



Animal Protection Index (API) 2020

Republic of Italy: ranking C

Executive summary

The main animal welfare legislation in Italy, Legislative Decree No. 189/2004, prohibits the mistreatment of animals, as well as their use in illegal fighting or unauthorised competitions. Together with the Criminal Code, the Decree defines a range of possible punishments for breaches, which includes fines and imprisonment. The protection of animals kept for farming purposes is achieved through Legislative Decree No. 146/2001 which implements the European Union (EU) Council Directive 98/58/EC. The requirements for keeping animals in zoos, including ensuring the well-being of animals, providing sufficient space for and environmental enrichment, as well as avoiding stress, is achieved through Legislative Decree No. 73/2005 which implements Council Directive 1999/22/EC. The protection of animals used for scientific purposes is achieved through Legislative Decree No. 26/2014, which implements Directive 2010/63/EU. Additionally, Italy signed the European Convention on the Protection of Pets on 13 November 1987.

Despite incorporating the minimum European Union legislative requirements, there is room for improvement in many domains related to animal welfare. Notably, neither the Criminal Code nor Legislative Decree No. 189/2004 define 'animal', so it is not clear whether their provisions extend to all animals, including invertebrates. Animals are not recognised as sentient in legislation. In addition, the Criminal Code contains a cultural exemption, which allows for cruel events to continue on the ground of traditions, such as the Palio di Siena horse race. Italy furthermore allows the exploitation of animals for fur farming.

Since the API was first published in 2014, Italy has enacted Legislative Decree No. 26/2014 implementing Directive 2010/63/EU on the protection of animals used for scientific purposes, which covers some invertebrates. On 8 November 2017, the Assembly of the Italian Parliament voted to phase out all animals in circuses and travelling shows. This remarkable decision is yet to be enforced, since the new legislation to phase out all animals in circuses has not yet been set out by a Ministerial Decree.

The Ministry of Health is responsible for animal welfare in Italy. Each province has an official appointed to the Office of Animal Rights (Ufficio Diritti Animali). This role is primarily concerned with reducing the numbers of abandoned companion animals and addressing stray animal issues. Animal welfare measures are implemented through the National Plan on Animal Welfare, which focuses on farm animal welfare. The Plan exists to comply with the provisions of national and EU regulations and stipulates the competent authorities at local, regional and national levels. However, this Plan does not appear to have been updated since 2014.

The Government of Italy is urged to formally recognise animals as sentient in legislation, given the scientific evidence which has proven that all vertebrates, cephalopods and decapod crustaceans are sentient. Furthermore, the Government of Italy is strongly encouraged to expand the scope of



application of Legislative Decree No. 189/2004 to all animals. The Government of Italy is urged to ban the confinement of farm animals – for instance, in sow stalls and farrowing crates for pigs, and in cages for egg-laying hens – and the Government is urged to mandate the humane slaughter of all farm animals, with stunning prior to slaughter. The Government of Italy is furthermore urged to ban fur farming, which is inherently cruel, causing pain and distress to animals. The Government of Italy is furthermore urged to remove the cultural exemption from the Criminal Code, which allows cruel practices to continue such as the Palio. Further legal and policy recommendations are associated with each Animal Protection Index (API) indicator and contained in the relevant sections of this report.

Animal Protection Index Indicators

Goal 1: Recognition of animal sentience and prohibition of animal suffering

1. Animal sentience is formally recognised in legislation

Analysis of the legislation	
Ranking	D
At the European Union (EU) level, based on the 1997 Treaty of Amsterdam, Article 13 forms part of the Lisbon Treaty, signed in 2007, which subsequently became the Treaty on the Functioning of the European Union (TFEU).¹ Article 13 of the TFEU explicitly recognises animal sentience and requires that Member States 'pay full regard to the welfare requirements of animals' in formulating and implementing European Union policies on agriculture, fisheries, transport, research and technological development. Legislative Decree No. 189/2004² (which entered into force on 1 August 2004 to make changes to the Criminal Code^{3,4}) is the main animal welfare legislation in Italy and prohibits the mistreatment of animals, as well as their use in illegal fighting or unauthorised competitions. However, neither Legislative Decree No. 189/2004 nor the Criminal Code (which it amends) defines the term 'animal', so it is not clear whether this protection extends to all animals, including fish and invertebrates. Furthermore, Article 3 of Legislative Decree No. 189/2004 states that the provisions of the Criminal Code do not apply to historical and cultural events authorised by the competent region. Apart from this Legislative Decree recognising that animals can suffer, there is no domestic legislation recognising animal sentience. Analysis <i>Article 13 of the TFEU is a fundamentally important principle, providing a legal recognition of sentience and requirement for member states to pay full regard to the welfare requirements of animals when formulating and implementing European policy. However, it is important to note that whilst Article 13 represents a minimum standard to which any government must commit, its' scope and impact for animals is limited.</i> <i>Whilst positive that Article 13 explicitly acknowledges animal sentience, the requirement that member states pay 'full regard' to animal welfare is vague and does not create a precise and enforceable duty.</i> <i>Article 13 does not cover every type of new law, and applies only to 'agriculture, fisheries, transport, internal market, research and technological development and space policies.'</i>	

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

² <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2004-07-20:189>

³ <https://www.legislationline.org/documents/action/popup/id/17888>

⁴ <https://www.legislationline.org/documents/action/popup/id/17889>

In addition, there is currently a derogation in Article 13 for 'cultural practices.' Italy uses this cultural derogation in Article 3 of Legislative Decree No. 189/2004, which states that the provisions of the Criminal Code do not apply to historical and cultural events authorised by the competent region. This Article allows Italy to continue unacceptable practices such as the Palio horse race, under the protection of Article 13.

The Treaty on the Functioning of the European Union requires that Member States pay full regard to the welfare requirement of animals as sentient beings, when formulating policies in different sectors. Therefore, although this concept has not been fully transposed into national regulations in Italy, the Government is required to take animal sentience into account. The Government is also required to implement European Union legislative requirements which arise out of this recognition of sentience in the Treaty.

It is noted that Italy has in the past been relatively slow to implement the requirements of some European Union legislation (for example, the Directive banning the use of barren battery cages for hens⁵ and the protection of animals used for scientific purposes⁶). Furthermore, Italian legislation does not explicitly define animals as sentient. Legislative Decree No. 189/2004 implicitly recognise that animals can suffer physically and mentally, however, further animal protection provisions would stem from a formal recognition of animal sentience.

Enforcement mechanisms

Whilst the Government has ratified the Treaty on the Functioning of the European Union, which recognises animal sentience, this specific mention of animal sentience is not reflected in Italian legislation.

Legislative Decree No. 189/2004 amends the Criminal Code, which includes a range of possible punishments, including fines and imprisonment. Breaches of Article 544-bis and 544-ter can be punished by periods of imprisonment ranging from three months to one year, or by fines ranging from €3,000 to €15,000. Breaches of Article 577 can be punished by periods of imprisonment ranging from one year, or by fines ranging from €1,000 to €10,000.

Key recommendations

- Given the extensive body of scientific evidence proving that animals are sentient, the Government of Italy is urged to recognise that all animals for whom there is scientific evidence – at a minimum, all vertebrates, cephalopods and decapods crustaceans – are sentient beings and to enshrine this principle into legislation. Recognising animals as sentient will underpin further animal welfare considerations.

