


Animal Protection and Environmental Constitutionalism in Italy: An Anthropocentric Perspective Before and After the 2022 Reform

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Abstract: This article argues that, even after the 2022 constitutional reform, animal protection in Italy remains a mediated and anthropocentric form of constitutional protection, embedded within environmental constitutionalism and entrusted to legislative discretion. The Italian case shows how constitutional law can absorb evolving social sensitivities and demands for environmental protection and animal welfare without symbolic over-constitutionalization or a transformation of the existing constitutional foundations.

Keywords: animal protection, environmental constitutionalism, Italian constitution, animal legal protection, protection of the environment

1. Animal Protection as a Constitutional Issue in the Italian Legal Order

In recent years, the protection of animals has gained increasing relevance in European legal and political debates. In Italy, this development received explicit constitutional recognition with Constitutional Law No. 1 of 11 February 2022, which amended Articles 9 and 41 of the Constitution¹. The reform introduced the protection of the environment, biodiversity, and ecosystems among the Fundamental Principles, within the provision traditionally devoted to the safeguarding of the landscape; these elements were not included in the original text of the 1948 Constitution. At the same time, the amended text of the Constitution provides that the law of the State shall regulate the forms and means of animal protection. This constitutional amendment has renewed scholarly and judicial interest in the role and meaning of animal protection within the Italian constitutional order.

The 2022 constitutional reform also amended Article 41 of the Constitution, explicitly strengthening environmental and health protection as limits to economic initiative. This amendment does not introduce a new hierarchy of constitutional interests, nor does it establish an absolute constraint on economic activity. Rather, it makes explicit the constitutional framework within which legislative choices must operate, balancing economic freedoms with environmental protection. In this context, animal protection acquires constitutional relevance insofar as animals are considered integral components of the environment and ecosystems, without being transformed into autonomous limits on economic initiative.

¹ Italy, Constitutional Law, February 11, 2022, no. 1, “Amendments to Articles 9 and 41 of the Constitution on the Protection of the Environment,” *Gazzetta Ufficiale della Repubblica Italiana*, February 22, 2022, no. 44.

The explicit reference to animals in the Constitution raises a number of systemic questions. In particular, it is necessary to clarify whether the 2022 reform introduced a new and autonomous constitutional interest, or whether animal protection must instead be understood as part of the broader constitutional protection of the environment, conceived as a complex and unitary good. At the same time, the reform invites reflection on its relationship with the anthropocentric structure of the Italian Constitution, which is traditionally based on the centrality of the human person and on the protection of collective interests.² From a broader theoretical perspective, it should also be noted that law is a historical and social product of human communities. As such, it is intrinsically tied to the human condition and to the forms of social organization, language, responsibility, and normativity that characterize human societies. Classical philosophical and anthropological studies have long emphasized that law presupposes agents capable of understanding norms, attributing meaning to rules, and bearing responsibility within a shared normative order. These features are inseparable from the human species and from its historical experience. Within this framework, law cannot be meaningfully applied outside the human sphere, even when it aims at protecting non-human entities: legal protection of non-humans simply imposes limits on human action.

The protection of animals remains a normative construction shaped by human societies in response to evolving moral, cultural, and environmental awareness. It operates through legal duties imposed on humans and public authorities, not through rights attributed to animals themselves.³ This perspective is consistent with the structure of constitutional law, which remains anchored to the human person as the primary subject and ultimate reference point of legal normativity.

One of the most significant innovations introduced by the 2022 constitutional reform is the explicit reference to the protection of the environment in the interest of future generations. While concern for long-term environmental preservation had already

² See: Giovanni Chiola, “La Costituzione ambientale in Italia: un tentativo di costituzionalizzare il diritto della natura oppure un problematico rafforzamento dei riconoscimenti esistenti?,” *Nomos – Le attualità nel diritto*, no. 2 (2022): 1–32. Chiola argues that, although the reform elevates environment, biodiversity, and ecosystems to the level of fundamental principles, it mainly codifies jurisprudential achievements rather than introducing a true ecocentric paradigm; Patrizia Vipiana, “La protezione degli animali nel nuovo art. 9 della Costituzione,” *Diritto pubblico comparato ed europeo Online*, no. 52 (2022): 1111–21, <https://doi.org/10.57660/dpceonline.2022.1627>. Animal protection is interpreted as structurally linked to environmental protection within a broader conception of the biosphere.

