

Summary of PhD thesis

Forensic aspects of the crime of animal cruelty

Dr. Gábor Lorázkó

Supervisor: Prof. Dr. László Ózsvári

Co-supervisor: Prof. Dr. Bence Rácz



**UNIVERSITY OF VETERINARY MEDICINE
Doctoral School of Veterinary Medicine**

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Supervisors:

.....

Prof. Dr. László Ózsvári, PhD, Head of Department
Department of Veterinary Forensics and Economics
University of Veterinary Medicine Budapest
Supervisor

.....

Prof. Dr. Bence Racz, PhD,
Department of Anatomy and Histology
University of Veterinary Medicine Budapest
Co-supervisor

Doctoral candidate:

.....

dr. Gábor Lorászkó

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1. Background and aims of the doctoral thesis

The significance of animal cruelty can be examined on several levels: at the level of events directly affecting animals, including dogs, the individuals who cause or otherwise come into contact with animal cruelty and its impact on society. The fact that the National Assembly passed the Law on the Protection and Welfare of Animals without any dissenting votes, and later its tightening with only one dissenting vote, indicates its prominent role for society, which is a sign of the high level of support for the law in Hungarian political life after the regime change.

The criminal offence of animal cruelty is established when an act of cruelty or the treatment of an animal is both unjustified and involves a risk of permanent damage to the animal's health or its death. As an aggravating circumstance, the penalty range is increased if the animal has also endured particular suffering or if more than one animal has suffered permanent damage or death.

Of the two ways of committing the criminal offence, the consequences of abuse are easier to identify through traumatological and pathological and, to a lesser extent, behavioural studies, and the links are generally easier to prove and demonstrate than the risks and harms of

mistreatment. This paper therefore aims to increase knowledge of the second *modus operandi*.

The objectives of the research were as follows:

1. To learn about police investigative work on animal cruelty: how procedures are initiated, how long they take and what criteria are used by the investigating authority to decide whether to reject a case or to open proceedings, what experience it has gained in assessing the elements of the criminal offence of animal cruelty, how forensic experts are involved and the proportion of cases referred to the prosecution service. In addition, to explore the differences between the attitudes of people with and without a criminal record towards animal cruelty and the conditions necessary to improve the effectiveness of investigative work.
2. To learn about the prosecution service's experience in preparing and representing the prosecution in cases of animal cruelty that have reached a final conclusion and to give an opinion on the activities of forensic experts.

3. To explore the investigative and evidentiary features of the trial phase in animal cruelty cases, as well as the sentencing mechanism, and the judicial experience related to the participants in the proceedings.
4. To assess the motivation, commitment, opinion-forming process and factors influencing the opinions of civil society animal welfare activists, compared with data from public authorities.
5. The possibility of determining dogs' age in order to combat the illegal international dog trade on the basis of the teeth of small-sized puppies up to 4 months old.

2. Summary of the results

2.1. Police stations' experiences in investigating animal cruelty

At our request, the Criminal Investigation Department of the National Police Headquarters sent a questionnaire containing 23 questions to all 155 police stations in Hungary, and the answers of 99 of them were returned to us, based on which we aggregated the investigative experiences of 1169 cases between 01.07.2013 and 31.12.2021. The vast majority (85.0%) of cases of animal cruelty are reported to the police, and are rarely (13.0%) detected by the police themselves. There was no significant difference in the proportion of reports made by an identified person (18.0%) and an anonymous informant (29.0%). Animal cruelty is considered by the vast majority of police stations to be important (53.5%) or very important (16.2%) crime, and a decision to initiate proceedings is usually taken within a week (70.5%) and very rarely (7.4%) takes more than a month. The police initiate proceedings in 77.0% of the cases reported, 67.0% of which end with a prosecution. The main reason for not initiating a case is the lack of suspicion of a crime (41%) and insufficient data to a