⁵ http://europa.eu/rapid/press-release_IP-13-366_en.htm

⁶ https://ec.europa.eu/commission/presscorner/detail/BG/MEMO_17_234

2. There are animal protection laws that prohibit causing animal suffering either by a deliberate act of cruelty or by a failure to act

Analysis of the legislation	
Ranking	B
Legislative Decree No. 189/2004 (which entered into force on 1 August 2004 to make changes to the Criminal Code) contains provisions relevant to the protection of animals. This Decree lists the acts which are considered acts of cruelty towards animals. These include: killing an animal cruelly or unnecessarily (Article 544-bis); cruelly or unnecessarily causing injury to an animal or subjecting the animal to torture, behaviour or overwork (Article 544-ter), and abandoning companion animals or animals who have altered their behaviour through being in captivity (Article 727). Article 727 also prohibits keeping animals in conditions which are incompatible with the animal's nature and which cause great suffering. However, the Criminal Code does not define the term 'animal', hence it is not clear whether this protection extends to all animals including fish and invertebrates. Furthermore, Article 3 of Legislative Decree No. 189/2004 states that the provisions of the Criminal Code do not apply to historical and cultural events authorised by the competent region. Analysis <i>The legislation contains sufficient details with regards to what constitutes animal cruelty and covers situations of negligence by prohibiting acts of cruelty and keeping animals in conditions which cause great suffering. It is also positive that the abandonment of companion animals and other animals who are dependent on human care (since they have lived in captivity) is prohibited.</i> <i>However, there are some festival events involving animals which cause animal suffering and are allowed through the cultural exemption included in Article 3 of Legislative Decree No. 189/2004. For example, a type of horse-racing called the palio is held in the piazza of certain Cities (e.g. Palio di Siena). Whilst these events cause serious animal welfare concerns, including the death of horses caused by falling, they remain accepted in law on cultural grounds.⁷</i>	
Enforcement mechanisms	
The Criminal Code includes a range of possible punishments, including fines and imprisonment. Breaches of Article 544-bis and 544-ter can be punished by periods of imprisonment ranging from three months to one year, or by fines ranging from €3,000 to €15,000. Breaches of Article 577 can be punished by periods of imprisonment ranging from one year, or by fines ranging from €1,000 to €10,000.	
Key recommendations	

⁷ <http://www.abc.net.au/news/2011-08-10/festivals-sanctioned-for-animal-cruelty/2832284>

- The Government of Italy is strongly encouraged to define the scope of application of Legislative Decree No. 189/2004. Animal protection measures should be applicable to, at a minimum, all vertebrates, cephalopods and decapod crustaceans.
- The Government of Italy is urged to remove the cultural exemption contained in Article 3 of the Criminal Code, which is used to authorised events causing animal cruelty on the grounds of cultural traditions. The Government of Italy is urged to forbid the organisation of and attendance to entertainment events causing animal suffering. Such a prohibition should cover circuses, rodeos, animal fights, animal races, rides on wild animals and all other forms of entertainment.

Goal 2: Presence of animal welfare legislation

3. There are laws that apply to animals used in farming including rearing, transport and slaughter

Analysis of legislation	
Ranking	D
<u>Rearing</u> At the EU level, the 1976 European Convention for the Protection of Animals kept for Farming Purposes⁸ lays out general conditions for all the species of animals kept for the production of food, wool, skin, fur or for other farming purposes. Article 3 mandates that ‘animals shall be housed and provided with food, water and care [...] appropriate to their physiological and ethological needs’. Article 4 protects the freedom of movement of animals and Article 5 regulates the lighting, temperature, humidity, air circulation, ventilation and other environmental conditions. Based on this European Convention, Council Directive 98/58/EC⁹ gives general rules for the protection of animals of all species kept for the production of food, wool, skin or fur or for other farming purposes, including fish, reptiles of amphibians. Article 2 mandates that all animals whose welfare depends on frequent human attention shall be inspected at least once a day. Article 7 protects the animals’ freedom of movement, and Article 10 requires that breeding procedures (natural or artificial) likely to cause suffering or injury must not be practised, though there are exceptions to this. Article 21 further states that no animal shall be kept for farming purposes unless it can reasonably be expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effect on its health or welfare.	

⁸ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680076da6>

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31998L0058&from=EN>

In Italy, Legislative Decree No. 146/2001¹⁰ implements Council Directive 98/58/EC concerning the protection of animals kept for farming purposes. Animals are defined as being any animal, including fish, reptiles and amphibians bred or kept for the production of foodstuffs, wool, leather, furs or for other agricultural purpose. The Decree excludes invertebrates and experimental animals, animals living in the wild, and animals destined to participate in competitions, exhibitions, events, cultural/sporting events.

Rearing – pigs

At the EU level, welfare provisions for pigs are laid out in Council Directive 2008/120/EC.¹¹ Among animal welfare provisions, Article 3 prohibits the tethering of sows or gilt (female pig after puberty and before farrowing). The ban of individual sow stalls was decided in 2001 and a phase-out period of 12 years was allowed to adapt to the new systems. From 1st January 2013, sows will have to be kept in groups rather than in individual stalls. However, stalls may still be used for the first 28 days of gestation, and one week before the expected time of birth (Article 3.4).

Article 8 mandates inspections of pigs' rearing conditions and Article 12 provides that Member States may apply, within their territories, stricter provisions for the protection of pigs than the ones laid down in this Directive.

Chapter I of the Annex of the Directive provides that 'all procedures intended as an intervention carried out for other than therapeutic or diagnostic purposes or for the identification of the pigs in accordance with relevant legislation and resulting in damage to or the loss of a sensitive part of the body, or the alteration of bone structure, shall be prohibited'. However, there are exemptions to the general prohibitions for:

- teeth grinding or clipping (before 7 days old)
- tail-docking
- castration of male pigs by other means than tearing of tissues
- nose-ripping only when the animals are kept in outdoor husbandry systems and in compliance with national legislation.

Tail-docking and teeth grinding/clipping must not be carried out routinely 'but only where there is evidence that injuries to sows' teats or to other pigs' ears or tails have occurred'. There is no requirement to use anaesthetic for castration, except if the procedure is carried out after the 7th day of life.

Chapter II mandates that no piglets shall be weaned from the sow at less than 28 days of age, though piglets may be weaned up to seven days earlier if they are moved into 'specialised housings.'

In Italy, Legislative Decree No. 122/2011¹² implements Council Directive 2008/120/EC laying down minimum standards for the protection of pigs. The Decree falls short of completely banning sow stalls, farrowing crates, and all forms of piglet mutilation.

¹⁰ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2001-03-26;146!vig=2019-12-12>

¹¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0120&from=EN>

¹² <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2011-07-07;122!vig=>

Rearing – broiler chickens

At the EU level, welfare provisions for broiler chickens are laid out in Council Directive 2007/43/EC.¹³ Notably, Article 3.2 requires that the maximum stocking density is 33kg/m². However, Article 3.3 allows for derogation to this general rule: a derogation to allow an increase above 33kg/m² up to 39kg/m² can be given when additional documented details for each house are kept and the house achieves certain climatic parameters. In addition, the documentation accompanying the flock at the slaughterhouse shall include the daily mortality rate and the cumulative daily mortality rate. A further increase above 39kg/m² up to 42kg/m² is allowed where, in addition to the conditions mentioned in the previous point being met, monitoring by the authorities confirms records of low mortality rates and good management practices.

Article 4.2 requires that the training courses for people dealing with chickens focus on ‘welfare aspects’. Article 7 requires inspections to be carried out.

Annex I to this Directive provides detailed conditions with regards to the drinkers, feeding, litter, ventilation, heating, noise and light requirements. Annex I also mandates that inspections shall be carried out twice a day. Similar to the wording of the Council Directive 2008/120/EC for pigs, all surgical interventions ‘carried out for reasons other than therapeutic or diagnostic purposes which result in damage to or the loss of a sensitive part of the body or the alteration of bone structure shall be prohibited’. However, two exemptions exist to this prohibition:

- beak trimming, which may be carried out when other measures to prevent feather pecking and cannibalism are exhausted. Beak trimming shall be carried out by qualified staff on chickens that are less than 10-days-old.
- castration of chickens, which shall only be carried out under veterinary supervision by personnel who have received a specific training.

In Italy, Legislative Decree No. 181/2010¹⁴ implements Council Directive 2007/43/EC laying down minimum rules for the protection of chickens kept for meat production. However, the Decree falls short of reducing the maximum permitted stocking density to 30 kg/m².

Rearing – egg-laying hens

At the EU level, welfare provisions for egg-laying hens are laid out in Council Directive 1999/74/EC.¹⁵ Non-enriched cage systems have been prohibited since 1st January 2012 (Article 5.2). Two cage systems are now in use:

- enriched cages where laying hens have at least 750 cm² of cage area per hen
- alternative systems where the stocking density does not exceed nine egg-laying hens per m² usable area, with at least one nest for every seven hens and adequate perches.

¹³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007L0043>

¹⁴ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2010-09-27;181!vig=>

¹⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31999L0074&from=EN>

In both systems, all hens must have a nest, perching space, litter to allow pecking and scratching and unrestricted access to a feed trough.