³ Diana Cerini and Elisabetta Lamarque, “La tutela degli animali nel nuovo articolo 9 della Costituzione,” *federalismi.it*, no. 24 (2023): 1–28, https://www.federalismi.it/nv14/articolo-documento.cfm?Artid=49421&content=La%20tutela%20degli%20animali%20nel%20nuovo%20articolo%209%20della%20Costituzione&content_author=%3Cb%3EDiana%20Cerini%20e%20Elisabetta%20Lamarque%3C%2Fb%3E. The explicit mention of animals marks a normative and symbolic shift, requiring the State legislature to implement concrete and effective forms of protection and potentially generating autonomous constitutional conflicts to be resolved through balancing. Alessandra Valastro, “La tutela degli animali nella Costituzione italiana,” *BioLaw Journal – Rivista di BioDiritto*, no. 2 (2022): 261–81, <https://doi.org/10.15168/2284-4503-2338>. By placing animal protection among the Fundamental Principles, the reform stabilizes the most advanced legislative and jurisprudential developments and strengthens proportionality in balancing human and animal interests. The author emphasizes responsibility rather than rights rhetoric as the core constitutional paradigm.

emerged in constitutional case law prior to the reform,⁴ the amended text of Article 9 formally incorporates a temporal dimension into the constitutional mandate of environmental protection.⁵ The Constitution now expressly recognizes that environmental goods are not only relevant for present individuals and communities, but must also be preserved for persons who are not yet born. This reference does not create enforceable rights for future generations, nor does it alter the structure of constitutional subjectivity; rather, it introduces an intergenerational perspective that strengthens the responsibilities of present public authorities.⁶ Legislative and administrative choices affecting the environment must now be assessed also in the light of their long-term impact, within a constitutional framework that emphasizes continuity and sustainability. In this sense, the reform reinforces a duty-oriented conception of environmental protection, consistent with the anthropocentric foundations of the constitutional order and with the role of democratic decision-making in balancing present and future interests.

The constitutional choice to extend environmental protection to the interests of future generations responds to an unprecedented historical condition: for the first time in human evolution, the present generation possesses the technological, economic, and social capacity to irreversibly compromise the living conditions and fundamental interests of generations yet to come. Environmental degradation, climate change, and biodiversity loss are structural processes capable of producing long-term and cumulative effects beyond the temporal horizon of traditional legal regulation.

Constitutional law reacts to a new problem by adapting its normative framework: the reference to future generations does not presuppose their legal subjectivity, but expresses an awareness of intergenerational responsibility and translates it into legal duties imposed on present decision-makers. The Constitution thus operates as a legal limitation of present power, seeking to prevent irreversible harm and to preserve the conditions necessary for the exercise of fundamental rights in the future. This development reflects a broader transformation of constitutional reasoning, in which the temporal dimension becomes a relevant factor in assessing the legitimacy of public choices.

This article is based on the assumption that, even after the 2022 reform, animal protection in the Italian constitutional system does not entail the recognition of subjective

⁴ In this direction, see: Marcello Cecchetti, “Osservazioni e ipotesi per un intervento di revisione dell’art. 9 della Costituzione avente ad oggetto l’introduzione di una disciplina essenziale della tutela dell’ambiente tra i principi fondamentali dell’ordinamento costituzionale,” *Diritto Pubblico Europeo – Rassegna online*, no. 1 (2020): 1–22.

⁵ Scagliarini argues that the 2022 reform constitutionalizes an intergenerational dimension already implicit in prior Constitutional Court case law; Simone Scagliarini, “Tutela dell’ambiente, interesse delle future generazioni e tutela degli animali in Costituzione: e ora?,” *Costituzionalismo.it*, no. 2 (2023): 1–20. The explicit reference to future generations strengthens, but does not revolutionize, the pre-existing constitutional framework of environmental protection; Marcello Cecchetti, “La revisione degli articoli 9 e 41 della Costituzione e il valore costituzionale dell’ambiente: tra rischi scongiurati, qualche virtuosità (anche) innovativa e molte lacune,” *Forum di Quaderni Costituzionali*, no. 3 (2021): 285–314, <https://www.forumcostituzionale.it/word-press/?p=16573>.

