

**Act
for Protection of Embryos
(The Embryo Protection Act)**

**Gesetz
zum Schutz von Embryonen
(Embryonenschutzgesetz – ESchG)**

Of 13th December 1990

The following Act has been adopted by the Bundestag:

Section 1

Improper use of reproduction technology

(1) Anyone will be punished with up to three years imprisonment or a fine, who

1. transfers into a woman an unfertilised egg cell produced by another woman,
2. attempts to fertilise artificially an egg cell for any purpose other than bringing about a pregnancy of the woman from whom the egg cell originated,
3. attempts, within one treatment cycle, to transfer more than three embryos into a woman,
4. attempts, by gamete intrafallopian transfer, to fertilise more than three egg cells within one treatment cycle,
5. attempts to fertilise more egg cells from a woman than may be transferred to her within one treatment cycle,
6. removes an embryo from a woman before completion of implantation in the uterus, in order to transfer it to another woman or to use it for another purpose not serving its preservation, or
7. attempts to carry out an artificial fertilisation of a woman who is prepared to give up her child permanently after birth (surrogate mother) or to transfer a human embryo into her.

(2) Likewise anyone will be punished who

1. brings about artificially the penetration of a human egg cell by a human sperm cell, or
2. transfers a human sperm cell into a human egg cell artificially,

without intending to bring about a pregnancy in the woman from whom the egg cell originated.

(3)

1. In the case of paragraph 1, number 1, 2 and 6, the woman from whom the egg cell or embryo originated, and likewise the woman into whom the egg cell or embryo will be transferred, and
2. in the case of paragraph 1, number 7, the surrogate mother and likewise the person who wishes to take long-term care of the child,

will not be punished.

(4) In the case of paragraph 1, number 6, and paragraph 2, any attempt is punishable.

Section 2

Improper use of human embryos

(1) Anyone who disposes of, or hands over or acquires or uses for a purpose not serving its preservation, a human embryo produced outside the body, or removed from a woman before the completion of implantation in the uterus, will be punished with imprisonment up to three years or a fine.

(2) Likewise anyone will be punished who causes a human embryo to develop further outside the body for any purpose other than the bringing about of a pregnancy.

(3) Any attempt is punishable.

Section 3

Forbidden sex selection

Anyone who attempts to fertilise artificially a human egg cell with a sperm cell, that is selected for the sex chromosome contained in it, will be punished with up to one year's imprisonment or a fine. This does not apply when the selection of a sperm cell is made by a doctor in order to preserve the child from falling ill with Duchenne-type muscular dystrophy or a similarly severe sex-linked genetic illness, and the illness threatening the child is recognised as being of appropriate severity by the body responsible according to Land legislation.

Section 4

Unauthorised fertilisation, unauthorised embryo transfer and artificial fertilisation after death

(1) Anyone will be punished with up to three years imprisonment or a fine, who

1. attempts artificially to fertilise an egg cell without the woman, whose egg cell is to be fertilised, and the man, whose sperm cell will be used for fertilisation, having given consent,
2. attempts to transfer an embryo into a woman without her consent, or
3. knowingly fertilises artificially an egg cell with the sperm of a man after his death.

(2) In the case of paragraph 1 number 3, the woman by whom the artificial fertilisation was taken on will not be punished.

Section 5

Artificial alteration of human germ line cells

(1) Anyone who artificially alters the genetic information of a human germ line cell will be punished with imprisonment up to five years or a fine.

(2) Likewise anyone will be punished who uses a human germ cell with artificially altered genetic information for fertilisation.

(3) Any attempt is punishable.

(4) Paragraph 1 does not apply to

1. an artificial alteration of the genetic information of a germ cell situated outside the body, if any use of it for fertilisation has been ruled out,
2. an artificial alteration of the genetic information of a different body's germ line cell, that has been removed from a dead embryo, from a human being or from a deceased person, if it has ruled out that
 - a) they will be transferred to an embryo, fetus or human being or
 - b) a germ cell will originate from them,and likewise
3. inoculation, radiation, chemotherapeutic or other treatment by which an alteration of the genetic information of germ line cells is not intended.

Section 6

Cloning

(1) Anyone who causes artificially a human embryo to develop with the same genetic information as another embryo, fetus, human being or deceased person will be punished with imprisonment up to five years or a fine.

(2) Likewise anyone will be punished who transfers into a woman an embryo designated in paragraph 1.

(3) Any attempt is punishable.

Section 7

Formation of chimaerae and hybrids

(1) Anyone who attempts

1. to unite embryos with different genetic material to a cell conglomerate using at least one human embryo,
2. to join a human embryo with a cell that contains genetic information different from the embryo cells and induces them further to develop, or
3. by fertilisation of a human egg cell with the sperm of an animal or by fertilisation of an animal's egg cell with the sperm of a man to generate an embryo capable of development,

will be punished with imprisonment up to five years or a fine.

(2) Likewise anyone will be punished who attempts

1. to transfer an embryo arising out of a procedure defined in paragraph 1 to
 - a) a woman or
 - b) an animalor
2. to transfer an human embryo into an animal.

Section 8

Definition

(1) For the purpose of this Act, an embryo already means the human egg cell, fertilised and capable of developing, from the time of fusion of the nuclei, and further, each totipotent cell removed from an embryo that is assumed to be able to divide and to develop into an individual under the appropriate conditions for that.

(2) In the first twenty four hours after nuclear fusion, the fertilised human egg cell is held to capable of development except when it is established before expiry of this time period that it will not develop beyond the one cell stage.

(3) Germ line cells, for the purpose of this Act, are all cells that lead of the egg and sperm cells to the resultant human being and, further, the egg cell from capture or penetration of the sperm cell until the ending of fertilisation by fusion of the nuclei.

Section 9

Medical proviso

Only a physician may carry out

1. artificial fertilisation,
2. transfer of a human embryo into an women,
3. preservation of a human embryo or human egg cell which has already been penetrated by, or has artificially captured, a human sperm cell.

Section 10

Voluntary participation

No one is obliged to carry out the measures described in section 9 above or to take part in them.

Section 11

Offences against the medical proviso

(1) Anyone who, without being a physician,

1. carries out an artificial fertilisation contrary to section 9 number 1 or
2. transfers a human embryo into a woman contrary to section 9 number 2,

will be punished with up to one year's imprisonment or a fine.

(2) In the case of section 9 number 1, a woman who has carried out on her an artificial insemination, and the man whose sperm is used for artificial insemination will not be punished.

Section 12

Administrative fines

(1) An administrative offence shall be deemed to have been committed by a person who, without being a physician, in violation of section 9 number 3, preserves a human embryo or a human egg cell as described therein.

(2) The committing of an administrative offence may be punished with a fine not exceeding five thousand deutsche marks.

Section 13

Entry into force

The present Act shall enter into force on 1st January 1991.

The laws by the Bundesrat according the constitution are respected.

The above Act is herewith signed and will be promulgated in the Federal Law Gazette.

Bonn, 13th December 1990

The Federal President
Weizsäcker

The Federal Chancellor
Dr. Helmut Kohl

The Federal Minister of Justice
Engelhard

The Federal Minister for Youth, Family and Health
Ursula Lehr

The Federal Minister for Research and Technology
Riesenhuber