

## **A sheep in wolf's clothing: Why does the harm-benefit analysis not get grip in animal research?<sup>1</sup>**

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### **Abstract**

The harm-benefit analysis (HBA) has been introduced as an important requirement in Directive 2010/63/EU with great expectations. Going beyond the 3Rs, the HBA promises to take the consequentialist idea seriously, that animals can be used for scientific purposes lawfully, if the positive consequences outweighed the negative ones and all other legal requirements are met. Around ten years after the Directive's transposition into EU member states' law, the question arises as to whether the HBA lives up to the expectations. In this regard, the author follows a provocative line of argumentation: Although from a legal perspective, any legally approved use of animals for scientific purposes underwent a positive HBA (otherwise it could not have been approved), it is unclear how to carry out the HBA. In fact, it is questionable if a HBA can be carried out at all in a transparent manner. To substantiate this argument, §38 (4) d Directive 2010/63/EU will be analyzed from a moral philosophical point of view. As it will be shown, the HBA runs the risk for arbitrary decision making. Hence, although introduced with great hopes and the best intentions, from an ethical point of view, the HBA might not be more than a sheep in wolf's clothing and runs the risk to open the doors for unequal treatment of applicants.

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