⁶ On the constitutionalization of future generations, see: Antonio D’Aloia, “La Costituzione e il dovere di pensare al futuro,” *BioLaw Journal – Rivista di BioDiritto*, no. 2 (2022): 2–3, <https://doi.org/10.15168/2284-4503-2356>.

legal positions held by animals, nor does it imply a departure from the anthropocentric foundations of the Constitution. Rather, the reference to animals introduced into Article 9 is coherently situated within the process of constitutionalization of environmental protection. It strengthens a constitutional principle that had already emerged through legislation, constitutional case law, and decisions of other courts, without altering its fundamental premises.

From a methodological perspective, the contribution adopts an internal constitutional law approach. It does not develop a comparative or supranational analysis. The objective is to provide a clear and systematic explication of animal protection within the Italian Constitution, accessible also to readers who are not specialists in Italian constitutional law. The perspective remains within the boundaries of traditional constitutionalism, avoiding both animal-rights-based interpretations grounded in the attribution of subjective rights to animals and eco-centric approaches that are incompatible with the value structure of the Italian Constitution.

2. Animal Protection before the 2022 Constitutional Reform: Implicit Safeguards, Legislative Mediation, and Traditional Balancing

Before the 2022 constitutional reform, the Italian Constitution did not contain any explicit reference to animal protection. It was secured through ordinary legislation and judicial interpretation. Animals were mainly regarded as objects of legal protection, which was connected to human interests. These interests included progressively collective sensitivity and environmental protection. This approach reflected a clearly anthropocentric perspective: animals were protected because their protection served human and social needs. Over time, the legal relevance of animals became increasingly linked to environmental protection. Animals, especially wild animals, were treated as essential components of ecosystems. Their protection was therefore connected to the preservation of ecological balance and biodiversity.

In this context, ordinary legislation regulated animal-related issues sector by sector, including criminal law, administrative law, wildlife protection, hunting, farming, and scientific research. The aim of prohibitions, obligations, and sanctions was to prevent ill-treatment and to regulate the use of animals in human activities. These rules were not grounded in a single constitutional principle and reflected contingent political choices and compromises between competing interests. As a result, animal protection was fragmented. The level of protection varied depending on the context and the category of animals involved. In some areas, protection was relatively strong. In others, it was weak or clearly subordinate to economic, scientific, or productive interests. In this setting, the role of the courts was necessarily focused mainly on reasonableness and the absence of arbitrariness.

Beyond the mere transposition of these instruments, their influence has progressively reshaped the conceptual framing of animal protection within domestic law. External sources played a significant role in guiding legislative choices and in strengthening sectoral protection. At the international level, Italy implemented the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through

Law No. 150 of 7 February 1992.⁷ This legislation introduced a system of prohibitions, controls, and sanctions aimed at protecting endangered species. The focus was placed on conservation objectives and on the regulation of trade. Beyond the implementation of CITES, Italy's engagement with international law has also been shaped by a broader set of multilateral instruments elaborated within the framework of the Council of Europe. Conventions concerning the protection of animals kept for farming purposes (1976), animals used for experimental and other scientific purposes (1986), and animals at the time of slaughter (1979)⁸ have contributed to consolidating minimum standards of treatment grounded in welfare considerations. Italian animal protection law developed through gradual normative integration at the international level, long before its explicit constitutional recognition.

