

Proportional Protection of Animals in a Constitutional State

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Abstract: Animal protection in the modern (model) constitutional state constitutes a complex constitutional issue that essentially boils down to the necessity of applying the constitutional mechanism of proportionality to this subject matter. Consequently, this requires a proper balancing of the relationship between constitutional values, primarily environmental protection and the animal welfare it encompasses, and constitutionally guaranteed individual rights, particularly economic freedom, the right to property, and freedom of religion. From this perspective, the principle of proportionality becomes an indispensable normative tool, allowing an assessment of the extent to which a constitutional state may limit its citizens' rights in the name of animal protection. This study addresses the theoretical aspects of this issue, illustrating them with selected examples from Polish and European legal practice. The aim of these considerations is to demonstrate that effective constitutional protection of animals, understood as an expression of humanitarianism and responsibility for the natural environment, is not only possible, but necessary within a constitutional state, while its specific form is primarily shaped by dynamically changing axiological conditions.

Keywords: animal protection, constitutional state, principle of proportionality, constitutional axiology, multicentric legal order

1. Introduction

The analysis of the relationship between human beings and the animal world is one of the most dynamic, yet simultaneously most contentious, areas of contemporary jurisprudence at the level of detailed legal regulation.¹ In the traditional constitutional perspective, deeply rooted in the normative anthropocentric paradigm, animals were treated purely instrumentally – as a resource, property, or an element of the natural environment subject to be protected solely for the benefit of present and future human generations. However, the currently observable evolution of social sensitivity and the development of the ethological sciences necessitate a re-evaluation of this hierarchy of values, particularly, and – indeed primarily – in the realm of constitutional values. Consequently, the modern model constitutional state faces the systemic necessity of integrating animal need to integrate animals, as sentient beings possessing a sphere of morally justified entitlements, into a legal system founded on inviolable human dignity and a broad scope of subjective rights.

¹ See further: Tomasz Pietrzykowski, *Prawo ochrony zwierząt. Pojęcia, zasady, dylematy* (Warszawa: Wolters Kluwer Polska, 2022).

The natural collision of constitutional values – inherent in the normative essence of the constitutional state, which dictates the resolution of conflicts primarily between the individual rights of individuals and general social values – now encompasses a specific normative field: the collision between human rights and the necessity of need for animal protection, in both its general and individual dimensions. The principle of proportionality is the key tool within this normative procedure. It is the systemic axis around which disputes over the collisions between legally protected values revolve in a constitutional state.² This also requires situating the issue of animal protection in relation to such primary constitutional subjective rights – economic freedom, the right to property, freedom of religion and religious practice, and freedom of scientific research – within a framework of constitutional protection and proportional limitations.

Therefore, imposing any restriction on human rights for the sake of animal protection requires a detailed proportionality test. This entails the necessity of fulfilling formal conditions regarding the legal form of animal protection and the concomitant limitation of human rights. Moreover, it imposes an obligation to demonstrate, in the process of law-making and its application, that the adopted protective-restrictive measures are purposeful (suitable) for ensuring proper animal protection, are necessary (in the sense that no alternative interferes less with human subjective rights), and are proportionate in the strict sense (*sensu stricto*) – that is, that the “gain” for animal welfare does not simultaneously impose an excessive burden on the individual.³

This study examines this multi-faceted issue, advancing the thesis that animal protection in a constitutional state finds full normative grounding in constitutional axiology. This includes, in particular, the principle of humanitarianism derived from the principle of human dignity, as well as limitation clauses within the principle of proportionality, justified by the necessity of protecting public morality, public order, and the natural environment. The study also analyzes the impact of the multi-centric character of the legal order on animal protection in a constitutional state, in the context of emerging supra-national legal standards in this field in Europe.

