

Administrative Law Federal State of North Rhine – Westphalia (NRW)

September 2013: The federal state of North Rhine-Westphalia (NRW) strengthens its animal welfare policy as the first Federal State in Germany prohibiting the mass killing of male chicks in its hatcheries

During a trial against a small hatchery in North Rhine-Westphalia, the public prosecuting authority of Münster came to the conclusion that the mass killing of male chicks is contrary to the German animal welfare act. The male chicks of laying hens are killed because they don't lay eggs and do not put on meat and thus do not serve for production. The killing methods range from shredding to killing by gas and are a common practice all across the EU. According to the opinion of the public prosecuting authority of Münster the fact that they are not useful for production is not reasonable cause to kill the chicks and that this common practice constitutes a violation of the German animal welfare act. The German animal welfare act establishes that it is a criminal offence to kill a vertebrate animal without reasonable cause. This criminal evaluation drove the Ministry of North Rhine-Westphalia to act. **In September 2013**, the Ministry decided that, after a transitional period of one year, the killing of male chicks will be forbidden in the Federal State. Accordingly, corresponding administrative orders were sent to 12 hatcheries. The Minister of Agriculture of North Rhine-Westphalia stated that his aim is to establish an animal welfare friendly production where the animals are not treated like objects and waste products. He said that the hatcheries must now rethink and change their production in accordance to the new rules. During the transition period they have the opportunity to develop new solutions in terms of animal protection.

In February 2014, 11 out of the 12 hatcheries affected decided to defend themselves against the decision by the Ministry since they wanted to continue killing chicks. Now, the 11 companies have filed law suit against the prohibition of the killing of chicks.

§ 17 Tierschutzgesetz (German animal welfare act):

Mit Freiheitsstrafe bis zu drei Jahren oder mit Geldstrafe wird bestraft, wer

1. ein Wirbeltier ohne vernünftigen Grund tötet oder
2. einem Wirbeltier
 - a) aus Rohheit erhebliche Schmerzen oder Leiden oder
 - b) länger anhaltende oder sich wiederholende erhebliche Schmerzen oder Leiden zufügt.

<http://www.nrw.de/landesregierung/nrw-staerkt-den-tierschutz-toeten-maennlicher-kueken-nach-uebergangszeit-ab-2015-verboten-15272/>

Criminal Law, Free State of Thuringia

04.02.2014: Through covert investigations and filming, breaches of the animal welfare legislation and massive cruelty to animals were able to be discovered in a pig holding in the Free State of Thuringia.

In October 2013, two animal rights activists took footage in a large pig holding in Thuringia. After watching this footage, which was published in German television, the competent authorities started carrying out intensive investigations into the affected holding. There, the authorities found serious breaches of the legislation and cruelty to animals which had not been detected before during the routine inspections carried out by the authorities.

In their voluntary declaration in front of the public prosecuting authority of Gera (Thuringia), the two animal rights activists stated that they had entered the premises during the night without permission of the owner because there was no other possibility to reveal the illegal situation and the ill-treatment of the animals. Due to the voluntary declaration, the public prosecuting authority did not consider itself obliged

to open proceedings for trespassing against the animal rights activists. The authority referred to § 152 paragraph 2 of the German Penal Procedure Code (StPO).

In the opinion of the German organization “Animal Rights Watch” (ARIWA) it was a case of justified emergency (§ 34 German Criminal Code). According to § 34 of the German Criminal Code a person does not act in an unlawful manner, if he or she acts in order to avert a danger to him or herself or to others. According to the ARIWA there were no more moderate means for helping animals that had been suffering for years under the illegal conditions in that holding.

The legal proceedings for cruelty to animals against the operator of the holding continue.

<http://www.rechtsindex.de/recht-urteile/4044-tierschutz-heimliches-filmen-in-schweinezucht-war-nicht-illegal>

Criminal Law, Free State of Saxony

February 2014: The local court of Dresden sentenced a 31-year old man to a prison sentence of one year (not suspended) and to a lifetime ban from keeping animals.

A dog owner from Dresden had shackled his dog, a boxer mix called Odin, and let him starve to death. Afterwards he disposed of the dead animal on fallow land. On 6 October 2012, the dead dog was found by a stonecutter who immediately called the police when he saw that the dead animal was shackled and that his snout was muzzled. Thanks to the microchip Odin’s owner could be found and was taken to court. He tried to defend himself at court stating that the animal had suddenly dropped dead when going for a walk.

Photographic proof showed that the animal was emaciated. Every single bone was protruding from the skin. Two muzzles pressed the snout together. According to a veterinarian, the dog was generally healthy but died of starvation and thirst.

The man had been sentenced several times before, among other reasons due to sexual abuse and assault.

The mother of the convict was also sentenced to a monetary fine of 1,800 EUR. She had been living together with the convict and was also responsible for the animal.

<http://www.tierschutz-bmt-berlin.de/pm-03032014/>