

# LEGAL HELPDESK

## Q&A NO. 020

**Informed Consent for biobanking:  
What are the legal aspects  
for owners of pets?**

By University of Vienna (w/ VetMedUni)



Question no. 020

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Subject: **Informed Consent; Pet Owners; Veterinary Biobanking**

## 1. Introduction

### COMMENT

Next to biobanks storing human samples and tissues, there are also veterinary biobanks. Veterinary biobanks store samples from veterinary patients for future use, including research into human and/or animal health.<sup>1</sup> Samples are collected and stored with the consent of pet owners.<sup>2</sup> Different types of samples and associated data can be collected, such as healthy or diseased biospecimen.<sup>3</sup> LaLonde-Paul *et al* report that ‘state-of-the-art veterinary biobanking facilities can further contribute to accurate, reproducible research results by adopting best practices and/or international standards and following standard operating procedures, as well as international and governmental regulations to ethically collect samples from domestic dogs’.<sup>4</sup> Veterinary biobanking poses an opportunity for the One Health approach from the World Health Organisation (WHO) whose aim is to balance and optimize the health of humans, animals and whole ecosystems. Samples from veterinary biobanks can be used, for example, in comparative oncology.<sup>5</sup>

The procedure to obtain samples for veterinary biobanks can be described as follows. Pets are presented in the clinic for diagnosis, therapy, castration/health check, and biological material is removed when required for treatment, needed for diagnosis or therapy. Surplus material may be stored for research purposes (in veterinary biobanks) with the owner’s consent. In Austria, no additional collection of material is performed going beyond what is needed to treat the veterinary patient in order to not cause the animal any additional discomfort.<sup>6</sup> Within the BBMRI.at node, the VetBioBank of the VetMedUni Vienna archives biological samples of animal origin in a biobank. This process is done with the use of ‘state-of-the-art’ quality standards for reproduceable research results.<sup>7</sup>

There are some legal aspects to be considered by pet owners with regards to the donation of pet samples to veterinary biobanks. This short contribution looks at legal aspects in the EU and Austria regarding animal welfare and biobanking.

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<sup>1</sup> Richard McEnhill, Holly Borghese and Sarah A. Moore, ‘Pet Owner Perspectives, Motivators and Concerns about Veterinary Biobanking’ (2024) *Frontiers in Veterinary Science* 1, 1.

<sup>2</sup> *Ibid.*

<sup>3</sup> Linn F. Groeneveld *et al*, ‘Domesticated Animal Biobanking: Land of Opportunity’ (2016) *PLoS Biol* 1, 2.

<sup>4</sup> D. LaLonde-Paul *et al*, ‘Banking on a New Understanding: Translational Opportunities from Veterinary Biobanks’ (2023) *GeroScience* 1439, 1440.

<sup>5</sup> Monika Wieser, ‘Unlocking the Power of Veterinary Samples - A Promising Source for “One Health” Research’, <[https://bbmri.at/wp-content/uploads/2024/10/nNwsartikel-NR\\_2024-10\\_Vet-sample-potential-for-one-health\\_slides\\_BBMRI.at-VetBiobank.pdf](https://bbmri.at/wp-content/uploads/2024/10/nNwsartikel-NR_2024-10_Vet-sample-potential-for-one-health_slides_BBMRI.at-VetBiobank.pdf)> accessed 24 October 2024.

<sup>6</sup> See, for example, Bundesgesetz über Versuche an lebenden Tieren (Tierversuchsgesetz 2012 – TVG 2012), [BGBl. I Nr. 114/2012](#).

<sup>7</sup> VetMedUni, ‘VetBiobank’, <<https://www.vetmeduni.ac.at/vetcore/research-units/research-units/vetbiobank>> accessed 16 October 2024.

## 2. Legal aspects of animal welfare

Generally, veterinary biobanking is not explicitly regulated at EU or the Austrian level, however, there is some legislation on animal welfare in general.

1. **Article 13 of the Treaty on the Functioning of the European Union (TFEU):**<sup>8</sup> The TFEU is a text of primary EU law that applies to all EU Member States. Article 13 prescribes that the EU as well as Member States must pay full regard to animal welfare when implementing and making policies in the area of agriculture and transport but also research and technological development. All secondary law as well as national laws must therefore maintain the welfare of animals as sentient beings.
2. **Austrian Animal Welfare Act (Tierschutzgesetz – TSchG):**<sup>9</sup> This act protects the life and well-being of animals based on the special responsibility which humans have towards animals as companions (*Mitgeschöpf*).<sup>10</sup> Among others, it prohibits animal cruelty, provides general principles for animal holders as well as specific provisions on animal keeping, registration of dogs and breeding cats.
3. **European Convention for the Protection of Pet Animals:**<sup>11</sup> This Convention lays down rules to protect ‘pet animals’ which are defined as ‘any animal kept or intended to be kept by man in particular in his household for private enjoyment and companionship.’<sup>12</sup> It prescribes basic principles for animal welfare, which state that no one shall cause unnecessary pain or suffering to pet animals nor abandon a pet animal.<sup>13</sup> Austria has signed and ratified this Convention making it also legally binding in Austria.

Veterinary biobanking must follow the principles of animal welfare and ensure that the collection of samples does not cause the animals pain or suffering and that any required permits are collected. In addition to legal requirements, researchers working in biobanks or with biobank samples should follow soft laws and guidelines for scientific research, including codes of good scientific practice provided by their research institutions.

## 3. Legal aspects for pet owners – VetBioBank

When a pet owner visits the clinical center of the VetMedUni for the first time, they are presented with a Transfer of Property form. The pet owner may provide consent at the time of collection to transfer ownership of biological material (e.g. body fluids, tissue samples, organ parts) obtained from the pet during the clinical visit for diagnostic or therapeutic purposes to VetMedUni. This does not apply to blood products, stem cells, sperm and eggs taken from the animal for reproductive purposes.

Any surplus material can be stored in the VetBioBank. The biobank only stores the samples and information about the pet (e.g. name, diagnosis), it does not store any personal data of the pet owner.

## 4. Conclusion

Veterinary biobanking poses a great opportunity for optimizing the health of animals and humans, in accordance with the One Health approach. Veterinary biobank facilities may store surplus samples from veterinary patients, provided that the pet owners have consented to the transfer of ownership of the pet’s surplus biological material. To respect animal welfare and not cause any additional discomfort to veterinary patients, no additional collection

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<sup>8</sup> Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C326/47, art 13.

<sup>9</sup> Bundesgesetz über den Schutz der Tiere (Tierschutzgesetz – TSchG), BGBl. I Nr. 118/2004.

<sup>10</sup> Ibid §1.

<sup>11</sup> European Convention for the Protection of Pet Animals, ETS No. 125 (entry into force 1 May 1992).

<sup>12</sup> Ibid art 1(1).

<sup>13</sup> Ibid art 3.



of samples is performed beyond what is needed for therapeutic or diagnostic purposes when the patient is presented to a veterinary clinic. Veterinary biobanks, such as the VetBioBank in Vienna, comply with legal obligations and high-quality standards when storing their samples.

**Disclaimer:** *this commentary aims to provide a summary of the main ethical and legal issues related to the questions put by interested stakeholders and to direct them to the relevant legal provisions that are applicable. It does not, however, preclude from reading the official sources of legislation relating to the subject matters of this document as well as those quoted by the authors and does not constitute legal advice.*