2. Constitutional State – Proportional State

The model constitutional state is not merely a state whose constitution, as the fundamental normative act defining its social, political, and economic system, is solely a set of technical legal rules. Rather, the constitution is primarily a formalized systemic act whose material foundation is a specific, adopted axiology.⁴ At the systemic core of constitutional states lies, above all, the paradigm of the central, inviolable, and inherent human dignity as the source of all subjective rights of the human being. This particular “keystone norm” of the constitutional state’s legal order is, in essence, the ultimate point of reference for

² Robert Alexy, *A Theory of Constitutional Rights* (reprint, Oxford: Oxford University Press, 2009).

³ See: Anna Śledzińska-Simon, *Analiza proporcjonalności ograniczeń konstytucyjnych praw i wolności. Teoria i praktyka* (Wrocław: E-Wydawnictwo. Prawnicza i Ekonomiczna Biblioteka Cyfrowa. Wydział Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego, 2019).

⁴ Ronald Dworkin, *Taking Rights Seriously* (Cambridge: Harvard University Press, 1978).

its entire legal system.⁵ At the same time, it is human dignity, understood as a value prior to the state, that gives the constitutional system its axiologically specific – that is, fundamentally humanistic – character. Humanitarianism in the constitutional sense is thus not merely an axiological postulate, but a constitutional – and therefore normative – mandate to enact and apply the law in a manner that does not reduce the individual to the role of an object of state power. The same characteristic applies to international and European systems for the protection of subjective rights. From this axiological source arises a wide range of individual rights and freedoms intended to protect human autonomy, but also imposing on the state an obligation to apply the constitutional measure of humanitarianism not only towards humans but also towards animals. The adoption of human dignity as the fundamental systemic value of the constitutional state implies that the mandate of humanitarianism also encompasses animals and the duty to protect them (their rights) – it is an expression of that mandate, while also serving as at least an indirect constitutional directive concerning the protection of the feelings many people hold towards animals and concern for their welfare.

By its very nature, this general axiological assumption can and does provoke disputes over specific issues in the practice of many constitutional states. Constitutional axiology is not a monolith; it is not a formally closed or unambiguously hierarchical system. It consists of many public goods and values, as well as those specific to particular groups and individuals, which inevitably collide in concrete factual circumstances. This also applies to the mandate of humanitarianism toward animals analyzed here. In a constitutional state, these collisions are not resolved by the unlimited or arbitrary decision of the law-making or law-applying body, but through a process of weighing interests based on the principle of proportionality. This principle assumes that no right (except for the core of the inviolable and absolute core of human dignity itself) is absolute, and that all rights may be subject to necessary limitations, provided those limitations are established in the proper form and are materially suitable, necessary, and not excessive. Formally, the modern constitutional state rests on the principle of the supremacy of the constitution, which, as the basic law, occupies the highest position in the hierarchy of sources of law. This supremacy means that all sub-statutory acts must be substantively and formally consistent with the text and spirit of the constitution, and that constitutional norms apply either directly or indirectly. However, the contemporary model of the constitutional state simultaneously presupposes the multi-centricity of the legal system, which means that the strictly national legal order is no longer a wholly closed system, but remains in constant normative interaction with international law – in the case of European states, this applies primarily to the law created within the structures of the Council of Europe and European Union.⁶ Under such a systemic arrangement, there are multiple centers of

⁵ See: Marek Piechowiak, “W sprawie aksjologicznej spójności Konstytucji RP. Dobro wspólne czy godność człowieka?,” in *Jednolitość aksjologiczna systemu prawa w rozwijających się państwach demokratycznych Europy*, ed. Stanisław L. Stadniczenko (Opole: Wydawnictwo Uniwersytetu Opolskiego, 2011).