At the European level, Italian legislation progressively adapted to Union standards on animal welfare. Relevant examples include Law No. 201 of 4 November 2010, implementing the European Convention for the Protection of Pet Animals, and Legislative Decree No. 26 of 4 March 2014, which transposed Directive 2010/63/EU on the protection of animals used for scientific purposes. These acts introduced detailed rules on animal treatment, while expressly allowing derogations justified by scientific, health-related, or public interest needs. Criminal law was also influenced by international and European developments. Law No. 189 of 20 July 2004 amended the Criminal Code by introducing specific offenses related to animal abuse and mistreatment. European Union secondary legislation has played an even more operational role in shaping Italian animal protection law, especially through detailed harmonization measures adopted in the fields of farming, transport, slaughter, and wildlife conservation. A significant body of directives and regulations has required Member States to introduce specific welfare standards into their domestic legal systems. In the agricultural sector, Directive 98/58/EC concerning the protection of animals kept for farming purposes established general welfare principles applicable to livestock, later complemented by species-specific directives on the protection of calves (Directive 2008/119/EC) and pigs (Directive 2008/120/EC). These instruments have been implemented in Italy through legislative decrees that translate EU minimum standards into binding national obligations, particularly regarding housing conditions, feeding, veterinary care, and inspection systems. Similarly, Regulation (EC) No 1/2005 on the protection of animals during transport and Regulation (EC) No 1099/2009 on the protection of animals at the time of killing are directly applicable in the Italian legal order. Their impact has been significant in administrative practice, requiring the establishment of control mechanisms, certification procedures, and sanctions for non-compliance. In the field of wildlife conservation, the Habitats Directive

⁷ Italy, Law no. 150 of February 7, 1992, "Disciplina dei reati relativi all'applicazione in Italia della Convenzione sul commercio internazionale delle specie animali e vegetali in via di estinzione (CITES)," *Gazzetta Ufficiale della Repubblica Italiana*, no. 41 (February 19, 1992).

⁸ Council of Europe, European Convention for the Protection of Animals Kept for Farming Purposes, ETS. no. 87, Strasbourg, March 10, 1976; Council of Europe, European Convention for the Protection of Vertebrate Animals for Experimental and Other Scientific Purposes, ETS. no. 123, Strasbourg, March 18, 1986; Council of Europe, European Convention for the Protection of Animals for Slaughter, ETS. no. 102, Strasbourg, May 10, 1979.

(92/43/EEC) and the Birds Directive (2009/147/EC) have influenced domestic legislation on protected species and habitat preservation. Although primarily environmental in nature, these instruments indirectly reinforce animal protection by imposing conservation obligations, restrictions on hunting, and strict conditions for derogations. Italian courts increasingly refer to these directives when assessing the legality of regional measures concerning wildlife management and hunting. Taken together, these directives and regulations have progressively densified its regulatory content. By setting minimum standards and procedural guarantees, EU law has constrained national discretion: animal welfare thus emerges as a legally relevant parameter embedded within economic regulation, agricultural policy, and environmental governance.

The relationship between Italian law and international and European frameworks has not been limited to the formal implementation of specific instruments. Over time, these external sources have influenced the very way in which animal protection is framed within the domestic legal system. At the international level, instruments concerning wildlife conservation and the protection of endangered species have contributed to consolidating a conservation-based approach, centered on biodiversity and ecological balance. When incorporated into Italian law, they have reinforced a duty-based structure of protection, grounded in public responsibility and regulatory control. The impact of European Union law has been even more structurally relevant. Article 13 TFEU, which recognizes animals as sentient beings and requires that full regard be paid to their welfare in the formulation and implementation of certain Union policies, has introduced a horizontal clause capable of permeating diverse regulatory fields.⁹ The provision operates as a normative parameter that conditions legislative and administrative discretion, especially in areas such as agriculture, transport, and scientific research. Italian legislation has gradually internalized this orientation, embedding welfare considerations within sectoral regimes that remain characterized by balancing techniques and by the coordination of multiple public interests. This multilevel interaction has had a double effect. On the one hand, it has contributed to reducing fragmentation by aligning domestic standards with broader European benchmarks. On the other hand, it has refined the argumentative framework within which courts assess the proportionality and reasonableness of legislative measures affecting animals. References to international and EU obligations increasingly appear in judicial reasoning as elements that reinforce the constitutional relevance of environmental and welfare considerations. Seen from this perspective, the evolution of Italian law on animal protection is best understood as a process of normative integration rather than constitutional rupture. External legal sources have deepened and structured domestic protection, yet they have done so within a framework that continues to assign centrality to legislative mediation and to human responsibility.