Article 8 mandates inspections of the systems of rearing for egg-laying hens.

The Annex to the Directive specifies that all hens must be inspected by the owner or the person responsible for the hens at least once a day (Article 1). Sound level must be minimised (Article 2) and light levels shall allow hens to show 'normal levels of activity'. Article 8 prohibits all mutilations except beak trimming, provided it is carried out on egg-laying hens less than 10 days old.

In Italy, Legislative Decree No. 267/2003¹⁶ implements Council Directive 1999/74/EC concerning the protection of egg-laying hens. However, the Act falls short of banning all types of cages.

Rearing – dairy cattle and calves

There is no EU legislation dedicated to dairy cattle.

Council Directive 2008/119/EC¹⁷ lays down the minimum standards for the protection of calves. Article 3 prohibits the use of confined individual pens after the age of eight weeks, except if required by a veterinarian. Individual pens must have perforated walls, allowing the calves to have direct visual and tactile contact. Article 3 further sets out minimum dimensions for individual pens and for calves kept in group. Inspections of facilities should be carried out (Article 7). Annex I of the Directive lays down specific conditions for the rearing of calves. Notably, calves must not be kept permanently in darkness: Member States make provisions for 'appropriate natural or artificial lighting'. Moreover, all housed calves must be inspected by the owner or the person responsible for the animals at least twice daily and calves kept outside must be inspected at least once daily. The accommodation for calves must allow them to lie down, rest, stand up and groom for themselves without difficulty. Importantly, calves must not be tethered, with the exception of group-housed calves which may be tethered for periods of not more than one hour at the time of feeding milk or milk substitute.

In Italy, Legislative Decree No. 126/2011¹⁸ implements Council Directive 2008/119/EC laying down minimum standards for the protection of calves. However, the Decree falls short of specifying standards for dairy cattle or prohibiting zero-grazing systems for dairy cattle and calves.

Transport

At the EU level, welfare provisions for animal transport are laid out in Council Directive EC 1/2005.¹⁹ This Directive defines the responsibilities of all actors involved in the transport chain of live animals entering or leaving the EU. Article 3 (General Conditions) provides that 'no person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them'.

¹⁶ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2003-07-29;267!vig=>

¹⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0119&from=EN>

¹⁸ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2011-07-07;126!vig=>

¹⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>

Article 7 forbids long journeys (i.e. exceeding eight hours) unless the means of transport has been inspected and approved under Article 18(1).

In Italy, Legislative Decree No. 151/2007²⁰ implements Council Directive EC 1/2005 on the protection of animals during transport and related operations. Legislative Decree No. 388/1998²¹ implements Directive 95/29/CE on animal protection during transport. However, the Act falls short of protecting all of the Five Freedoms of the animals during transport; fully banning all long-distance transport longer than eight hours and stating that animals should be slaughtered as close to the point of rearing as possible.

Slaughter

At the EU level, welfare provisions for animals at the time of slaughter are laid out in Council Directive EC No 1099/2009.²² Article 3 states that animals shall be spared any 'avoidable pain, distress or suffering during their killing and related operations'. Article 4 mandates that animals must be stunned prior to being slaughtered, and the loss of consciousness and sensibility shall be maintained until the death of the animal. Article 5 specifies that workers should check whether animals do not present any signs of consciousness in the period between the end of the stunning process and death. Annex I to this Directive lists all the stunning methods possible. Annex II sets out the requirements regarding the layout, construction and equipment of slaughterhouses.

In 2018, following a favourable opinion of the European Food Safety Authority on low atmospheric pressure system for the stunning of broiler chickens, Annexes I and II to Council Regulation (EC) No 1099/2009 have been amended by Commission Implementing Regulation (EU) 2018/723²³ to approve the stunning of broiler chickens through asphyxia due to low atmospheric pressure.²⁴

In Italy, Legislative Decree No. 131/2013²⁵ implements Council Directive EC No 1099/2009 on the protection of animals at the time of killing. Exemptions exist permitting slaughter without stunning on religious grounds (Article 4(1-2)). The current Decree falls short of prohibiting systems where animals witness the slaughter of others; mandating for the regular inspection of slaughterhouses involving animal welfare criteria, banning aversive stunning methods (i.e. suffocation by gas for large mammals), and mandating video surveillance at slaughterhouses.

Analysis

The wording of Council Directive 98/58/EC is quite general and does not consider species-specific needs, by comparison to the other Directives.

²⁰ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2007-07-25;151!vig=>

²¹ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1998-10-20;388!vig=>

²² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1099&from=EN>

²³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R0723&from=EN>

²⁴ <https://www.efsa.europa.eu/en/efsajournal/pub/5056>

²⁵ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2013-11-06;131!vig=>

With regards to pigs, it is positive that the ban on sow stalls has entered into force since 2013. However, this ban is limited since stalls are still allowed to be used for the first 28 days of gestations, and shortly before giving birth.

The many exemptions provided in Chapter I of the Annex of Council Directive 2008/120/EC allows for piglet mutilations to be performed without anaesthetics. The use of anaesthetic is only mandated for castration, occurring on a piglet at least 7-days-old. Piglet mutilations are extremely cruel and these exemptions represent a legal loophole allowing for the inhumane treatment of farm animals.

Castration is practiced the development of undesirable sexual or aggressive behaviour, and to avoid the development of 'boar taint, which gives pork meat a distinctive taste and odour. The European Commission acknowledges on its website that castration has become 'a significant animal welfare concern in recent years', inflicting pain 'even on very young pigs'.²⁶ A working group, made of representatives of European farmers, meat industry, retailers, scientists, veterinarians and animal welfare NGOs, met in 2010 and developed the European Declaration on Alternatives to Surgical Castration of Pigs.²⁷ Two key decisions were taken through this Declaration: the surgical castration of pigs, if carried out, shall be performed with prolonged analgesia and/or anaesthesia with methods mutually recognised. Secondly, the surgical castration of pigs should be abandoned by 1st January 2018. Over 30 stakeholders (animal welfare NGOs, industry practitioners etc.) signed this voluntary agreement.

With regards to broiler chickens, Council Directive 2007/43/EC represents the first legal instrument in which 'welfare indicators' were included as a means of scientific assessment. It is positive that the Directive goes into details about the environment of rearing of chickens (i.e. drinkers, feeding, litter, ventilation and heating, noise, light requirements). The Directive also provides a maximum stocking density, however, by allowing derogations to be made, the Directive enables large-scale, industrial farming practices to be developed in the EU. In such crowded conditions, the Five Freedoms of broiler chickens cannot be fulfilled. In addition, the exemptions for beak trimming and chicken castration enables this practice to be carried out without anaesthetics.

With regards to egg-laying hens, the 2012 ban on the use of battery cage systems was an important step to improve the welfare of egg-laying hens. By comparison to battery cages, enriched cages provide 20% more space to each hen (the equivalent of an A4 paper with a postcard). Enriched cages have nest boxes, litter, perch space and some scratching materials, and house up to 10 hens. Though the current two systems in use (enriched cages and alternative systems) represent incremental improvements to the life of hens, the EU still allows for hens to be raised in cages. When reared in cages, the Five Freedoms of egg-laying hens are necessarily compromised.

In September 2018, a European Citizens' Initiative (ECI) entitled 'End the Cage Age' was launched, supported by a coalition of animal welfare NGOs, among which World Animal Protection.²⁸ The ECI invites the European Commission to propose legislation to prohibit the use of:

²⁶ https://ec.europa.eu/food/animals/welfare/practice/farm/pigs/castration_alternatives_en

²⁷ https://ec.europa.eu/food/sites/food/files/animals/docs/aw_prac_farm_pigs_cast-alt_declaration_en.pdf

²⁸ <https://www.eesc.europa.eu/en/news-media/news/end-cage-age>

- cages for laying hens, rabbits, pullets, broiler breeders, layer breeders, quail, ducks and geese;
- farrowing crates for sows;
- sow stalls, where not already prohibited
- individual calf pens, where not already prohibited.

