

May stray, abandoned or feral dogs and cats be used for animal testing in Germany?

An insight into the legal foundations

Introduction

In some European countries, there is the persistent rumour that stray dogs and cats - also from animal sanctuaries - are sold to and organised for animal testing laboratories.

Unfortunately, this contributes to the fact that work is made unnecessarily more difficult for animal rights campaigners in the countries in question, who also send animals to Germany.

To contribute to eliminating these rumours and to inform about the legal situation in Germany, some facts about the subject are to be discussed here.

Fact 1:

Stray, abandoned or feral dogs and cats may not be used in animal testing.

DIRECTIVE 2010/63/EU (EU Animal Protection Directive)

Recital 21

Since the background of stray and feral animals of domestic species is not known, and since capture and placement into establishments increases distress for such animals, they should not, as a general rule, be used in procedures.

Article 11 subsection 1: *Stray and feral animals of domestic species shall not be used in procedures.*

German Ordinance for the Protection of Animals used for Testing and other Scientific Purposes (TierSchVersV)

§ 21: *Stray or feral animals of species customarily kept in human custody may not be used in animal testing.*

Fact 2:

Dogs and cats must have been specifically bred for use in animal testing.

DIRECTIVE 2010/63/EU (EU Animal Protection Directive)

Recital 21¹

There is a need for certain species of vertebrate animals used in procedures to be bred specifically for that purpose so that their genetic, biological and behavioural background is well-known to persons undertaking the procedures. Such knowledge both increases the scientific quality and reliability of the results and decreases the variability (...)

¹ This is an apparent mistake in the original document - this is Recital 20, not 21.

Article 10 subsection 1: *Member States shall ensure that animals belonging to the species listed in Annex I may only be used in procedures where those animals have been bred for use in procedures. (...)*

ANNEX I

LIST OF ANIMALS REFERRED TO IN ARTICLE 10

(...)

8. *Dog (Canis familiaris)*

9. *Cat (Felis catus)*

(...)

German Animal Protection Act (TierSchG)

§4 subsection 3 sentence 2: *Dogs, cats and non-human primates may only be killed for scientific purposes to the extent that they have been bred either for such a purpose or for use in animal testing.*

German Ordinance for the Protection of Animals used for Testing and other Scientific Purposes (TierSchVersV)

§ 19: *Vertebrates and cephalopods may only be used in animal testing if they have been bred for such a purpose (...)*

§ 9 subsection 2: *Anyone acquiring unidentified dogs, cats or non-human primates for provision or use for the purposes stated in subsection 1, sentence 1, shall (...) by request of the competent authority render proof that that it is a question of an animal bred for such purposes.*

Note: The purposes stated in subsection 1, sentence 1, TierSchVersV, which are meant here are use in animal testing and use of organs and tissues for scientific purposes.

Fact 3:

All dogs and cats intended for use in animal testing must be identified.

DIRECTIVE 2010/63/EU (EU Animal Protection Directive)

Article 32 subsections 1 and 2:

(1) Each dog, cat (...) shall be provided, at the latest at the time of weaning, with a permanent individual identification mark (...).

(2) Where a dog, cat (...) is transferred from one breeder, supplier or user to another before it is weaned, and it is not practicable to mark it beforehand, a record, specifying in particular its mother, must be maintained by the receiver until it is marked.

German Animal Protection Act (TierSchG)

§11a subsection-3: *Anyone breeding dogs, cats (...)*

- 1. intended for use in animal testing or whose tissues and organs are intended to be used for scientific purposes, or*
- 2. intended for use for one of the purposes stated in § 6 subsection 1 sentence 2 number 4, shall mark them for the purpose of establishment of the identity of the animal in question.*

Note: The purposes stated according to § 6 subsection 1 sentence 2 number 4 TierSchG are the complete or partial removal of organs or tissues in order to transplant them, to create cultures or to examine isolated organs, tissues or cells for purposes other than scientific ones.

German Ordinance for the Protection of Animals used for Testing and other Scientific Purposes (TierSchVersV)

§9 subsection 1: *Anyone breeding dogs, cats or non-human primates intended for use in animal testing or whose tissues or organs are intended to be used for scientific purposes shall permanently mark the animal in question, at the latest at the time of weaning (...) such that its identity can be established.*

Fact 4:

A personal file must be created for each cat or dog.

DIRECTIVE 2010/63/EU (EU Animal Protection Directive)

Recital 33

Non-human primates, dogs and cats should have a personal history file from birth covering their lifetimes (...)