⁹ See: Federica Mucci, “La tutela degli animali tra diritto europeo, internazionale e costituzionale,” *Eurojus*, no. 1 (2022): 258–73, <https://rivista.eurojus.it/wp-content/uploads/pdf/QUI3.pdf>. Animal protection in international and European law has developed primarily through anthropocentric frameworks, grounding obligations in biodiversity, public health, trade regulation, and public morality rather than in autonomous “animal rights.”

In a series of landmark decisions, the Constitutional Court framed animal protection within the broader concept of environmental protection. In judgments No. 210 and No. 641 of 1987, the Court recognized environmental protection both as a “fundamental right of the person and a fundamental interest of the community,” and inferred from this “the need to establish legal mechanisms for its protection.” Within this framework, the Court explicitly included all animal and plant species among the constitutive elements of the environment, conceived as a unitary good. Animals were therefore considered as components of natural heritage to be conserved and preserved, rather than as autonomous legal subjects. This interpretative approach was reaffirmed in judgment No. 126 of 2016, in which the Court again emphasized that environmental protection encompasses biodiversity and living species as essential elements of ecological balance. These decisions mark the starting point of the “environmental” reading of animal protection in Italian constitutional law. They establish a clear anthropocentric framework in which the protection of animals derives from their role within the environment and from the collective interest in its preservation rather than from the recognition of independent rights held by animals.

Focusing on the balancing of constitutional interests examined by the Constitutional Court, a first group of cases concerned scientific research and the protection of human health: the Legislative Decree No. 116 of 1992 introduced limits on scientific research in order to protect animals. The legislation set restrictions on the purposes for which animals may be used and on the species that may be involved. It also established an authorization system for research facilities. The legislature considered it necessary to protect animal life by excluding the sacrifice of animals except where research and experimentation pursue non-trivial objectives. It also sought to prevent animal sampling for experimental purposes from affecting biological balance. In addition, it subjected research facilities to public control through authorization and supervision mechanisms. With a subsequent law (Law No. 413 of 1993), the legislature further intervened to protect the right to conscientious objection of individuals involved in animal experimentation. This legislation aimed to ensure that animal life would not be sacrificed for research activities primarily oriented towards economic exploitation, nor that animals would be subjected to unnecessary suffering. When reviewing the constitutionality of a law of the Emilia-Romagna Region, which introduced rigid and absolute prohibitions against the practice of vivisection, the Constitutional Court contrasted this regional approach with that adopted by the State legislature. In its judgment No. 166 of 2004, the Court observed that State legislation carefully balances the duty to respect animals subjected to experimentation with the collective interest in experimental activities considered indispensable, on the basis of current scientific knowledge, by both the national and the European legal orders. Notably, within the field of scientific research, the Court identified as particularly relevant interests both the development of research and the highest possible level of protection for animals involved in experimentation. It recognized that State legislation had identified the “point of balance” of animal experimentation. As a result, it held that Regions are prohibited from altering this balance, either by further restricting the freedom of scientific research or by lowering the existing level of protection for animals subject to

experimentation. The Court emphasized the wide discretion of the legislature in identifying acceptable methods and limits, provided that minimum standards of protection were respected.¹⁰

A second line of case law involved environmental protection and wildlife management. In judgment No. 9 of 2016, concerning measures for the control of invasive animal species (i.e., nutrias), the Court considered animal protection within the broader framework of environmental and ecosystem balance. It accepted that the sacrifice of individual animals could be constitutionally justified when aimed at protecting biodiversity or preventing environmental harm. Animal protection was thus integrated into environmental reasoning.

The most traditional cases involving animals and fundamental rights in Italy have been addressed at the legislative, administrative, and ordinary judicial levels. They have generated intense scholarly debate, but have not resulted in constitutional adjudication directly balancing animal protection against fundamental rights. One of the most prominent examples concerns controversies relating to ritual slaughter and religious practices, where animal welfare requirements interact with freedom of religion. The use of animals in circuses and public performances has also generated judicial disputes, primarily concerning economic freedom and cultural expression. A further relevant decision is Constitutional Court judgment No. 45 of 2022, concerning a regional law of Molise regulating historical reenactments and traditional events involving the use of horses: animals were considered within the context of regulatory measures governing public events, and the judgment focused on the limits of regional legislative powers. Finally, issues surrounding hunting regulation and intensive farming have raised questions about environmental protection, public health, and economic activity.

