biological preparations.

Thus, farm animals are a type of domestic animals. At the same time, they should have a special legal regime that would take into account their purpose: attention should be paid to the purpose of use of farm animals - obtaining food, raw materials for the production of industrial products, as well as their transport and working functions.

Separately, the Civil Code of the Russian Federation also mentions such type of animals as "neglected", but does not provide a legal concept. However, analysing the norms in which this type is mentioned, it can be reasonably considered that it includes animals that have lost their owner and those whose owner could not be identified.

It should be said that in practice it is often necessary to face the problem of confirming the fact of ownership, as well as the existence of the right of ownership of farm animals, because the documents on them are not always executed. For example, often an animal is not purchased by its owner under a sale and purchase agreement, but may have been born on the owner's farm. At the same time, the owner of the farm animal does not always make any
marks that would allow such an animal to be identified and the owner to be unambiguously identified. For example, B.N. submitted a lawsuit to the court against a regional charitable public organisation demanding that the organisation be obliged to return a cow that had disappeared from the village pasture. The court found that the cow had been found, deemed ownerless and handed over to a shelter. B.N. applied to the shelter with a demand to return the cow, but as she had no documents for it, the shelter director refused to return the cow and suggested that she apply to the court.

The court refused to satisfy B.N.'s claims due to the failure to prove B.N.'s ownership right to the cow, despite the fact that the case file contained a certificate of the chief state veterinary inspector of the region that the plaintiff had a cow, the colour and age of which coincided with the description of the cow that had entered the defendant's shelter. The court held that the plaintiff had not provided evidence that the cow belonged to her by right of ownership, and the certificate provided by the state veterinary inspector did not prove that the cow belonged to the plaintiff (Determination of the St. Petersburg City Court of 27.06.2012 No. 33-8870).

It seems that Russian civil legislation defining the legal regime of farm animals should be properly formed and finalised based on the existing problems arising in law enforcement.

4 Conclusion / recommendations

Consequently, the current civil legislation does not contain the concept of "animal" and the classification of animals into species. An animal is recognised as a property, and is subject to the general regime of things as objects of civil rights, which does not allow to fully take into account the specificity of these objects.

We consider it necessary to classify animals as special objects of civil rights - other property. For this purpose, it is advisable to provide in the Civil Code of the Russian Federation a separate chapter 6.2 "Animals" within subsection 3 "Objects of civil law rights". This chapter should contain norms regulating the legal regime of certain types of animals, including farm animals.

An agricultural animal should be defined in the Civil Code of the Russian Federation as a type of domestic animal kept by a person for the purpose of obtaining food products, raw materials for the production of industrial products (including food, medical, fodder, technical, textile, etc.), as well as performing transport and working functions. This is a special type of pets, the legal regime of which has specifics that should be taken into account when affecting their civil legal regime.

It is also necessary to improve the legal framework that establishes the legal regime of neglected farm animals in terms of the rules of acquisition and termination of ownership rights to them and determination of their titular owner, as well as mechanisms for the protection of owners and other legal owners of such animals.

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