significantly lesser degree (27%). Forensic experts are significantly more often involved in the termination of a case than upon its initiation, and significantly fewer police stations have completely omitted it in the case of termination than in the case of initiation. Proceedings were terminated significantly more often for suspected mistreatment than for abuse. Significantly more police stations found it more difficult to establish particular suffering than other technical elements among the statutory elements. The termination of proceedings occurs after no longer than three months in 80% of cases and 86% of indictments take place within a year. Suspicion of the offence of animal cruelty, and the person subject to prosecution becoming a suspect elicited a different reaction. It was received with indifference by a significantly higher proportions of people with a criminal record than those without a criminal record, who were significantly more likely to object at the suspicion. The criminal offence of animal cruelty was most commonly associated with fraud, trafficking in human beings, nuisance, forced labour, falsification of documents, fish poaching, game poaching and vandalism. In terms of circumstances that could increase the effectiveness of investigative work, the most important factors cited by police officers were increasing

their investigative capacity (70.5%) and cooperation with other authorities (69.2%). These two conditions were significantly more important than possible improvements in specialised training (50.0%), more accurate reporting (44.9%), forensic experts (35.9%) and technical equipment (24.4%). Specialised training was also considered significantly more valuable than technical upgrades.

2.2. Experience of prosecutors in investigating animal cruelty

In December 2019, in cooperation with the Data Protection and Security Department of the Prosecutor General's Office, we prepared a 13-question survey to examine the details of the evidence during the investigation and court phases of the crime of animal cruelty. The questionnaires were sent by the General Prosecutor's Office to the prosecutors, 184 of whom completed them, as well as the Central Investigating Prosecutor's Office, based on the experience of 591 proceedings that resulted in final convictions.

In absolute numbers, Budapest came first, while in terms of population, the highest number of cases that reached the court phase were initiated in Vas and Jász-Nagykun-

Szolnok counties. According to the prosecution, nationwide 47% of the offences involved mistreatment and 53% involved abuse, but there is a significant variation by county. The vast majority (73.0%) of animal cruelty charges were brought due to acts against dogs. According to the prosecutors, significant new elements appeared at the trial stage in only 7.3% of the cases, of which confessions were significantly the most important. Expert opinions were given in more than half of the proceedings. In general (78.1%), it was not considered necessary to interview the expert in person, and only exceptionally rarely (3.1%) was the expert summoned to give oral testimony several times. The main purpose of the interview was to confirm the expert's opinion (75.6%), assess new information (19.8%), or fill in gaps (4.7%). The gaps in the expert opinions concerned all the technical elements of the statutory element of animal cruelty, with significant differences in the questions of the existence of health impairment and the possibility of particular suffering. In the experts' oral hearings, the issue of particular suffering was significantly more pronounced than all other elements. The proportion of final convictions was 97.0%.

2.3. The experience of courts in investigating animal cruelty

Seventy-six judges of the Balassagyarmat, Debrecen, Eger, Budapest, Gyula, Kaposvár, Miskolc, Nyíregyháza, Székesfehérvár, Szekszárd, Szolnok and Zalaegerszeg Regional Courts answered our 15-question questionnaire in 2020. The majority (64.4%) of the cases of animal cruelty were prosecuted for acts against dogs. Amongst the relevant statutory elements, the assessment of the permanence of the damage to health appeared to be the most difficult. In almost two thirds of the cases, the trial phase did not bring any new information for the court, if at all; it mostly meant the emergence of a new witness. Significantly more importance was attributed to any change in a testimony made during the investigation phase than a change in the accused's confession or a change in the expert opinion. There was no need to appoint an expert at the trial stage in almost half of the cases because the expert opinion prepared for the investigation was sufficient, but one in four also had to be heard orally, and in one in eight cases the expert had to be reappointed or a new expert needed to be appointed in almost the same proportion. In almost a quarter of the cases, no expert was even needed.