⁶ See: Ewa Łętowska, “Multicentryczność systemu prawa i wykładnia jej przyjazna,” in *Rozprawy prawnicze. Księga Pamiątkowa Profesora Maksymiliana Pazdana*, eds. Leszek Ogiełło, Wojciech Popiołek, and Marian Szpunar (Kraków: Zakamycze, 2005), 1127–48; Leszek Garlicki, “Umiedzynarodowienie Konstytucji,” *Państwo i Prawo* 77, no. 10 (2022): 156–69.

decision-making and interpretation, including in the area of animal protection national parliaments, national constitutional courts, and national common and administrative courts, as well as organs of the Council of Europe, including the European Court of Human Rights, and EU institutions, including the Court of Justice of the EU. The co-existence of these decision-making centers, including in the context of the animal-protection issues analyzed here, consequently requires state authorities to apply methods of interpretation that are not only pro-constitutional but also pro-European and pro-EU – which in practice means that the protection of all constitutional values, including humanitarianism towards animals, occurs at multiple normative levels simultaneously. The multi-centricity of the legal systems of constitutional states ensures that standards for the protection of individual rights, as well as animal-protection standards, permeate from formally external systems into the national system, creating a dense network of normative connections. Consequently, the constitutional state becomes an open community that derives its legitimacy not only from the will of the parliamentary majority, but, above all, from fidelity to the universal values enshrined in the constitution and in international treaties. It is precisely this synthesis – of the axiological foundation of dignity, the readiness to resolve conflicts of values through the mechanism of proportionality, and the formal supremacy of the constitution in a multi-centric legal system – that defines contemporary constitutional states as states that are strongly axiologically conditioned, and thus proportional and open to formally external legal standards, including in the sphere of animal protection and animal rights.

The context of the proportional protection of animals (and animal rights) in a constitutional state is, to some extent, unique in a normative sense. The principle of proportionality, which usually governs the assessment of how far specific subjective human rights may be restricted in order to protect other constitutional values, serves here as the fundamental systemic mechanism that proportionally protects animals (and animal rights) among those limiting values. Whichever perspective one takes – whether one accepts the distinction of animal rights as a separate normative constitutional category (the subjectification of animals, that is, something more than mere dereification) or rejects such a possibility (strictly dereification, without a separate category of rights) – it must be noted that animal rights, or simply animals, are protected in juxtaposition with specific human subjective rights. In a practical constitutional-legal terms, animal rights or animal protection as normative categories are always addressed to humans, not to animals. Animals are always the object of protection, but they do not, by their nature, possess protective legal mechanisms that they could activate without human intervention. These mechanisms can only be activated by a human being and only through the appropriate procedure. This means that the analysis of the proportional protection of animals (and animal rights) in a constitutional state ultimately turns on whether these normative categories can be recognized as grounded in constitutional values – values that justify limitations on human subjective rights. This in no way diminishes the constitutional protection of animals and animal rights, it simply requires the adoption of the proper interpretative lens for the principle of proportionality, which is further analyzed in detail below.

3. Axiology

As indicated above, the axiological issues embedded in the material structure of contemporary animal protection are of fundamental importance for any proper analysis of this subject within a constitutional state. The axiology of animal protection in the modern legal and philosophical system marks a collision point between traditional proprietary concepts and modern ethical sensibility. The central element of this shift in thinking about constitutional – that is, proportional – animal protection is the process of dereification (the legal “de-objectification” of animals), which is now widespread in constitutional states. Historically, animals were treated solely as “movables” – essentially inanimate objects that an owner could dispose of in an almost unlimited manner. By contrast, the contemporary philosophical and legal approach takes it as self-evident that an animal is, self-evidently, a living being capable of suffering. Today, this recognition forms the foundation of the constitutional state’s axiological order, in which the legal status of an animal is defined not by its utility to humans, but by its capacity to feel pain and fear.