As of September 2019, since over 1 million verified signatures have been collected from EU citizens, the European Commission will be invited to propose the above-mentioned legislation.²⁹

With regards to dairy cattle and calves, it is regrettable that there is no EU legislation protecting the welfare-specific needs of dairy cattle. It is positive that calves must not be tethered, though this should be a full ban. Moreover, EU legislation allows for the isolation of calves under eight weeks old. The isolation of calves is detrimental to their welfare and the provision that calves in isolation need to be able to see other calves is not sufficient to satisfy their need for social interactions.

With regards to animal transport, it is positive that the Council Directive EC 1/2005 recognises in its preamble that, 'for reasons of animal welfare the transport of animals over long journeys, including animals for slaughter, should be limited as far as possible'. However, the exception of Article 7, allowing the transport of animals for over 8 hours, is detrimental to animal welfare. In fact, long live animal transport is known to cause stress. Moreover, many breaches of Council Directive EC 1/2005 have been reported, including the transport of unfit animals, exceeding stocking densities, requirements on feed, water and rest not respected, insufficient headroom and bedding, too high temperature.³⁰

In 2015, the European Commission launched a three-year Pilot Project aiming at improving animal welfare during transport by developing and disseminating Guides to Good and Best Practice for the transport of the main livestock species.³¹ In September 2017, the contractor of the project published five extensive guides to good practices, as well as 17 technical fact sheets on good animal transport practices.³² This is a positive development, however, a total ban on long live animal transport would grant stronger protection to animals.

With regards to slaughter, it is positive that the Council Directive EC No 1099/2009 mandates stunning prior to slaughter, however, numerous EU countries have exemptions to this requirement, notably due to religious reasons. In 2018, the European Commission has also developed a series of fact sheets outlining how various species should be stunned.³³ This appears to show that the EU Commission is willing to disseminate knowledge and improve animal welfare.

European Union Directives require domestic implementation by Governments of Member States. It appears that where this has been done, by way of Legislative Decrees, the Government may not

²⁹ <https://www.eesc.europa.eu/en/news-media/news/end-cage-age>

³⁰ <https://www.ciwf.org.uk/media/7434627/report-on-implementation-of-eu-regulation-on-welfare-of-animals-during-transport-compassion-in-world-farming-october-2018.pdf>

³¹ https://ec.europa.eu/food/sites/food/files/animals/docs/aw_prac_transport_pilot-report.pdf

³² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>

³³ https://ec.europa.eu/food/animals/welfare/practice/slaughter/2018-factsheets_en

always prioritise subsequent dissemination and enforcement of the relevant provisions. For example, in 2013, the European Commission brought legal proceedings against Italy in the European Court of Justice over the Government's failure to enforce the ban on battery cages for laying hens.³⁴ Furthermore, a 2019 EU audit has found that the tail-docking of piglets is routinely practiced without anaesthesia.³⁵ The Government has produced very little policy in this area and legislative activity appears to be restricted to measures necessary to incorporate European Union requirements into legislation.

Animal welfare measures are implemented through the 2014 National Plan on Animal Welfare, which focuses on farm animal welfare.³⁶ The Plan exists to comply with the provisions of national and EU regulations and to provide uniform protocols for the execution and the planning of controls. It also seeks to improve the training of veterinary doctors and breeders in relation to animal welfare issues, and it stipulates the competent authorities at local, regional and national levels.³⁷ It is positive to have such a National Plan to outline areas where progress is needed in terms of animal welfare; however, seeing that this National Plan has not been renewed since 2014, it now appears slightly outdated.

Enforcement mechanisms

The 1976 European Convention for the Protection of Animals kept for Farming Purposes does not contain any enforcement mechanism. At the EU level, a Directive requires Member States to achieve a particular result, but it does not devise laws on how to reach these goals. As such, Member States have some leeway to decide on their own legislations which will achieve the intended results. By contrast, a Regulation is a binding legislative act, directly applicable to the entirety of the EU.

The Criminal Code includes a range of possible punishments, including fines and imprisonment. Breaches of Article 544-bis and 544-ter can be punished by periods of imprisonment ranging from three months to one year, or by fines ranging from €3,000 to €15,000. Breaches of Article 577 can be punished by periods of imprisonment ranging from one year, or by fines ranging from €1,000 to €10,000. For breaches of individual farm animal species legislation that falls outside of the Criminal Code, specific fines are possible (e.g. €1,550 to €9,296 for breaches of Legislative Decree No. 122/2011 laying down minimum standards for the protection of pigs).

Key recommendations

- The Government of Italy is urged to ban the worst forms of confinement for farm animals. In particular, the use of farrowing crates, sow stalls, and cages should be banned. The stocking density of broiler chickens should also be reduced to a maximum of 30 kg/m² or lower. Surgical operations, such as piglet mutilations and beak trimming for egg-laying hens, should not be performed except under anaesthesia and with analgesics.

³⁴ http://europa.eu/rapid/press-release_IP-13-366_en.htm

³⁵ <https://www.theguardian.com/environment/2019/jan/19/curse-tail-docking-painful-truth-italy-pigs>

³⁶ http://www.salute.gov.it/portale/documentazione/p6_2_2_1.jsp?lingua=italiano&id=2357

³⁷ http://www.salute.gov.it/portale/temi/p2_4.jsp?lingua=italiano&tema=Alimenti&area=PN

- The Government of Italy is urged to mandate the humane slaughter of all farm animals. Animals should be instantaneously rendered unconscious and insensible to pain and distress prior to slaughter. Today, there is growing consensus amongst religious authorities worldwide that pre-slaughter stunning is compatible with religious principles.³⁸ Humane halal slaughter allows for the animal to be temporarily rendered unconscious via stunning prior to slaughter, as long as the animal's skull remains intact and the animal would regain consciousness in time should slaughter not occur. Therefore, animals should be unconscious before being bled, and no further processing should occur until irreversible loss of consciousness is confirmed. No animal should be forced to witness other animals being slaughtered as this is inherently distressing.
- Legislation regarding the transport of animals should protect their Five Freedoms. In addition, the Government of Italy is strongly urged to ban the export of live animals over long distances (i.e. more than eight hours) and replace it with a meat only trade. Long distance transport is inherently cruel as it involves chronic stress for all animals and, for some species and modes of transport, it may involve overpopulation, exhaustion, excess heat or cold, inadequate ventilation and/or access to food and water, leading to disease, pain, injury or death.

4. There are laws that apply to animals in captivity

Analysis of the legislation	
Ranking	C
<u>Zoos</u> At the EU level, welfare provisions for wild animals kept in zoos are laid out in Council Directive 1999/22/EC.³⁹ 'Zoos' are defined as 'all permanent establishments where animals of wild species are kept for exhibition to the public for 7 or more days a year', with the exceptions of circuses, pet shops and any other establishments that Member States deem not to host sufficient animals. Article 3 provides that zoos shall implement conservation measures. Among them, one measure is welfare-oriented since zoos have to accommodate their animals 'under conditions which aim to satisfy the biological and conservation requirements of the individual species, inter alia, by providing species specific enrichment of the enclosures; and maintaining a high standard of animal husbandry with a developed programme of preventive and curative veterinary care and nutrition.' Article 4 mandates the licencing and inspections of existing and new zoos. Article 8 lays out that Member States shall	

³⁸ [http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20\(Halal%20and%20Kosher\)](http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20(Halal%20and%20Kosher))

³⁹ <https://www.eaza.net/assets/Uploads/Governing-documents/EU-Zoo-Directive-1999.pdf>

determine penalties for a breach of this Directive: such penalties shall be effective, proportionate and dissuasive.

The EU Zoos Directive Good Practices (2015),⁴⁰ while not legally binding, are aimed at supporting practitioners and Member States in implementing the spirit and requirements of the Council Directive 1999/22/EC. The Directive includes recommendations regarding key aspects of animal health and welfare within the zoo environment such as temperature, enclosure size and furnishings and noise.

Council Regulation (EC) 1/2005⁴¹ on the transport of animals is also applicable to wild animals, both those living in captivity as well as wild animals living in the wild but susceptible of being transported (e.g. for rehabilitation or reintroduction purposes). Article 3 (General Conditions) provides that 'no person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them'. Chapter II, Article 1.3 provides that a notice shall be given explaining that the animals are wild, timid and dangerous and containing written instructions about feeding, watering and any special care required. Furthermore, Chapter III Article 1.1 mandates that wild animals shall become acclimatised to the mode of transport prior to the proposed journeys.