All the objections to the expert's opinion concerned a technical element of the facts of the case. Significant differences ($p=0.0095$) were found only for the question of justified suffering (7.3%) and the possibility of particular suffering (29.3%). Only 7.9% of the expert opinions were judged to be inadequate. At oral interview, the greatest emphasis was placed on the possibility of particular suffering. Of the judges who completed the questionnaire, 92.1% gave a verdict, of which 94.3% convicted the accused and three quarters of acquittals were on the grounds of lack of evidence. Only one judge stated that he had acquitted a defendant for the absence of a criminal offence.

2.4. The experiences of animal welfare NGOs when investigating animal cruelty

In 2021 we surveyed a sample of 150 NGOs active in animal welfare using an online questionnaire. The 31-50 year old age group was significantly the highest (56.8%), and the 51-70 years old age group (27.4%) was also significantly higher than the others. Animal rights activists perceived animal cruelty as a crime of high importance (76.0%) or important (22.7%). Police perceived detecting

animal cruelty to be significantly more difficult than animal rights activists thought it would be. Among the basic emotions elicited by animal abuse, joy and acceptance are completely absent (0.0%) among animal welfare activists. Considering their strongest degrees, anger (83.8%), sadness (67.9%) and aversion (75.4%) are significantly stronger than the others, but vigilance, fear and attention are also significant. Animal welfare activists estimated the rate of prosecution at one third on average, compared to three quarters for the police. Animal rights activists believe that the conviction rate for those prosecuted for animal cruelty is 29.3%, which is actually 94.3% based on the response from the courts. The majority of animal rights activists (70.2%) believe that sentences for animal cruelty have virtually no deterrent effect, with three quarters of them seeing a prison sentence to be served as a deterrent. Just under two thirds of animal welfare activists believe that knowledge of the animal's biological needs is necessary in proceedings for suspected animal cruelty, while one fifth do not think it is important. There was no significant difference (40.2%) between the proportion of respondents who received information about animal cruelty on social media with or without evaluating it (34.4%). Animal welfare NGOs are considered extremely valuable by around a third of

animal welfare activists, with a slightly higher number considering them mostly useful. An overwhelming majority (83.8%) actively react to news about animal cruelty on social media, with nearly a fifth passing it on.

2.5. Investigating a new type of animal cruelty committed by mistreatment

We looked at determining age to combat the illegal trade in small-sized puppies. In order to find a practical and easy-to-use method of estimating the age of puppies under four months old as a way of detecting illegal dog trafficking, we followed the development of two puppies of a known age over a period of four months. By performing a caesarean section on a Yorkshire terrier for a lying anomaly, the certainty of the date of birth allowed us to link the age of the dogs with the condition of their dentition with certainty. During the first few weeks of life, the head is spherical in shape and contains no teeth. At four and a half weeks, the coat is longer, the canines emerge and the adjacent incisors appear on top. At six weeks, the coat is even longer, the canine becomes significantly longer and the second incisor emerges in the upper row of teeth. At six and a half weeks the head is no longer spherical and the

upper first incisor is visible. At 7 weeks the face becomes longer and the lower first incisor appears, then at 8 weeks the teeth continue to grow and the head becomes more articulated, with a longer coat. After 3 months of age, the coat is long enough to be combed, and the gap between the lower teeth is increasing, with a gap between the upper incisors of about half a tooth. The teeth of dogs under 3 months of age and those over 3 months of age have developed at the same rate, with only the lower front incisors not aligned at 3.5 months. As the skull grew, the teeth became increasingly apart. Before three months of age, this phenomenon is barely visible, but after three months of age it is. The distance between the two extreme incisors (i2 and i3) on the upper arch and the incisor (i3) and canine (c) on the lower arch can best be judged.