Article 31

(1) Member States shall ensure that all breeders, suppliers and users keep the following information on each dog, cat (...):

- a) identity;*
- b) place and date of birth, when available;*
- c) whether it is bred for use in procedures (...)*

(2) Each dog, cat (...) shall have an individual history file, which follows the animal as long as it is kept for the purposes of this Directive. The file shall be established at birth or as soon as possible thereafter.

German Animal Protection Act (TierSchG)

§11a

Anyone

- 1. exercising an activity subject to permission according to § 11 subsection 1 sentence 1 number 1 or*
- 2. breeding, keeping or trading with vertebrates for the purposes stated in § 6 subsection 1 sentence 2 number 4 shall make records concerning the origin and the location and also, in the case of dogs, cats (...), concerning the keeping and the use of the animals.*

Note: The aforementioned activity according to § 11 subsection 1 sentence 1 number 1 TierSchG is the breeding or keeping (also for provision to third parties) of vertebrates and cephalopods intended for use in animal testing or whose organs and tissues are to be used for scientific purposes.

The purposes stated according to § 6 subsection 1 sentence 2 number 4 TierSchG are the complete or partial removal of organs or tissues in order to transplant them, to create cultures or to examine isolated organs, tissues or cells for purposes other than scientific ones.

Exceptions

According to the **German Ordinance for the Protection of Animals used for Testing and other Scientific Purposes**, the competent authority can approve exceptions from the ban on using stray animals for animal testing. But this is only possible under the strict precondition that "a fundamental requirement for studies on the animals' health and well-being or serious risks for the environment or the health of human beings or animals" exist and a scientific substantiation exists for the fact that the purpose of the procedure can only be achieved by the use of one of these animals.

However, this plays an extremely inferior role in Germany. An example of this is an examination taking place in the Faculty of Veterinary Science of Leipzig University on the stray cats in city of Leipzig, in which blood samples are taken from the animals in the course of castration and medical provisions (TNR), also for the purpose of scientific collection of health data.

The competent authority can also approve exceptions from the requirement that vertebrates and cephalopods exclusively bred for use in animal testing may be used according to the **German Ordinance for the Protection of Animals used for Testing and other Scientific Purposes** "to the extent compatible with protection of the animals" and "the fact that the use of animals other than (...) bred is necessary" has been proven with a scientific substantiation.

For example, this is the case in therapy tests or diagnostic procedures (also "only" taking blood samples) in the course of scientific studies in university or other specialised animal hospitals with the dogs and cats being treated there as patients, whose owners have granted their approval for the procedures.

As such studies are done with owners' animals to answer a scientific question ("for testing purposes, cf. TierSchG), they are deemed animal tests and have to be approved by the authorities.

The fact that the owners of the dogs and cats in question are not breeders of test animals makes an application for granting of an exception from the ban on exclusive use of vertebrates bred for such a purpose necessary on the one hand (cf. § 19 of the German Ordinance for the Protection of Animals used for Testing and other scientific Purposes).

This is also the reason for the relatively large number of dogs in the German statistics on test animals in 2018 with the statement of origin "animals born in the EU, but not in a registered breeding institute" according to the **German Test Animals Registration Ordinance**.

Conclusion

According to our assessment, the use of stray or animal sanctuary dogs for animal testing can be ruled out on the basis of the existing legal situation in Germany as no stray or feral dogs and cats, but only animals bred specifically for this purpose may be used (cf. §19 and §21 TierSchVersV).

Declaration

TASSO rejects animal testing from the aspect of ethically motivated animal protection and for scientific reasons. The reference to the fact that only dogs and cats specifically bred for animal testing may be used is merely to be understood as a portrayal of the legal situation and under no circumstances as approval of animal testing with animals specifically bred for this purpose, especially as precisely the particularly cruel tests are to be ascribed to those with animals bred specifically.

Sources:

1.) DIRECTIVE 2010/63/EU (EU Animal Protection Directive)

https://www.bfr.bund.de/cm/343/5_Beratung_Anlage%203_2010-63-EU.pdf

2.) German Animal Protection Act (TierSchG)

<https://www.gesetze-im-internet.de/tierschg/BJNR012770972.html>

3.) German Ordinance for the Protection of Animals used for Testing and other Scientific Purposes - TierSchVersV

<https://www.gesetze-im-internet.de/tierschversv/BJNR312600013.html>

4.) Ordinance concerning the Registration of Vertebrates or Cephalopods used for Test Purposes or Vertebrates used for specific other Purposes (German Test Animals Registration Ordinance)

http://www.gesetze-im-internet.de/verstiermeldv_2013/

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