In terms of constitutional axiology-axiological terms, however, dereification does not imply granting animals the kind of explicit and full legal personhood akin to that enjoyed by humans. Rather, it creates a distinctive intermediate category that may be described as a “third kind” of legal status, situated between a thing and a human person.⁷ At the same time, this axiology is strongly linked to constitutional concepts that — within the normative basis of the proportionality mechanism (Article 31(3) of the Constitution of the Republic of Poland and its “equivalents” in European acts) – refer to the categories of public morality and environmental protection. The vast majority of modern societies regard cruelty to animals as a demoralizing act that strikes at the foundations of civilized coexistence in a constitutional state. Animal protection is therefore not merely a matter of individual empathy, but an element of the constitutional public order, which also constitutes itself one of the values that figure in the normative limitation clauses of the proportionality mechanism.

In this sense, the principle of proportional animal protection operates in relation to other constitutional values – including those previously mentioned: economic freedom (the issue of fur farming), religious freedom (the issue of ritual slaughter), freedom of scientific research (the issue of animal experimentation), and, occasionally, tradition (the issue of hunting). Furthermore, modern animal protection is part of the broad context of environmental protection. In this view, the animal is treated not only as an individual (the animalistic approach) but also as an element of the ecosystem (the ecocentric approach). Consequently, the protection of biodiversity and natural habitats becomes a state duty towards current and future generations. Here, the constitutional axiology of animal protection shifts towards responsibility for nature as a whole, which fully justifies the imposition of restrictive measures on specific individual rights.

⁷ See further: Ewa Łętowska, “Dwa cywilnoprawne aspekty praw zwierząt: dereifikacja i personifikacja,” in *Studia z prawa prywatnego. Księga pamiątkowa ku czci Profesora Biruty Lewaszkiewicz-Petrykowskiej*, eds. Adam Szpunar et al. (Łódź: Wydawnictwo Uniwersytetu Łódzkiego, 1997).

4. Formal Requirements

Imposing specific limiting measures (restraints) on subjective rights must satisfy certain formal conditions in a constitutional state. In general, such measures must be provided for by law (i.e., by statute), enacted in accordance with the appropriate procedure, and be substantively consistent with the constitution. However, modern constitutional states have moved away from the traditional hierarchical model based solely on the primacy of the national constitution. Kelsen's fully monistic pyramid has been replaced by the concept of the multi-centricity of the legal system, in which national, international, and EU norms coexist, intertwine, and interact with one another. Within this complex framework, animal protection is no longer the exclusive domain of the national legislator's internal "sensibility"; it has become an area requiring a careful balancing of values in light of international and supranational standards.⁸ Multi-centricity also means that law-applying authorities should not – and cannot – limit themselves solely to the analysis of national animal-protection regulations; they must also take account of the legal output of international bodies, which requires applying the principle of proportionality in a multifaceted manner.

For states that, like Poland, belong to the Council of Europe, this entails the consideration of the normative standards arising primarily from the European Convention for the Protection of Animals Kept for Farming Purposes, drawn up in Strasbourg on March 10, 1976. At EU level, the foundation of the Union's approach to animals is the Treaty on the Functioning of the European Union, specifically Article 13, which explicitly recognizes animals as sentient beings. This formal constitutionalization of animal status at the level of EU law imposes a direct obligation on EU Member States to pay full regard to animal-welfare requirements when formulating and implementing policies in areas such as agriculture, fisheries, and transport. However, the same provision explicitly introduces the possibility for permissible (proportionate) limitations in this regard, taking into account customs relating in particular to religious rites, cultural traditions, and regional heritage.⁹

The multi-centricity of the legal orders of European constitutional states thus compels the national legislators to adopt a "pro-European" and "pro-EU" interpretation of the law, which extends to the interpretation of the constitution itself. This means that national authorities, including courts, when adjudicating on matters such as animal transport or living conditions in industrial farming, must take into account EU directives – which sometimes establish higher legal standards in this field. Properly "reading" these standards often requires reference to the case law of the European Court of Human Rights (ECtHR) or the Court of Justice of the European Union (CJEU) in the context of proportionate animal protection. A prime example of such constitutionally necessary interaction is the reception of the ECtHR judgment in the case of *Executief van de Moslims*

⁸ See further: Anne Peters, *Animals in International Law* (Leiden: Brill Nijhoff, 2021); Emil Kruk, Grzegorz Lubeńczuk, and Hanna Spasowska-Czarny, eds., *Legal Protection of Animals* (Lublin: Maria Curie-Skłodowska University Press, 2020).