In Italy, Legislative Decree No. 73/2005⁴² (implementing Council Directive 1999/22/EC) sets out the requirements for keeping animals in zoos, including ensuring the well-being of animals, providing sufficient space for exercise, providing environmental enrichment and avoiding stress. Annex 2 of the Act is specific to the keeping of bottlenose dolphins (*Tursiops truncatus*) in captivity. The Act makes provision for the licensing and inspection of establishments but excludes pet shops and circuses.

In addition, Legislative Decree No. 189/2004 contains provisions relevant to the protection of wild animals in captivity through amendments to the Criminal Code. In particular, Article 727 prohibits keeping animals in conditions which are incompatible with their nature and which cause great suffering. Article 727 furthermore outlaws abandoning an animal who has altered his/her behaviour through being in captivity.

Private keeping of wild animals

Article 727 of Legislative Decree No. 189/2004 prohibits keeping animals in conditions 'incompatible with their nature' and producing 'grave suffering'.

Fur farming

At the EU level, a ban on cat and dog fur was introduced by Regulation No 1523/2007,⁴³ and has entered into force on 31 December 2008. The Regulation bans the placing on the market and the import to or export from the Union of cat and dog fur and products containing such fur.

In Italy, Article 2 of Legislative Decree No. 189/2004 states that it is forbidden to use dog and cats to produce skins, furs, clothing and leather goods. In addition, Legislative Decree No. 146/2001

⁴⁰ https://ec.europa.eu/environment/nature/pdf/EU_Zoos_Directive_Good_Practices.pdf

⁴¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>

⁴² <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2005-03-21;73!vig=>

⁴³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1523&from=EN>

(implementing Council Directive 98/58/CE) contains orders that from 2008 onwards, minks must be given an enriched living environment, in which they can behave as naturally as possible: climbing on branches, digging holes, nesting. There must also be a sufficiently big water basin in which they can swim.

Analysis

Council Directive 1999/22/EC provides general provisions for animals kept in zoos. Following the wording of Article 3, zoos are primarily intended to achieve conservation efforts, taking into account animal welfare. It is positive that zoos have to be licenced to operate, and that such a licence can only be obtained if criteria of Article 3 are met, which includes welfare provisions relating to enrichment, husbandry, veterinary care and nutrition. Enrichment has to be species-specific, but there is no mention of the psychological distress that is induced by constraining animals to enclosures. This Directive could be improved by focusing on the mental wellbeing of animals, rather than on satisfying their basic needs (e.g. nutrition requirements). In particular, a provision could be made to ensure that the size of enclosure is large enough to enable individuals to express normal behaviours, as well as allowing social interactions. Moreover, the frequency of inspections is not mandated in this Directive.

It is positive that Council Directive (EC) 1/2005 is not limited to livestock, but also covers the transport of wild animals. However, the welfare provisions in this Directive are quite general. For instance, Chapter III, Article 1.1 does not specify how wild animals shall become 'acclimatised' to the mode of transport of the proposed journey.

Any ban on fur farming is a positive step for animals, since the fur farming industry is inherently cruel and fur cannot be produced without causing large amount of pain, distress and suffering to animals. It is thus positive that the EU has implemented a ban on fur farming, though this ban appears very much limited since it covers only two species. The most common species farmed for their fur in Europe – rabbits, minks, foxes – are not included in this ban. Furthermore, there is no legislation at the EU level mandating humane slaughter for animals farmed for their fur.

With regards to animals kept in zoos, existing EU Member States were required to bring into force national laws not later than 9 April 2002. On 10 June 2004, the Fourth Chamber Court found that Italy had failed to transpose into its national legislation an EU directive aimed at regulating certain aspects of the management of zoos (Court Case C-302/03).⁴⁴ Subsequently, Legislative Decree No. 73/2005 was passed to implement the requirements of Council Directive 1999/22/EC and, in some areas, goes beyond the base requirements of that Directive.⁴⁵ The 2011 Zoo Check inquiry found that the European Union Directive on zoos had not been fully implemented through enforcement of Legislative Decree 73/2005.⁴⁶ The Zoo Inquiry also found that significant numbers of zoos were unlicensed and unregulated.

⁴⁴ <http://curia.europa.eu/juris/liste.jsf?language=fr&num=C-302/03>

⁴⁵ <https://www.bornfree.org.uk/storage/media/content/files/Publications/FINDINGS%20%26%20RECOMMENDATIONS.pdf>

⁴⁶ <https://www.bornfree.org.uk/storage/media/content/files/Publications/FINDINGS%20%26%20RECOMMENDATIONS.pdf>

With regards to the private keeping of wild animals, Article 727 of the Criminal Code could be used to restrict the private ownership of certain wild animal species as companion animals, since a home environment is not always compatible with their nature. However, from Article 727 alone, it is unclear whether the private ownership of wild animals as companion animals is in fact restricted.

With regards to fur farming, though Legislative Decree No.146/2001 provides welfare requirements to be enforced on fur farms, fur farming remains inherently cruel and causes pain and distress to animals.

Enforcement mechanisms

Breaches in Article 2 of Legislative Decree No. 189/2004 can be punished through periods of imprisonment ranging from three months to one year, or through fines ranging from €5,000 to €100,000.

Article 727 of the Criminal Code states that it is forbidden to use dogs and cats for the production or packaging of leather, fur, clothing and leather goods. Breaches are punished through periods of imprisonment from one year, or a fine of between €1,000 and €10,000.

Although there are penalties in legislation for cruelty towards animals including for breach of Article 727 of the Criminal Code, there appear to be no punitive measures other than administrative licensing issues for breaches of Legislative Decree No. 73/2005.

Key recommendations

- The Government of Italy is encouraged to publish the results of its regular zoo inspections.
- Given that the physiological and behavioural needs of marine mammals cannot be met in captivity, the Government of Italy is strongly encouraged to ban the breeding, keeping and training of all marine mammals in captivity, so that these animals constitute the last generation in captivity in the country. These animals should be retired to large seaside sanctuaries, which allow for an increased range of natural behaviours.
- It is unclear from Legislative Decree No. 189/2004 whether the private keeping of wild animals is restricted in legislation. As such, the Government of Italy is encouraged to develop a Positive List of species, specifying which animals can be kept as companion animals, based on clear criteria including animal welfare and other relevant concerns.
- The Government of Italy is urged to fully ban fur farming. Fur farming is inherently cruel and causes pain, distress and suffering to animals.

5. There are laws that apply to companion animals

Analysis of the legislation	
Ranking	D
<u>Care of companion animals</u> The European Convention for the Protection of Pet Animals⁴⁷ is a treaty of the Council of Europe to companion animals and ensure minimum protection standards. Signed in 1987, the treaty entered into force in 1992 and is now open to countries outside members from the Council of Europe. As of March 2019, the Convention has been ratified by 24 countries, among which Italy is present. Italy signed the European Convention on the Protection of Pets on 13 November 1987. Article 1 prohibits anyone from causing unnecessary pain, suffering or distress, or to abandon a companion animal. Article 2 creates a duty of care onto animal owners, responsible for their health and welfare. Article 10 forbids surgical procedures for the purpose of modifying the appearance of a companion animal, or for other non-curative purposes. In particular, the docking of tails, the cropping of ears, devocalisation, declawing and defanging are prohibited. Exceptions exist if a veterinarian considers non-curative procedures necessary or to prevent the reproduction of animals. Article 11 specifies that the killing of companion animals shall be done with the minimum of physical and mental suffering appropriate to the circumstances. Chapter III contains Supplementary Measures for Stray Animals. Article 12 mandates that the capture of stray animals must be done with the least amount of suffering possible. Once captured, animals may be kept or killed 'in accordance with the principles laid down in this Convention'. In Italy, Legislative Decree No. 281/1991⁴⁸ lays down standards for the treatment of companion animals. This Decree states that owners must register dogs, and anyone who abandons a dog, cat, or any other animal kept in their home will be punished with a fine. The act does not provide any further standards that safeguard the welfare of pets. The Decree falls short of mandating licensing of commercial breeders and banning cosmetic mutilations; both are detailed in the European Convention on the Protection of Pets, but not implemented in Italian law. <u>Stray animals</u> Legislative Decree No. 281/1991 prohibits killing stray dogs and cats unless the animal is affected by an incurable disease or is a proven danger (Article 2(2), 2(9)), and this can be performed only by a veterinarian. This Decree also requires the registration of dogs (Article 3) and provides for local governments to carry out trap-neuter-return programmes for stray cats (Article 2(8)). This legislation also repeats the anti-cruelty provisions of the Criminal Code and is mostly concerned with the prevention of disease (such as rabies) and with stray animal population control.	