3. New and novel scientific results

1. The police stations order an investigation in 77.0% of the reported cases, 67% of which lead to prosecution. Improving the detection of animal cruelty may be achieved by increasing the investigative capacity and cooperation with other authorities.
2. The most common offences associated with animal cruelty are illegal animal fighting, theft and illegal gambling. Those with a criminal record were three and a half times more indifferent about being suspected of an animal cruelty offence than those without a criminal record.
3. New facts emerged in only a fraction of the cases in the trial phase: for prosecutors, and for the courts, the emergence of a new witness being the most significant.
4. Courts sentence 95% of those prosecuted for animal cruelty; the persistence of a health impairment is the most difficult to prove.
5. For civil animal rights activists, their feelings are dominant, especially anger, disgust and sadness. These are associated with low level of vigilance and

attention, as well as full rejection, which influences their reactions.

6. In the small-sized dog breed, the distance between the two end incisors (i2 and i3) on the upper canine and the incisor (i3) and canine (c) on the lower canine typically gets bigger at three months of age.

4. Publications related to the topic of the dissertation

4.1. Publications in peer-reviewed scientific journals with impact factor

Lorászkó, G., Vetter, S, Rácz, B, Sótónyi, P, Ózsvári, L (2023) Comparison of Police Data on Animal Cruelty and the Perception of Animal Welfare NGOs in Hungary. *Animals*, 13:1224. <https://doi.org/10.3390/ani13071224>

Lorászkó, G., Rácz, B, Ózsvári, L (2022) Changes in the Dentition of Small Dogs up to 4 Months of Age. *Animals*, 12:1417. doi:10.3390/ani12111417

Lorászkó, G., Rácz, B, Gerencsér, F, Ózsvári, L (2021) Bíróságok tapasztalatai az állatkínzás vádjával indult eljárások során Magyarországon (Court experiences in animal cruelty proceedings in Hungary) *Magy Allatorvosok Lapja*, 143:569-576

Lorászkó, G., Rácz, B, Gerencsér, F, Ózsvári, L (2021) Az ügyészség tapasztalatai az állatkínzás vádjával indult bírósági eljárások során Magyarországon (The experience of the prosecution in the course of animal cruelty prosecutions in Hungary), *Magy Allatorvosok Lapja*, 143:165-172

Kiss, A, Lorászkó G, Fodor, K (2020) Az állatvédelem társadalmi, jogi és közegészségügyi vonatkozásai (Social, legal and public health aspects of animal protection) Magyar Allatorvosok Lapja, 142:619-624

4.2. Publications in peer-reviewed scientific journals without impact factor

Lorászkó, G (2017) Kutyakötelesség, Útmutató a felelős kutyatartás jogszabályi előírásaihoz (Dog Obligation, Guide to the legal requirements for responsible dog ownership) National Food Chain Safety Office (NÉBIH), 2017

4.3. Presentations at Hungarian conferences

Lorászkó, G, Szaniszló, F, Ózsvári, L, Rácz, B (2017) Kutyák allergiás bőrelváltozását kiváltó okok meghatározása vérvizsgálatok alapján. (Determination of the causes of allergic skin lesions in dogs based on blood tests) In: Sótornyai, P, Gálfi, P, Vörös, K, Magyar, T (ed.) Akadémiai beszámolók, Klinikum, Budapest, Magyarország: Állatorvostudományi Egyetem, 2017. évi 44. füzet 11. oldal, <https://vmri.hu/files/fuzetek/ab-2018-klinikumok-vegleges-2018.pdf>

Lorászkó, G., Ózsvári, L., Rácz, B (2017) Adatlapok állatkínzás gyanújának vizsgálatához (Data sheets for the investigation of suspected animal cruelty) In: Sótonyi, P, Gálfi, P, Vörös, K, Magyar, T (ed.) Akadémiai beszámolók, Élelmiszer-higiénia, Állategészségügyi igazgatás, Budapest, Magyarország: Állatorvostudományi Egyetem, 2017, Vol. 44. page 13, https://vmri.hu/files/fuzetek/ab-2018-allathigienia-allattenyesztes-genetika-takarmanyozastan-vegleges_0.pdf