Essays

From Anthropocentrism to Ecocentrism: Emerging Paradigms in EU Environmental Law in the Light of the Mar Menor Case

Denis Cianconi*

ABSTRACT: The European legal tradition has historically conceived nature as an object of instrumental protection, recognising its value exclusively as a resource functional to human activity. However, the progressive deterioration of global ecological balances has imposed a profound rethinking of this anthropocentric approach. The Mar Menor case in Spain constitutes a turning point, as, for the first time, a legal system of an EU Member State attributes rights and autonomous legal personality to an ecosystem. This study reconstructs the main stages of this evolution, analysing European and non-European experiences that have led the EU towards an ecocentric model of environmental protection.

KEYWORDS: anthropocentrism; ecocentrism; Rights of Nature; Mar Menor; Principles of Environmental Law

SUMMARY: 1. The Human-Nature Relationship – 1.1. The Importance of Data – 2. The Green Deal and New Principles of Environmental Law – 2.1. The Case of the Mar Menor – 3. European Perspectives on Environmental Law.

1. The Human-Nature Relationship

The philosopher Hans Jonas, in "The Principle of Responsibility",[1] highlights how the enormous power acquired by humans through technological development has rendered traditional ethics inadequate. Traditional ethics was built on a vision of the natural environment as merely the backdrop for human action, devoid of intrinsic value or moral protection. Given humanity's unprecedented ability to alter nature, Jonas argues that we must rethink the foundations of individual moral responsibility, extending it beyond present generations to include future generations and the environment as a whole.

It is within this perspective that contemporary reflection on the human-nature relationship is situated, increasingly relevant even in legal terms. On one hand, this relationship undoubtedly contributes to improving living conditions and collective well-being, but, if not properly managed, it can endanger humanity's survival and the stability of our planet. From this arises a primary duty of humanity toward itself, that is, the safeguarding of the environment, understood as an essential prerequisite for life.

* *PhD Student in Social and Legal Sciences at University Miguel Hernandez of Elche (Spain). Mail: denis.cianconi@goumh.umh.es.* *This article was subject to double blind peer review process.*

[1] H. JONAS, *Il principio di responsabilità. Un'etica per la civiltà tecnologica*, Frankfurt, 1979, 1-291.

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This approach shifts the focus from rights – which are difficult to attribute to future or non-human entities – to the duties of present generations.[2] In fact, responsibility does not arise from a claim made by someone, but from an inherent ethical necessity since "[o]ur decisions can profoundly affect future standards of living as well as environmental and ecological balance".[3] This awareness has led to important international initiatives, such as the Stockholm Declaration[4] and the Brundtland Report,[5] as well as the introduction in the EU of the "principle of sustainable development".[6] Therefore, sustainability has become a central reference in global, European, and national policies, even being incorporated into several constitutions.

Subsequently, Dutch meteorologist Paul Crutzen[7] further raised public awareness by emphasizing how human influence had profoundly altered the planet's balance. From that moment, the concept of the Anthropocene[8] has gradually emerged and, nowadays, it is also used in the social and legal sciences to describe an era in which human activity is one of the main forces transforming our ecosystem.[9]

From this perspective, environmental sustainability is reframed as a partial and insufficient principle, since, while promoting the rational use of resources, it does not challenge the "dominant model of economic growth",[10] which remains the structural cause of the environmental crisis. Nature is thus viewed as having a functional purpose for human well-being, lacking intrinsic value recognized by law, yet simultaneously endowed with economic value.[11]

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[2] R. Bifulco, *Diritto e generazioni future. Problemi giuridici della responsabilità intergenerazionale*, Milano, 2008, 75-76.

[3] A. D'Aloia, *Generazioni future (diritto costituzionale*), in *Enciclopedia del Diritto- Annali IX*, Milano, 2016, 342.

[4] The importance of protecting the environment for the benefit of present and future generations is expressly enshrined in Preamble 6 and further reaffirmed in Principles 1 and 2 of the Declaration of the United Nations Conference on the Human Environment and Action Plan for the Human Environment, Stockholm, 5 June 1972.

[5] World Commission on Environment and Development, *Our Common Future: The Report of the World Commission on Environment and Development*, NY, 4 Aug. 1987.

[6] Article 3 TEU. See M. Montini, *Titolo: L'azione esterna dell'Unione europea per l'attuazione dello sviluppo sostenibile,* Napoli, 2025, 33.

[7] P.J. Crutzen, *Benvenuti nell'Antropocene! L'uomo ha cambiato il clima, la Terra entra in una nuova era*, Milano, 2005, 1-94.

[8] C. Hamilton, C. Bonneuil, F. Gemenne, *The Anthropocene and the Global Environmental Crisis: Rethinking Modernity in a New Epoch*, London, 2015, 1-200.

[9] The Anthropocene equation, developed by Owen Gaffney and Will Steffen, clearly illustrates the impact of human activity on the climate: anthropogenic activities have accelerated climate change by approximately 170 times compared to natural processes. For billions of years, the Earth system was regulated by very slow natural factors, with minimal temperature variation. In recent decades, however, human greenhouse gas emissions have driven a rapid and significant increase, highlighting an unprecedented transformation. O. Gaffney, M. Steffen, *The Anthropocene equation*, in *Anthropocene Review,* 4(1), 2017, 53-61.

[10] The capitalist economic system is understood as being based on the continuous growth of Gross Domestic Product (GDP) as the primary indicator of development and well-being. This model presupposes a virtually unlimited exploitation of natural resources and constantly expanding production and consumption, without taking into account the planet's biophysical limits. Such approach has been associated with the concept of the 'Capitalocene', first proposed by Andreas Malm and subsequently developed by Jason W. Moore. J.W. Moore, *Antropocene o Capitalocene. Scenari di ecologiamondo nella crisi planetaria*, Verona, 2017.