⁹ See: Ewelina Jachnik, "Zasada dobrostanu zwierząt we Wspólnej Polityce Rolnej Unii Europejskiej," *Studia Iuridica Lublinensia* 26, no. 1 (2017): 287–98, <http://dx.doi.org/10.17951/sil.2017.26.1.287>; Yaffa Epstein and Eva Bernet Kempers, "Animals and Nature as Rights Holders in the European Union," *Modern Law Review* 86, no. 6 (2023): 1336–57, <https://doi.org/10.1111/1468-2230.12816>.

van België and Others v. Belgium (2024). In this landmark ruling of February 13, 2024, the Court held that a ban on slaughtering animals without prior stunning (ritual slaughter) – enacted to ensure their welfare – does not violate the freedom of religion (Article 9 of the ECHR). A similar approach should be taken to the jurisprudential standards of the CJEU, which require Member States to align their practice with rulings such as the 2020 judgment in the *Centraal Israëlitisch Consistorie van België* (C-336/19) case. Consequently, authorities creating and applying animal-protection law in European states must examine, in each instance, whether their discretionary power is formally constrained not only by the decisions of other national bodies but also by formally external authorities.

5. Substantive Grounds

The relationship between individual human rights and animal protection is, as previously noted above, one of the most dynamic fields of contemporary legal philosophy and constitutionalism. However, restricting individual rights in light of the constitutional duty to protect animals remains highly controversial. Because the substantive grounds (the “material premises”) of the proportionality mechanism are deeply subjective in character, this controversy extends to its application in specific cases. Indeed, the assessment of suitability, necessity, and proportionality *sensu stricto* regarding the limitation of human rights – whether for the sake of the humane treatment of animals or the general duty to protect the natural environment (fauna) – is largely shaped by the inconsistent “axiological preferences” of the body creating or applying the law. Consequently, in its practical application to animal protection, the proportionality mechanism does not function as a fully objective systemic instrument of the constitutional state – a challenge that also affects other conflict of values scenarios.¹⁰

In general, however, it must be noted that the suitability of restricting human rights in the area of animal protection rests on the assumption that human rights are not absolute. The inclusion of animal protection in the catalogue of objectives legitimizing interference with the sphere of human freedom stems from the recognition of animals’ biological subjecthood and capacity to suffer. From the perspective of the principle of proportionality, the legislator must therefore assess in each instance whether the benefit of sparing an animal from suffering is commensurate with the burden imposed by the restriction of human rights. For example, a ban on fur farming directly affects the constitutional freedom of economic activity and the right to property; however, its suitability lies in the realization of an ethical standard which, in the hierarchy of values of a modern constitutional state, prevails over the purely economic interests of the individual.

The question of the necessity of limiting human rights in order to protect animals is, in turn, the next stage of the proportionality test. Whereas suitability addresses the question of “why do we limit individual rights?,” necessity (indispensability) focuses on the question of “can this be done in a less burdensome way?” The necessity of such restrictions arises from the fact that, in many cases, animal welfare and individual human rights

¹⁰ Bernard Schlink, “Proportionality in Constitutional Law: Why Everywhere but Here?,” *Duke Journal of Comparative & International Law* 22 (2012): 291–302, <https://scholarship.law.duke.edu/djcil/vol22/iss2/5>.

are in direct conflict – a conflict that cannot be resolved without diminishing the scope of one of these values. If the state recognizes an animal's right to a life free from suffering, it generally becomes necessary to impose on humans specific negative duties (prohibitions) and positive duties (mandates). An example of this is the protection of animals from pain during slaughter, as discussed in the cited rulings of the European courts. This requires restrictions on the economic freedom of meat producers and limitations on religious practice through the mandatory use of appropriate stunning equipment. Without such measures, the aim of humane slaughter could not be achieved.

