Animals in European Laws –
Legal Aspects of Human-Animal Bonds

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www.animallaw.ch / www.tierimrecht.org
A. Variety of human-animal bonds – what makes the legal aspects special?

B. Animals treated as „goods“/objects or as a category between humans and objects?

C. Animal welfare acts: Application of cruelty laws

D. Laboratory and zoo animals – legal standing?

E. Where to go?
A. Variety of human-animal bonds – what makes the legal aspects special?

a) Theology, philosophy, ethology, sociology, psychology, psychiatry, criminology, arts and literature etc.

b) Law as the result of the prevailing majority opinion.

c) Law with a “light-house-„function, e.g. „Dignity of creature“, intrinsic value, protection of animal’s life, of non-vertebrates
B. Animals treated as „goods“/objects or as a category between humans and objects?

1. T The national constitution: Does it include animal welfare?
2. H Has the country a uniform animal welfare act?
3. E Existence of sanctions for cruelty to animals on a national level? And if yes, what are the highest penalties?
4. A Are animals treated as an own category by civil law? (Legal standing)
5. N Norm for compensation: Does the country pay out adequate reparation in case of injury or death of an animal?
6. I In case of death of an animal: Are reasonable costs for the veterinary care paid?
7. M May I, as a tenant, at any rate keep an animal, or if no, under which conditions?
8. **A** Are judges legally entitled to assign the ownership from one person to another, if the other person is a better pet keeper, even if he/she is not the owner? (e.g. in divorce cases)

9. **L** Lost and found pets: is there a special delay for the finder of an animal to become the owner of it?

10. **S** Search for lost pets: is there a central office to co-ordinate the owner and the finder to get in touch?

11. **I** Is the intrinsic value or the dignity of the animal protected by the law?

12. **N** No bill paid: Are pets or other animals protected of being seized if the owner is in debt?

13. **T** The animal rights debate: Do rights or legally protected interests exist?

14. **H** Hospitals and job – are there legal acts, which allow bringing animals to these places?
15. E Education of pet owners, pet breeders and lawyers in animal welfare aspects; are they compulsory by law?
16. L Lawyers for animals: Are the animal's interests in punishing the perpetrator protected during an investigation and at court by special lawyers?
17. A Animals as heirs? Is there an animal's right for heritage?
18. W What should the future bring for a better legal perspective in human-animal-interaction?
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C. Animal welfare acts: Application of cruelty laws

3. Existence of sanctions for cruelty to animals on a national level? And if yes, what are the highest penalties?

- **Switzerland**: yes (Art. 27-29 TschG) prison up to 3 years and 40'000 CHF fine
- **Italy**: yes (legge 189/2004) prison up to 3 years and 10'000 € fine
- **Germany**: yes (§§ 17/18 TierSchG) prison up to 3 years
- **Spain**: ???
- **Austria**: yes (§ 5/38 TschG) fines up to 15'000 €
- **U.K.**: ???
- **France**: ???
- **USA**: ???

Foundation for the Animal in the Law – Cambridge 31st May 2005

In order to improve the understanding and enforcement of animal welfare acts, the Swiss based Foundation for the Animal in the Law collected every court decision related to an infliction of the Swiss animal welfare act for the years 1993 up to 2003 and converted them into a database. By May 2005, the (as to our knowledge worldwide unique) database (http://www.tierimrecht.org/de/faelle/) contains 2’889 cases that can be categorised in app. 80 subdivisions of animal maltreatment and other offences of the Swiss Animal welfare act (Art. 27 and 29). Astonishingly, not less than 2146 cases (74,28%) were carried out intentionally. Negligence occurred only in 359 cases (12,42%; in the rest of the cases, no details are given). 1056 cases (36,55%) refer to the classically intended maltreatment of an animal (Art. 27 al. 1 animal welfare act). Only in 37 cases, an unconditioned im-
prisonment has been spoken out (3.5%), whereby it has to be considered, that practically each of these cases contained also an infliction of other laws beside the animal welfare act. 173 cases (16.38%) were liable by a conditioned sentence to imprisonment and the rest only by a fine. The average fine in cases of animal maltreatment is CHF 500 (app. € 325). Statistically speaking, very rarely a Swiss (and by interpolation also German) judge or state attorney is confronted with animal maltreatment cases, where the accused person risks an unconditioned imprisonment. (See Statistics under http://www.tierimrecht.org/de/PDF_Files_gesammelt/tierschutzwidrigkeiten_studie_neu.pdf).

Further research is to be made on the topic of a complete and analysed survey of animal maltreatment cases in other countries in order to discuss the best measures to prevent further cruelties to animals.
D. Laboratory and zoo animals – legal standing?

Official Journal L 094, 09/04/1999 P. 0024 – 0026. Legal Highlights

E. Where to go?

- Taking the animal in the law **serious** as a scientific field – better education of lawyers, prosecutors, judges, veterinarians, animal welfare organisations etc.

- Defending the animal’s interests in a serious investigation when infliction of the animal welfare act occurs --> **animal welfare lawyer** in criminal cases?!

- Legal animal welfare **task forces** and departments (in courts, etc.)

- **Research** and practical results in animal welfare **law**, e.g. statistics on cases, systematics, comparisons etc.