⁴⁷ <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007a67d>

⁴⁸ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1991-08-14;281:vig=>

Analysis

At the EU level, the European Convention for the Protection of Pet Animals lays down important principles for the welfare of companion animals, notably by creating a positive duty of care onto animal owners and through prohibiting the abandonment of companion animals. It is also positive that the Convention prohibits surgical procedures on companion animals for appearance purposes.

However, the Convention does not provide as strong protections for the welfare of stray animals. In fact, the Convention authorises the killing of stray animals, instead of mandating their rehoming or placing them in a non-kill shelter.

However, in Italy, there are specific provisions identified in legislation for the protection of stray animals. Consequently, the current legislative framework is effective to make the welfare of this category of animals a mainstream concern of society within Italy. It is positive that the government does not regard killing healthy animals as a sustainable method of stray population control.

Enforcement mechanisms

The European Convention for the Protection of Pet Animals does not contain any enforcement mechanisms.

Breach of the provisions of Legislative Decree No. 281/1991 is punishable with administrative fines (Article 5).

The Criminal Code includes a range of possible punishments, including fines and imprisonment. Breaches of Article 544-bis and 544-ter can be punished by periods of imprisonment ranging from three months to one year, or by fines ranging from €3,000 to €15,000. Breaches of Article 577 can be punished by periods of imprisonment ranging from one year, or by fines ranging from €1,000 to €10,000.

Key recommendations

- The Government of Italy is urged to create a comprehensive duty of care for animal owners onto their animals, which would protect the animal's Five Freedoms.
- The Government of Italy is strongly encouraged to promote humane dog population management, which relies on promoting responsible ownership, mass dog vaccinations and reproduction control programmes. Culling is unnecessary, cruel and has been proven to be ineffective. The Government of Italy should also implement education programmes on dog bite prevention.
- In the same vein as Legislative Decree No. 281/1991, which provides for local governments to carry out trap-neuter-return programmes on stray cats, the Government of Italy is highly encouraged to promote humane dog population management programmes for stray dogs, with their subsequent rehoming.

- The Government of Italy is encouraged to engage with the International Companion Animal Management (ICAM) coalition to learn about and implement their dog population management methodology. This methodology consists of a full cycle of action, addressing the root causes of conflict between roaming dog and communities. The document is helpful to governments to manage dogs humanely as well as to help communities to live in harmony with dogs.
- The Government of Italy should promote responsible pet ownership, including the adoption of companion animals over the purchase of commercially bred animals.

6. There are laws that apply to animals used for draught or recreational purposes

Analysis of the legislation	
Ranking	E
<u>Animals used for entertainment</u> Despite Article 727 of the Criminal Code prohibiting to keep animals in conditions which are incompatible with their nature, the use of animals for entertainment, such as in circuses, has been authorised for a long time. However, on 8 November 2017, the Assembly of the Italian Parliament voted to phase out all animals in circuses and travelling shows.⁴⁹ Rules for the implementation of this new legislation were projected to be set out by a Ministerial Decree by 8 November 2018. This deadline appears to have not been met. Article 544-ter of the Criminal Code states that organising or promoting events that involve torture or ill treatment to animals is a crime punishable by imprisonment of between four months and two years and a fine, with higher penalties for doing so for profit or in connection with betting. Article 544-quinquies states that promoting, organising or directing fighting or unauthorised competition between animals that may harm their physical integrity is a crime punishable by imprisonment from one to three years and a fine. However, Article 3 of the Legislative Decree No. 189/2004 states that the provisions of the Criminal Code do not apply to historical and cultural events authorised by the competent region. Through this provision, events such as the Palio (horse race) are allowed. <u>Draught animals</u> The anti-cruelty provisions of the Criminal Code apply to draught animals. Particularly relevant to this category of animals are the prohibition on keeping animals in conditions that are incompatible with their nature and that cause great suffering and on abandoning an animal, which has altered his/her	

⁴⁹ <https://www.stopcircussuffering.com/news/europe/victory-italy-banned-animals-circuses/>

behaviour through being in captivity (both Article 727), and the prohibition on overworking an animal or abandoning an animal, which has altered his/her behaviour through being in captivity (both elements of Articles 544).

Apart from the provisions in the Criminal Code, no legislation has been found specifically relating to animals used for draught.

Analysis

With regards to animals used for entertainment, it is extremely positive that the Parliament voted to phase out the use of all animals in circuses and travelling shows. However, the date at which this phase out must be completed has not yet been communicated.

The Criminal Code provisions appear progressive for animal welfare, since they forbid the torture or ill-treatment of an animal and prohibit the organisation of event that harm the animals' physical integrity. However, the provisions of the Criminal Code do not apply to historical and cultural events authorised by the competent region; exempting cruel festivals such as the Palio (horse races) from existing animal welfare legislation. Therefore, socio-cultural attitudes towards to use of animals in entertainment and traditional festivals (e.g. the Palio) appear to be presenting significant barriers to the protection of animal welfare. These events have attracted significant levels of concern from animal welfare organisations, and there has been some opposition from individuals within Government.⁵⁰ In fact, in 2011, Italy's Minister of Tourism Michela Brambilla blocked the Palio di Siena from being nominated for listing in the UNESCO Intangible Cultural Heritage Lists.⁵¹

With regards to animals used for draught, there appears to be insufficient details in legislation to effectively protect this category of animals.

Enforcement mechanisms

Article 544-ter of the Criminal Code also provides that organising or promoting events that involve torture or ill treatment to animals is a crime punishable by imprisonment of between four months and two years and a fine, with higher penalties for doing so for profit or in connection with betting. Article 544-quinquies provides that promoting, organising or directing fighting or unauthorised competition between animals that may harm their physical integrity is a crime punishable by imprisonment from one to three years and a fine.

Key recommendations

- The Government of Italy is urged to forbid the organisation of and attendance to entertainment events causing animal suffering. Such a prohibition should cover rodeos, animal fights, animal races, rides on wild animals and all other forms of entertainment. As such, the Government of Italy is strongly encouraged to remove Article 3 of Legislative Decree No.

⁵⁰ <https://www.lav.it/news/tragico-palio-siena-ottobre-18>

⁵¹ <https://www.theguardian.com/world/2011/apr/17/palio-siena-ban-horse-cruelty>

189/2004, which grants a cultural exemption to the anti-cruelty provisions of the Criminal Code. Culture should never be an excuse for animal cruelty.

- It is remarkable that the Italian Parliament has voted to phase out the use of all animals in circuses and travelling shows in 2017. The Government of Italy is urged to indicate a deadline for this phase-out to be completed. All animals previously used in circuses and travelling shows should be rehomed in sanctuaries.
- The Government of Italy is strongly encouraged to adopt specific legislation to address the welfare of working animals, including working equids, following the requirements of the OIE's animal welfare standards. Working animals must be treated with consideration and must be given adequate shelter, exercise, care, food and water appropriate to their physiological and behavioural needs. Any condition that may impair their welfare must be treated promptly and, affected animals must not be worked again until they are fit. They must not be overworked or overloaded, nor must they be forced to work through ill-treatment.