The final and most difficult stage is proportionality *sensu stricto* – the most subjective phase of verifying the admissibility of interference. Whereas the previous stages (suitability and necessity) examine whether the restriction is rational and whether milder means exist – these being relatively objective criteria – proportionality *sensu stricto* requires an assessment of whether the result of the balancing of values is simply just. This requires a decision as to whether the benefits of animal protection are significant enough, in a given legal situation, to justify the specific burden experienced by an individual in respect of their rights. This process is exceptionally complex and can generate serious disputes, since it often weighs long-established constitutional rights (e.g., freedom of religion, freedom of economic activity, and the right to property) against the still-evolving standard of animal protection.¹¹

An example of the balancing of interests at this level is the dispute over the ban on cage farming or the ban on tethering dogs on chains. On the one side stands the right of producers to conduct business in an economically optimal manner together with their property rights; on the other, the demands of humane treatment for livestock and pets. Applying proportionality *sensu stricto* requires an unambiguous resolution, which, beyond axiological problems, can be difficult to reach for purely political reasons. An example of the latter was the parliamentary vote on the “Stop the Chains” Bill in Poland, which passed by an overwhelming majority but failed to override a presidential veto.¹² Another example is the “Five for Animals” Bill, in which the attempt to ban fur farming and restrict ritual slaughter was undertaken without an adequate *vacatio legis* or systemic support for the affected operators.¹³ From the standpoint of the proportionality test, there was a failure to properly examine the necessity and strict proportionality of the measures in relation to the property rights and economic freedom of the breeders. Abruptly depriving citizens of their livelihoods without adequate compensation violates the principle of the protection of legitimate expectations (trust in the state), which calls into question the integrity of the entire balancing process.

¹¹ See, for example: Marta Micińska-Bojarek, *Łowiectwo. Aspekt humanitarно-prawny*, 2nd ed. (Poznań: Wydawnictwo Naukowe Silva Rerum, 2014).

¹² See: “Obywatelski projekt ustawy o zmianie ustawy o ochronie zwierząt oraz zmianie niektórych innych ustaw,” Sejm Rzeczypospolitej Polskiej, accessed February 12, 2026, <https://www.sejm.gov.pl/sejm10.nsf/PrzebiegProc.xsp?nr=700>.

¹³ See: “Poselski projekt ustawy o zmianie ustawy o ochronie zwierząt oraz niektórych innych ustaw,” Sejm Rzeczypospolitej Polskiej, accessed February 12, 2026, <https://www.sejm.gov.pl/sejm9.nsf/PrzebiegProc.xsp?nr=597>.

Moreover, a comparative analysis of constitutional standards for animal protection reveals a progressive evolution of the proportionality principle, shifting from a general mechanism for safeguarding civil liberties towards a tool for resolving conflicts between interests of constitutional rank. A key example is the German Basic Law (Grundgesetz), where the 2002 amendment to Article 20a elevated animal protection to a state objective (*Staatsziel*). This amendment fundamentally altered the proportionality test: the protection of animal welfare ceased to be a mere statutory value and became an equal counterpart to such constitutional freedoms, such as the freedom of research (Article 5(3)) and freedom of religion (Article 4). Consequently, when weighing interests, courts can no longer automatically grant primacy to human subjective rights but must strive to achieve a proportional “practical concordance.”

The Swiss model goes even further as Article 120 of its Constitution introduces the globally unique concept of the “dignity of the creature” (*Würde der Kreatur*). In the Swiss proportionality test, an interference with animal welfare is permissible only where justified by an overriding public interest; notably, this assessment extends beyond purely physiological aspects (pain) to include a prohibition on the excessive instrumentalization or humiliation of animals. These examples demonstrate that the principle of proportionality in animal-related cases is not merely an abstract formula but a dynamic instrument whose outcome depends on how the animal’s status is anchored within the axiology of a given constitution.