In recent years, legal and public debate in Italy has increasingly focused on the management of wildlife species perceived as overabundant or involved in conflicts with human activities, particularly wild boar and, with different ecological and legal characteristics, large predators such as wolves and bears. The issue has emerged at the intersection of environmental protection, public safety, agricultural activity, and territorial governance. Wild boar populations, in particular, have expanded significantly across large areas of the country, generating documented impacts on agriculture, road safety, and ecosystem balance. Similar tensions have arisen, albeit with different characteristics, in relation to large predators such as wolves and bears, whose presence has been encouraged by conservation policies but has also given rise to conflicts with local communities and economic activities. The debate has centered on the legitimacy and proportionality of public measures aimed at wildlife management. Legislative and administrative interventions have sought to reconcile the protection of biodiversity with the need to prevent serious harm to human interests, including public safety and property. Some authors emphasize the ecological rationale of selective culling as a means of preserving ecosystem balance and preventing indirect harm to biodiversity itself. Others highlight the risks of normalizing lethal measures and call for greater investment in non-lethal management strategies.

¹⁰ See: Roberto Bin, "La Corte e la scienza," *Forum costituzionale* (2006): 1–14.

What unites these positions, however, is the shared understanding that the legal problem concerns the scope of public responsibility in managing human–environment interactions. In this context, constitutional law provides a framework for assessing the reasonableness of legislative choices, without transforming animal protection into an absolute limit or displacing the anthropocentric foundations of the legal order.

3. The 2022 Reform of Articles 9 and 41 of the Constitution: The Constitutionalization of Environmental Protection and Its Implications for Animals

The constitutional reform of 2022 expressly included the protection of the environment, biodiversity, and ecosystems among the Fundamental Principles and introduced a reference to the protection of animals. The amendment does not alter the axiological structure of the Constitution.¹¹ Rather, it consolidates at the textual level a value that had already emerged through legislative and constitutional interpretation. The reform therefore operates as a systematic reinforcement, not as a disruptive innovation. The new wording of Article 9 places animal protection within a provision devoted to the safeguarding of collective goods of general relevance. The reference to animals is not autonomous but is closely linked to the protection of the environment, biodiversity, and ecosystems.¹²

A central feature of the reform is the clause according to which “the law of the State shall regulate the forms and means of animal protection.” This choice of constitutional technique assigns primary responsibility to the legislature for defining the concrete content of such protection. The Constitution establishes a principle that requires legislative implementation and that serves as a criterion for guiding and reviewing normative choices. The clause on the “forms and means” of protection seems to perform a dual function: on the one hand, it confirms the mediated nature of animal protection, consistent with the anthropocentric orientation of the constitutional order; on the other hand, it strengthens the standard for assessing the reasonableness of legislation, requiring the legislature to articulate and justify choices that affect animal protection: legislative discretion remains broad, but it could be subject to a more structured form of argumentative control.

¹¹ The constitutionalization of animal protection in Article 9 of the Italian Constitution does not mark an eco-centric or anti-speciesist turn. Rather, it confirms a structurally anthropocentric and relational model in which animals are protected indirectly and to varying degrees, primarily in connection with human interests such as environmental protection, public health, and safety. The case law on wildlife control demonstrates that animal protection remains functionally subordinated to broader environmental governance and legislative discretion. See: Francesca Morganti, “Tutela costituzionale degli animali e attività di ‘controllo’ della fauna selvatica,” *Osservatorio costituzionale*, no. 1 (2024): 185–204, https://www.osservatorioaic.it/images/rivista/pdf/2024_1_16_Morganti.pdf.