7. There are laws that apply to animals used for scientific research

Analysis of the legislation	
Ranking	B
At the EU level, welfare provisions for animals used in scientific research are laid out in Directive 2010/63/EU,⁵² which updated and replaced the 1986 Directive 86/609/EEC⁵³ on the protection of animals used for scientific purposes. This new Directive applies to live vertebrates and live cephalopods (Article 1.4). Article 4 enshrines the Three Rs principles in legislation – Replacement, Reduction, Refinement. Article 6 mandates that animals are killed with minimum 'pain, suffering, distress'. Articles 7 and 8 provide exemptions for the use of endangered species and non-human primates in experiments, respectively. It is forbidden to take animals from the wild to carry experiments, except when the procedure cannot be achieved by the use of an animal who has been bred for use in procedures. It is furthermore prohibited to use animals stray and feral animals of domestic species in experiments. (Article 11). Article 14 ensures that 'Member States shall ensure that, unless it is inappropriate, procedures are carried out under general or local anaesthesia, and that analgesia or another appropriate method is used to ensure that pain, suffering and distress are kept to a minimum'. With regards to animal testing for cosmetic products, Chapter V, Article 18 of Regulations EC No 1223/2009⁵⁴ of the European Parliament and of the Council of 2009 on cosmetic products prohibits to test finished cosmetic products and cosmetic ingredients on animals (testing ban). The same article also prohibits to market finished cosmetic products and ingredients in the EU which were tested on	

⁵² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0063&from=EN>

⁵³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31986L0609&from=EN>

⁵⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1223&from=EN>

animals (marketing ban). The testing ban on finished cosmetic products applies since 11th September 2004, while the testing ban on ingredients or combination of ingredients applies since 11th March 2009.

Legislative Decree No. 26/2014⁵⁵ implements Directive 2010/63/EU on the protection of animals used for scientific purposes. The Decree covers live non-human vertebrates, larval forms of animals capable of feeding themselves, foetal forms of mammals and live cephalopods. Article 1 of the Decree lays down the Three Rs principles – Replacement, Reduction, Refinement – in animal experimentation. In fact, authorisation for experiments must be obtained from a competent authority, and it must be demonstrated that there are no alternatives to the use of animals and that experimental procedures which cause the least pain, suffering, distress or lasting harm will be used. Breeding establishments for experimental animals must be authorised by the competent authority. Experiments can be carried out only in establishments that are authorised by the Ministry of Health. It is forbidden to carry out research projects involving the use of animals without the prior authorisation of the Ministry.

Establishments are required to submit reports annually to the Ministry of Health including data on animals used in experiments. Aggregated data are published every three years in the Official Gazette of the Italian Republic.

For the purposes of this Decree, the competent authorities are the Ministry, the regions, the autonomous provinces of Trento and Bolzano, the municipalities and the local health authorities, according to their respective areas of competence.

The National Committee for the Protection of Animals Used for Scientific Purposes is made of a representative of the Ministry; two representatives of the veterinary medicine faculty; two representatives of the faculties of other scientific disciplines; a representative of the Higher Institute of Health; a representative of the National Research Council, and a representative of the Reference Centre for alternative methods of welfare and care of laboratory animals of the Experimental Zooprophyllactic Institute of Lombardy and Emilia-Romagna.

With regards to animal testing on cosmetics, Italy falls under the EU commitment and has banned the testing on animals of finished cosmetic products, as well as their ingredients.

Analysis

At the EU level, it is positive that Directive 2010/63/EU enshrines the Three Rs principles in legislation. These respectively aim at replacing animals with non-animal methods as much as possible, reducing the number of animals used in experiments to the lowest level, and refining experimentation methods in order to cause the least amount of suffering possible. Numerous references are made throughout the Directive to the duty for Member States to reduce animal suffering as much as possible. However, a loophole appears in Article 14, since the use of anaesthetics or analgesia is mandated 'unless it is inappropriate'. Thus, it is still possible in the EU to carry out experiments on live animals without them being rendered unconscious or insensitive to the pain.

⁵⁵ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2014-03-04:26:vig=2019-12-11>

With regards to animal testing for cosmetic products, it is positive that the EU has banned testing on finished cosmetic products and their ingredients through Regulations EC No 1223/2009. However, the testing and marketing bans remain limited. Notably, these bans only apply to cosmetic products and ingredients which are only used in cosmetics. Furthermore, the bans only apply to tests specifically aimed at consumer safety, but do not apply to worker safety tests. The bans also do not apply if the testing is intended to determine whether the product poses a risk to the environment.

Delays in transposing Directive 2010/63/EU led to the European Commission referring Italy to the European Court of Justice for failure to enact EU legislation. Italy eventually completed the transposition.⁵⁶ It is positive that Decree No. 26/2014 applies to vertebrates as well as some invertebrates. The explicit aim of the legislation is to avoid and reduce the number of animals used in experimentation. Consequently, the legislation is designed to make cumulative improvements to the welfare of animals used in experimentation.

Enforcement mechanisms

Unless the infringement constitutes a crime covered in the Criminal Code (where the anti-cruelty provisions would), enforcement mechanisms include fine up to €150,000 and/or and the suspension of the activity / revocation of licenses.

Key recommendations

- The Government of Italy is encouraged to mandate the presence of at least one representative from animal welfare organisations within the National Committee for the Protection of Animals Used for Scientific Purposes. Furthermore, the Government of Italy is strongly encouraged to require that each breeder, supplier and user of animals for experiments establish animal welfare committees to review proposed experiments using animals.
- The Government of Italy is strongly encouraged to create a national multi-stakeholder committee dedicated to developing alternatives to animal experimentation, following the model set out by Nordic countries such as Denmark.⁵⁷ At present, the National Centre for the Replacement, Refinement and Reduction of Animals in Research (NC3Rs) is the country's national organisation dedicated to advance the Three Rs principles. However, the NC3Rs is comprised of scientific experts and would benefit from including a wider range of stakeholders' perspectives. Representatives from animal welfare organisations should be included in the NC3Rs.

⁵⁶ https://ec.europa.eu/commission/presscorner/detail/BG/MEMO_17_234

⁵⁷ https://www.foedevarestyrelsen.dk/Dyr/dyrevelfaerd/Danmarks_3R_Center/Sider/Danmarks-3R-Center.aspx

8. There are laws that apply to wild animals

Analysis of the legislation	
Ranking	C
At the EU level, wild animals are protected by various Directives and Regulations. Council Directive 92/43/EEC⁵⁸ on the conservation of natural habitats and of wild fauna and flora, known as the Habitats Directive, prohibits all capture, killing, deliberate disturbance, destruction or taking of the eggs, deterioration or destruction of breeding sites or resting places of wild vertebrates listed in Annex IV(a) (Article 12). Furthermore, the keeping, transport, sale and exchange of these same species is also prohibited. Annex IV(a) lists over 400 species (Article 8). For over 90 species listed in Annex V, Member States must ensure that their exploitation and taking in the wild is compatible with maintaining them in a favourable conservation status (Article 14). Council Directive 2009/147/EC⁵⁹ of the European Parliament and of the Council on the conservation of wild birds, known as the Birds Directive, provides various regimes for different bird species. 82 species listed in Annex II can be hunted, however, the hunting periods are limited, and hunting is forbidden when birds are at their most vulnerable (i.e. during their return migration to nesting areas, reproduction and the raising of their chicks) (Article 7). Overall, this Directive prohibits activities that directly threaten birds, such as their deliberate killing, capture or trade, or the destruction of their nests, are banned. With certain restrictions, Member States can allow some of these activities for 26 species listed in Annex III (Article 6). Member States must outlaw all forms of non-selective and large scale killing of birds, especially the methods listed in Annex IV (Article 8). Council Regulation (EC) No 338/97⁶⁰ on the protection of species of wild fauna and flora by regulating trade therein also applies to wild animals. Article 4.1(c) provides that when an endangered species is introduced in the EU, the competent scientific authority must be satisfied that the intended accommodation for a live specimen at the place of destination is adequately equipped to conserve and care for it proper. In the same vein, Article 4.2(b) mandates that there must be a written proof that the intended accommodation for a live specimen is 'adequately equipped to conserve and care for it properly'. Article 4.6.(c) provides that the introduction of species in the EU may be restricted if species have a high mortality rate during shipment or for which it has been established that they are unlikely to survive in captivity. Council Regulation (EC) 1/2005⁶¹ on the transport of animals is also applicable to wild animals, both those living in captivity as well as wild animals living in the wild but susceptible of being transported (e.g. for rehabilitation or reintroduction purposes). Article 3 (General Conditions) provides that 'no person shall transport animals or cause animals to be transported in a way likely to cause injury or	

⁵⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31992L0043&from=EN>

⁵⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0147&from=EN>

⁶⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31997R0338&from=en>

⁶¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>

undue suffering to them'. Chapter II, Article 1.3 provides that a notice shall be given explaining that the animals are wild, timid and dangerous and containing written instructions about feeding, watering and any special care required. Furthermore, Chapter III Article 1.1 mandates that wild animals shall become acclimatised to the mode of transport prior to the proposed journeys.