6. Conclusions

The analysis of the principle of proportionality in the context of animal protection shows that it is not merely a general and universal dogmatic mechanism, but a tool with its own dynamics within a constitutional state. Although the theoretical framework of the proportionality test remains common to various legal interests, the distinctive character of animals as living beings requires a shift from mechanical balancing towards a deeper axiological inquiry. A comparative perspective, taking in ECtHR and CJEU standards alongside the diverse approaches of constitutional norms and court judgments – such as those of Poland, Germany, and Switzerland – demonstrates that animal protection is increasingly attaining a status equal in weight to traditional freedoms. The increasingly rich body of constitutional practice in this field marks a dynamic shift across many constitutional states away from a purely abstract treatment of the issue. Ultimately, the flexibility of this standard permits an evolutionary change in the status of the animal within multilevel systems, transforming the animal into a genuine subject of constitutional concern rather than a mere illustration for the legal theory of proportionality.

Nevertheless, the examples given above from Polish constitutional practice still clearly indicate that the practical implementation of the proportionality test in the field of animal protection encounters numerous social and purely political barriers in Poland, as well as in other European and non-European countries.¹⁴ These barriers sometimes

¹⁴ See: Andrew Knight, Clive Phillips, and Paula Sparks, eds., *Routledge Handbook of Animal Welfare* (London: Routledge, 2023).

render the process façade-like, inconsistent, and instrumentalized. Although the normative frameworks of European constitutional states are relatively clearly defined in this context, irregularities continue to occur at the stages of law-making and law-application at the statutory level.

This is not merely a matter of the subjectivity inherent in the detailed assessment of the proportionality mechanism (the aforementioned “axiological preferences” of the law-making or law-applying body); it is also a matter of an approach to this morally and legally complex problem that is often characterized by bad faith. While divergent decisions are occasionally “inherent” in the proportional protection of animals within a constitutional state – for instance, the Polish Constitutional Tribunal in Poland, in its judgment of 10 December 10, 2014 (U 11/13), prioritized religious freedom over animal protection, in contrast to the cited judgments of the ECtHR and the CJEU – and while this results from dynamically changing and subjective assessments, a failure to properly give proper consideration to the specific elements of the proportionality mechanism should not occur. In modern constitutional states, animal protection cannot be regarded as an element of “political struggle,” still less as a socially marginal ethical or merely aesthetic postulate; it is a fully fledged element of the constitutional order. This requires a thorough, case-by-case assessment of all normative solutions in this area, together with reference to the aforementioned international standards mentioned above.¹⁵

A key conclusion to be drawn from this synthetic analysis is that contemporary animal protection in a constitutional state is relational and dynamic, both in terms of its formal conditions (formal standards) and the specific substantive elements of the principle of proportionality (substantive standards). There is therefore no ready-made set of static prohibitions or commands within the framework of proportional animal protection. Instead, it is a process of continuous “balancing” of values within a constitutional and multi-centric dialogue between national and European authorities. The dynamics of this dialogue should be informed by scientific findings concerning the protection of all animals, since only in this way can animal-protection law, in the process of its creation and application, retain the attribute of rationality – a constant and general assumption of premise that every constitutional state regards as fundamental in respect of its legal order. In conclusion, proportional animal protection in a constitutional state is not a final destination but rather a direction for the evolution of the constitutional state’s legal system. It has full axiological and formal foundations in the highest-level norms of modern constitutional states, yet the practice in this area is always shaped by particular individuals.

¹⁵ See further: Tom Sparks, “Protection of Animals Through Human Rights: The Case-Law of the European Court of Human Rights,” in *Studies in Global Animal Law*, ed. Anne Peters (Berlin: Springer, 2020), 153–71.

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