¹² The constitutional reform of Article 9 requires a clear distinction between wild animals and farm animals and highlights the structural tension between animal protection and environmental protection. Olivi maintains that, in the case of wildlife, the legal order prioritizes ecosystem balance and biodiversity over the protection of individual animals; Marco Olivi, “L’art. 9 della Costituzione e la tutela degli animali selvatici,” *AmbienteDiritto*, no. 4 (2022): 1–15, https://www.ambienteditto.it/wp-content/uploads/2022/10/lart.-9-della-costituzione-e-la-tutela-degli-animali-selvatici_olivi.pdf.

Indeed, after the constitutional reform, the legislative framework for animal protection has largely remained unchanged. The only significant intervention has been Law No. 82 of 2025, a specialized body of rules, largely criminal-law in nature. It entered into force on July 1, 2025 and primarily concerns offenses against animals under the Italian Penal Code and the Code of Criminal Procedure. The law changes the heading of Title IX-bis of Book II of the Penal Code from “Crimes against human feeling for animals” to a formulation that identifies animals as direct objects of criminal protection, without referring solely to human sentiment. The amendments provide for harsher penalties for offenses such as the killing or mistreatment of animals, new aggravating circumstances, and clearer provisions for the management of animals seized in criminal proceedings, without fundamental alterations of the underlying legal structure.

The 2022 constitutional reform also affects Article 41 of the Constitution by underpinning the limits placed on private economic initiative. The explicit reference to environmental and health protection contributes to shaping the constitutional framework within which economic activities must operate. In this context, animal protection becomes relevant insofar as animals constitute elements of the environment and ecosystems. It does not, however, amount to an absolute constraint or a general prohibition of economic activities involving animals.

In Judgment No. 105 of 2024, the Constitutional Court had the opportunity to consider the 2022 constitutional reform and apply the new Articles 9 and 41. The case concerns the legal authorization of the continued operation of an industrial plant of strategic national economic interest, despite its polluting nature and safety risks. The Court affirmed that the innovation directly enshrines in the text of the Constitution the mandate to protect the environment, understood as a unitary good that includes its specific dimensions represented by the protection of biodiversity and ecosystems. At the same time, the environment is recognized autonomously, although naturally connected to landscape and human health. In this way, the reform explicitly binds all public authorities to take action to ensure its effective protection. The perspective of protection indicated by the constitutional legislature is also distinctive. It does not refer solely to the interests of individuals and of the community in the present, but extends as well – as already envisaged by numerous decisions of this Court delivered prior to the reform – to the interests of future generations. These are persons not yet born, towards whom present generations bear a specific duty: to preserve the conditions necessary to ensure that they too may enjoy an environmental heritage that is as intact as possible, and whose various components remain characterized by the richness and diversity that define it. From another perspective, environmental protection – in the interest of individuals and of the community in the present, as well as of those not yet born – now operates as an explicit limit on the freedom of economic initiative. Under the amended Article 41, second paragraph, of the Constitution, economic activity may not cause harm not only to security, freedom, and human dignity, as provided by the previous wording of the provision, but also to health and the environment. In the light of these clear indications provided by the constitutional legislature – read also through the prism of European and international obligations in the field – this Court is required to take them duly into account when

assessing a decision. In the case at hand, this extensive digression on the meaning of the constitutional reform serves the final decision. The government may adopt measures allowing the provisional continuation of an activity of strategic national interest that has been subject to judicial seizure for the purpose of protecting workplace safety, health, and the environment; however, such measures must pursue the objective of gradually bringing the activity back, in the shortest possible time, within the limits of sustainability generally established by law, precisely in order to ensure effective protection of health and the environment. Accordingly, such measures must be temporary.¹³

Compared with a similar case previously examined by the Court (the *Ilva* case, judgment No. 85 of 2013), the method of balancing has remained unchanged. In the case at issue, however, the Court censured the absence of a final time limit, namely, the creation of a parallel and potentially indefinite regime, entrusted to generic governmental “measures.” The balancing is therefore unconstitutional because it loses its minimum characteristics of transitoriness and instrumental nature.

