

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

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[www.animallaw.ch](http://www.animallaw.ch) / [www.tierimrecht.org](http://www.tierimrecht.org)

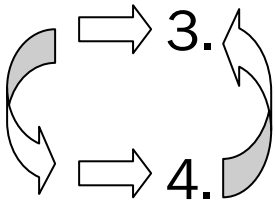
- A. Variety of human-animal bonds – what makes the legal aspects special?**
- B. Animals treated as „goods“/objects or as a category between humans and objects?**
- C. Animal welfare acts: Application of cruelty laws**
- D. Laboratory and zoo animals – legal standing?**
- E. Where to go?**

## **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?

	Switzerland	Germany	Austria	France	Italy	Spain	U.K.	USA
1	Green	Green	Green	Red	Red	Red	Red	Red
2	Green	Green	Green	Red	Red	Red	Red	Red
3	Green	Green	Green	White	Green	White	White	White
4	Green	Green	Green	Green	Red	Red	Red	Red
5	Green	Red	Red	Red	Red	Red	White	White
6	Green	Green	Green	Red	Red	Red	White	White
7	Red	Red	Red	Green	Red	Red	Red	Red
8	Green	Red	Red	Red	Red	Red	White	White
9	Green	Red	Red	Red	Green	Green	White	White
10	Green	Red	Red	Red	Red	Red	Red	Red
11	Green	Red	Red	Red	Red	Red	Red	Red
12	Green	Green	White	White	Red	White	White	White
13	Red	Red	Red	Red	Red	Red	Red	Red
14	Red	Red	Red	Red	Red	Red	Red	Red
15	Red	Red	Red	Red	Red	Red	Red	Red
16	!!!	Red	!!!	Red	!!!	Red	Red	Red
17	Red	Red	Red	Red	Red	Red	White	!!!
18	White	White	White	White	White	White	White	White

## 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

???



## **Cruelty towards Animals: Facts and Figures relating to the complete Database covering Animal Maltreatment Cases in Switzerland 1993 – 2003**

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](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?**

Council Directive 1999/22/EC of 29 March 1999 relating to the keeping of wild animals in zoos

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

Council Directive 86/609/EEC of 24 November 1986 on the approximation of laws, regulations and administrative provisions of the Member States regarding the protection of animals used for experimental and other scientific purposes. 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.