

Protection of laboratory animals: The killing of a "surplus" animal must be carefully weighed up in each individual case

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According to the German Animal Welfare Act, no one may inflict pain, suffering or harm on an animal without "reasonable cause". Anyone who kills vertebrates without reasonable cause is liable to prosecution. But what exactly is a reasonable cause? The term is not clearly defined in the law. It is an indeterminate legal term without a legal definition that can be applied to many cases. The rule is that the reasonable cause must be cogent, understandable and supported by an interest worthy of protection that outweighs the animal's interest in its integrity.

A team of scientists from the German Centre for the Protection of Laboratory Animals has investigated whether, under certain conditions, the killing of surplus laboratory animals is justified on reasonable grounds. In two articles for the legal journal *Natur und Recht* (<https://link.springer.com/content/pdf/10.1007/s10357-022-4102-9.pdf?pdf=inline%20link> and <https://link.springer.com/article/10.1007/s10357-022-4103-8>), the scientists conclude that there can be no blanket answer. For each individual case, it must be carefully considered whether there is a reasonable reason to kill a "surplus" laboratory animal.

The killing of laboratory animals is permitted under strict conditions. However, it is unclear in which cases this also applies to "surplus" laboratory animals. This refers to animals that were bred for research, but then for various reasons are not used for this purpose and are often killed.

A team of scientists from the German Centre for the Protection of Laboratory Animals (Bf3R) has investigated in which cases there is a reasonable cause to allow the killing of surplus laboratory animals under certain conditions. The centre is part of the Federal Institute for Risk Assessment (BfR) and coordinates nationwide activities with the goals of limiting animal experiments to the indispensable minimum and ensuring the best possible protection for laboratory animals.

Decisive for the evaluation are various measures that need to be considered. Breeding must be carefully planned so that only the absolute minimum of "surplus" animals is produced. Subsequently, the further use of the animals for other scientific issues, such as organ removal for scientific purposes, shall be evaluated. Private housing or continued keeping of the animals in the laboratory animal facility can also be considered. Only when all possible measures have been exhausted a reasonable reason for killing these "surplus" animals can be assumed. Nevertheless, the individual case must always be examined.

The BfR's publications have been made because two animal protection organisations have reported the killing of "surplus" laboratory animals in individual cases. The background to the complaints is a ruling by the Federal Administrative Court from 2019 on male chicken chicks. Until now, these were killed in the first hours of life, as there was no further use for them in food production. The court ruled that this practice was now only permissible on a transitional basis. There was no reasonable cause for killing. Since 2022, the killing of such day-old chicks has been prohibited by law.

However, the BfR team of scientists argues that the statements of the judgement on chicken chicks cannot be transferred one-to-one to the field of laboratory animals. The essential difference is that the intrinsic value of male chicks is denied right from the start. This is not true to

the same extent for laboratory animals, but it is important to appreciate the intrinsic value of the animal in science as well.

Since 2021, the BfR has had the task of recording not only the number of animals used in animal experiments but also the number of “surplus” laboratory animals in Germany. The Institute published the first report in 2022 for the reporting year 2021 at <https://www.bf3r.de/cm/343/aufstellung-der-versuchstierzahlen-fuer-2021-aufgeschlüsselt-nach-bundesländern-und-der-bundeswehr.xlsx>. This group includes, among others, the offspring of genetically modified animal lines that do not possess the desired characteristics for the experiment and were killed. It also includes animals that could not be used scientifically for other reasons. For example, because they were too old, did not have the right sex for the experiment or were used within the breeding for another, non-scientific purpose.

With the annual publication of these figures, Germany takes a pioneering role within Europe and thus creates more transparency.

About the Bf3R

The German Centre for the Protection of Laboratory Animals (Bf3R) was founded in 2015 and is an integral part of the Federal Institute for Risk Assessment (BfR). It coordinates nationwide activities with the goals of limiting animal experiments to the indispensable minimum and ensuring the best possible protection for laboratory animals. In addition, it aims to stimulate research activities worldwide and promote scientific dialogue.

About the BfR

The Federal Institute for Risk Assessment (BfR) is a scientifically independent institution in the portfolio of the Federal Ministry of Food and Agriculture (BMEL). It advises the Federal Government and the Federal States on issues of food, chemical and product safety. The BfR conducts its own research on topics closely related to its assessment tasks.