The reform does not change the outcome of balancing exercises, but it strengthens the argumentative weight of environmental interests within them. It can be hypothesized that the Court will continue to recognize broad legislative discretion while requiring clearer justification for measures that significantly affect protected environmental interests. Importantly, the Court has not treated animal protection as a trump over economic freedoms. Instead, it has confirmed that conflicts between environmental protection, economic activity, and other public interests must still be resolved through balancing. The novelty lies in the increased visibility and textual grounding of the environmental parameter, not in a substantive reordering of constitutional hierarchies.

A further aspect of post-reform constitutional adjudication concerns the differentiated treatment of animals, particularly with regard to wildlife and biodiversity. In fact, the amended Article 9 does not impose uniform protection for all animals. Rather, it allows for differentiated legislative regimes, depending on ecological, scientific, and social considerations. This approach is consistent with the Court’s reasoning in cases concerning wildlife management and environmental conservation.

4. Some Final Remarks: Animal Protection in Environmental Constitutionalism

The analysis of the Italian constitutional framework before and after the 2022 reform allows some consolidated conclusions to be drawn on the constitutional status of animals and on the role assigned to animal protection within the constitutional legal order. The reform has clearly increased the visibility of animal protection at the constitutional level. At the same time, it has confirmed the continuity of the underlying constitutional paradigm and the central role of legislative mediation.

The constitutionalization of animal protection must be understood within the broader framework of environmental constitutionalism. The amended Article 9 situates animals alongside the environment, biodiversity, and ecosystems, confirming a unitary

¹³ See: Roberto Bin, “L’ambiente nella Costituzione, tra beni e interessi,” *Consulta Online*, no. 2 (2025): 479–85, <https://giurcost.org/contents/giurcost/studi/bin4.pdf>.

and systemic approach. Animals are protected insofar as they are part of the natural environment and as their protection contributes to the preservation of collective goods of constitutional relevance. This framework remains firmly anthropocentric. The protection of animals is justified in relation to human interests, social values, and collective needs, including environmental sustainability and public health. The reform does not endorse an eco-centric or bio-centric model, nor does it displace the centrality of the human person within the constitutional order. The persistence of an anthropocentric paradigm is also reflected in the structure of constitutional balancing. Animal protection does not operate as an autonomous constitutional interest, but as a part of environmental protection. Environmental protection must be balanced against other constitutional values, such as economic freedom, scientific research, and social development. The reform refines this balancing process by strengthening the environmental parameter, but it does not alter its fundamental logic.

From a broader perspective, the 2022 reform reflects growing social sensitivities towards environmental issues and animal welfare. The Constitution responds to these developments by incorporating new references and by reinforcing existing principles. However, constitutional change remains measured and cautious. The Italian experience shows how constitutional law can accommodate evolving social values without abandoning its structural foundations. Animal protection gains constitutional relevance, but within clear legal limits. In this sense, the reform of Articles 9 and 41 represents a consolidation rather than a transformation of Italian constitutional law: it enhances the coherence and transparency of constitutional reasoning on environmental and animal protection, while reaffirming the enduring principles of anthropocentrism and democratic mediation that define the Italian constitutional order.

This reading places the Italian reform in line with comparative constitutional experiences, most notably that of Germany. Since the 2002 amendment of Article 20a of the Grundgesetz, animal protection in Germany¹⁴ has been enshrined as a constitutional state objective, closely linked to environmental protection and binding public authorities, without conferring legal subjectivity on animals. German constitutional law has treated animal welfare as a constitutionally relevant interest to be balanced against competing constitutional values, particularly economic freedoms, without altering the anthropocentric foundations of constitutional law or the structure of proportionality analysis. The Italian reform follows a comparable trajectory: it strengthens the constitutional visibility of animal protection, while preserving legislative mediation and traditional balancing techniques. Within this framework, animal-related disputes operate as privileged sites of constitutional reasoning, in which public authorities are required to articulate transparent justifications when authorizing derogations from general standards of environmental and welfare protection. From this standpoint, the constitutional relevance of animals lies less in the expansion of the catalogue of protected objects than in the refinement of constitutional reasoning itself.

¹⁴ Elena Buoso, “La tutela degli animali nel nuovo art. 20a del ‘Grundgesetz,’” *Quaderni costituzionali*, no. 2 (2003): 371–73, <https://www.rivisteweb.it/doi/10.1439/9023>.

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