Presidential Decree No. 357/1997⁶² implements Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive).

Legislative Decree No. 157/1992⁶³ makes some restrictions on hunting for the protection of (certain species) of wildlife living in the national territory, and species that are under threat of extinction. Article 2 lists protected species. Article 8 mandates that hunting can only be carried out by people older than 18 years old and in possession of a licence. Such a licence is obtained following public examinations before a special commission appointed by the Region in each provincial capital.⁶⁴ The licence is valid throughout the national territory and lasts five years. Article 21 forbids the production, sale and possession of traps for wildlife; the use of poisoned bait and crossbows.

Analysis

The Directives and Regulations applicable to wild animals at the EU level focus primarily on the conservation of wild species, rather than on protecting the welfare of individual animals. In particular, it would be beneficial for animal protection legislation to forbid the use of the cruellest forms of hunting (i.e. dog hunting, live baiting, poisoning, trapping, falconry, bow hunting).

It is positive that Council Directive (EC) 1/2005 is not limited to livestock, but also covers the transport of wild animals. However, the welfare provisions in this Directive are quite general. For instance, Chapter III, Article 1.1 does not specify how wild animals shall become 'acclimatised' to the mode of transport of the proposed journey.

However, whilst Italy has a biodiversity protection strategy, it appears that wild animal welfare is not a priority.⁶⁵ Hunting is a traditionally popular activity in Italy that has given rise to concerns regarding human safety, protection of threatened species and animal welfare.⁶⁶ Though Italy has banned some of the cruellest forms of hunting, such as the use of poisoned bait, crossbows and traps, attempts to implement hunting restrictions, for example, regarding the protection of migrating birds have faced challenges and difficulties in implementation and enforcement. Hunting legislation is reported as being outdated but attempts to update it have failed.⁶⁷

Enforcement mechanisms

The Criminal Code includes a range of possible punishments, including fines and imprisonment. Breaches of Article 544-bis and 544-ter can be punished by periods of imprisonment ranging from three months to one year, or by fines ranging from €3,000 to €15,000. Breaches of Article 577 can

⁶² <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.del.presidente.della.repubblica:1997-09-08;357!vig=>

⁶³ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1992-02-11;157!vig=>

⁶⁴ http://www.feder caccia.org/fidc_licenza_caccia.php

⁶⁵ <http://www.cbd.int/countries/profile/default.shtml?country=it>

⁶⁶ <http://www.reuters.com/article/2012/10/22/italy-hunting-deaths-idUSL5E8LMHXF20121022>

⁶⁷ <http://www.smh.com.au/world/italian-hunters-now-the-hunted-20110206-1aiim.html>

be punished by periods of imprisonment ranging from one year, or by fines ranging from €1,000 to €10,000. Legislative Decree No. 157/1992 furthermore contains enforcement mechanisms. Notably, any person may face up to three months to one year of imprisonment, with a fine of €900 to €2,500 for practicing hunting in a period in which hunting is normally prohibited. Furthermore, anyone who slaughters or captures a mammal included in Article 2 is liable to imprisonment for two to eight months and to a fine from €800 to €2,000.

Key recommendations

- The Government of Italy is encouraged to ban any form of hunting that does not directly support subsistence i.e. for feeding oneself and one's family and not for commercial gain. Subsistence hunting operations must employ the least cruel methods of hunting and slaughter, and that all possible efforts should be made to reduce the time to death of animals killed in these hunts. At a minimum, the Government is strongly encouraged to forbid the use of the cruellest hunting methods.

Goal 3: Establishment of supportive government bodies

9. The Government has assigned responsibility and accountability for improving animal protection at a high government level and has provided resources

Analysis of the legislation	
Ranking	D
The Ministry of Health is responsible for animal welfare in Italy. Each province has an official appointed to the Office of Animal Rights (Ufficio Diritti Animali). This role is primarily concerned with reducing the numbers of abandoned companion animals and addressing stray animal issues. Animal welfare measures are implemented through the 2014 National Plan on Animal Welfare,⁶⁸ which focuses on farm animal welfare. The Plan exists to comply with the provisions of national and EU regulations and to provide uniform protocols for the execution and the planning of controls. It also seeks to improve the training of veterinary doctors and breeders in relation to animal welfare issues, and it stipulates the competent authorities at local, regional and national levels. Veterinary services are responsible for carrying out checks on the application of the rules concerning animal welfare and reporting annually on the results of such activities to the regions and autonomous provinces, which in turn transmit the aggregated data to the Ministry. The Ministry of Health, in collaboration with local reference centres for animal welfare (e.g. the Istituto Zooprofilattico	

⁶⁸http://www.salute.gov.it/portale/documentazione/p6_2_2_1.jsp?lingua=italiano&id=2357

Sperimentale della Lombardia e dell'Emilia Romagna (IZSLER) for the Emilia-Romagna region, ⁶⁹ overseeing food safety and the use of animals in scientific research) carries out regular assessments and, if necessary, additional operational tools such as checklists and guidelines. The results of the monitoring are published in annual reports by the Ministry. The Ministry carries out audits at the veterinary services of local courts and direct inspections in breeding facilities and during transport to verify the correct application of the legislation.

Analysis

It is positive that the Ministry of Health is responsible for animal welfare and that Animal welfare measures are implemented through the National Plan on Animal Welfare. This plan appears not to have been updated since 2014, hence its provisions may be in need of updating. Furthermore, there does not appear to be an overall committee at the national level responsible for promoting and enhancing animal welfare standards.

Enforcement mechanisms

Relevant government bodies have clear mandates for responsibility.

Key recommendations

- The Government of Italy is encouraged to create a national multi-stakeholder committee in order to effectively engage all actors involved in maintaining animals' well-being to find solutions for welfare concerns. This committee would guide the country's policies and strategies on animal welfare, in line with international standards. This committee should include representatives of animal welfare organisations.

Goal 4: Support for international animal welfare standards

10. The Government has incorporated the OIE's guiding principles for animal welfare and its animal welfare standards into policy and legislation

Analysis of the legislation	
Ranking	B
The OIE Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle, pigs), stray dog population control, the use of animals in research and education, and working equids. ⁷⁰	

⁶⁹ https://gestione.izsler.it/izs_bs/s2magazine/index1.jsp?idPagina=10

⁷⁰ <http://www.oie.int/infographic/StandardsAW/index.html>

Through transposition of the requirements of various European Union Directives, the Government has generally incorporated the OIE's guiding principles and standards into legislation. Other of the OIE's animal welfare standards are implemented through policy, such as guidelines produced by the Ministry of Health.

Analysis

It is positive that the OIE animal welfare standards have been incorporated into Italian legislation. The Government has generally introduced legislation in this area only to comply with European Union legislative requirements, and action has been taken by the European Commission for failure to implement certain Directives.

Enforcement mechanisms

There are enforcement mechanisms for those of the OIE's standards which have been incorporated into legislation.

Key recommendations

- Italy fully incorporates OIE's principles and standards into legislation, which includes enforcement mechanisms. The Government of Italy is strongly encouraged to exceed OIE standards through the greater promotion of the rehoming of stray animals.

11. The Government has pledged in principle support for the Universal Declaration on Animal Welfare (UDAW)

Analysis of the legislation

In 2009, the 27 Agriculture Ministers of the European Council, including from Italy, unanimously approved a statement on the UDAW encouraging the European Commission to support and initiate further international initiatives to raise awareness and create a greater consensus on animal welfare, and inviting the Member States and the Commission to support the UDAW initiative.⁷¹

Note: The UDAW is a proposed formal international acknowledgement of a set of principles giving animal welfare due recognition among governments and the international community. An expression of support for the UDAW demonstrates a government's commitment to working with the international community to improve animal welfare.

Analysis

The UDAW is currently the only international instrument that creates a soft law commitment for countries to acknowledge and respect animal sentience and to work towards ending cruelty and protecting the

⁷¹ http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/agricult/106877.pdf

needs of animals. The Government has expressed full formal support for the UDAW, thus helping to incorporate animal welfare into policy discussions.

Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

Key recommendations

- Italy has provided government support to the UDAW, through a joint EU declaration in 2009. Italy should act as an example for other countries to pledge support in principle to the UDAW.

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