[11] D. French, L. Kotze, *The anthropocentric ontology of international environmental law and the sustainable development goals: towards an ecocentric rule of law in the anthropocene*, in *Global Journal of Comparative Law*, 7(1), 2018, 5-36.

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Nevertheless, it is worth mentioning that anthropocentrism can have a positive role when it fosters a change in the human relationship with nature. The conception of the self as an integral part of the environment, rather than as a separate entity, encourages a more conscious, humble, and responsible attitude. Within this framework, there is a shift from an anthropocentrism of rights – which legitimizes the domination and exploitation of nature – to an anthropocentrism of duties, in which humans assume a role of care and protection.[12]

1.1. The Importance of Data

Legal interpretation cannot disregard the reconstruction of the concrete reality in which the phenomenon occurs. Regulatory decisions must be based on concrete evidence rather than mere theories or assumptions.[13] In this regard, Article 191(3) of the Treaty on the Functioning of the European Union (TFEU) establishes that, in developing its environmental policies, the Union must consider the available technical and scientific data, confirming that the creation of effective rules cannot disregard an evidence-based approach.

The European Union's environmental policy does not merely protect the environment within its borders; it also seeks to promote cooperative measures at both regional and global levels, with particular attention to the challenge of climate change. This policy is grounded in established principles of environmental law: the precautionary principle, which calls for anticipating risks before they materialize; the principle of preventive action; the principle of rectifying damage at its source; and the "polluter pays" principle, which assigns responsibility to those causing environmental harm.[14] At the same time, the EU legal framework provides for flexible instruments, such as safeguard clauses, which allow Member States to adopt temporary measures on environmental grounds, rather than economic ones, while respecting common oversight procedures.

In formulating its environmental law strategies, the European Union draws on a variety of concrete elements.[15] Available scientific and technical data provide the objective basis for decision-making, complemented by the specific conditions of the environment under consideration. The evidence indicate that our planet is currently facing a severe environmental crisis, to the extent that some authors speak openly of a "point of no return".[16] Reports such as the Global Environment Outlook, Planetary Boundaries, and the IPCC[17] Assessment Reports depict a disturbing picture: ecosystem disruption, drastic biodiversity loss,

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[12] L. RONCHETTI, *Ecocostituzionalismo, La sovranità popolare di fronte alla crisi ecologica*, in *Materialismo Storico – Rivista Di Filosofia, Storia E Scienze Umane*, 19(2), 2024, 168-173. C. TRIPODINA, *Per un antropocentrismo dei doveri. Una proposta teorica*, in *Corti Supreme e Salute*, 1, 2025, 1-12.

[13] M. CAVALCANTI, *Fonti del diritto e cambiamento climatico: il ruolo dei dati tecnico-scientifici nella giustizia climatica in Europa*, in *Diritto Pubblico Comparato ed Europeo*, 58(2), 2023, 329-344. D. SAGLIOCCO, *L'incidenza del dato tecnico scientifico sulla giurisprudenza delle corti nazionali in tema di transizione energetica*, in *BioLaw Journal – Rivista di BioDiritto*, 3S, 2026, 169-179.

[14] Article 191 (2), TFEU.

[15] Pursuant to Article 114(3) TFEU, measures to harmonize national legislation affecting environmental protection must be based on a high level of protection.

[16] T. M. LENTON, J. ROCKSTRÖM, O. GAFFNEY, S. RAHMSTORF, K. RICHARDSON, W. STEFFEN, H. J. SCHELLNHUBER, *Climate tipping points: Too risky to bet against,* in *Nature*, 575.7784, 2019, 592-595.

[17] The United Nations' *GEO-6 Report* (2019), the result of the collective work of over 250 scientists from 70 countries, documents the accelerated degradation of global ecosystems and the massive loss of biodiversity. The IPCC Assess-

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increasingly evident climate change, and the overconsumption of natural resources exceeding Earth's biophysical limits.

Institutional responses have developed starting from the 1992 United Nations Framework Convention on Climate Change (UNFCCC), which set the goal of stabilizing greenhouse gas emissions, and were later consolidated with the 2015 Paris Agreement, which established a global strategy for sustainability and achieving climate neutrality. In this context, the "phenomenon of climate justice"[18] has emerged, emphasizing that efforts to address climate change must ensure fairness in both impacts and responsibilities, recognizing that the most vulnerable populations often suffer the greatest consequences despite contributing the least to emissions.[19]

The deterioration of the planet and its ecosystems can be understood by examining two closely interconnected domains: energy and natural resources.[20] Although analytically distinct, these two domains are deeply interdependent. The first one concerns climate change, which is currently central to public and scientific debate, which has driven the adoption of policies aimed at decarbonizing the economy – that is, progressively reducing greenhouse gas emissions, particularly in the energy sector, the primary source of such emissions. This process is known as the energy transition and focuses on the management of energy flow. Established tools and methodologies already exist in this field, such as those for energy efficiency, as well as a now well-established distinction between fossil fuels, which must be reduced, and renewable sources, which should be promoted.[21]

The second domain, less visible but equally crucial, concerns the consumption of natural resources. It is within this domain that the so-called productive transition, also referred to as the circular transition or industrial reconversion, comes into play, dealing with material flows.[22] The objective is to reduce resource

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ment Reports, from 1990 up to AR6 in 2023, outline the progression of the climate crisis. J. Rockström's Planetary boundaries model quantifies the critical thresholds that trigger climate change: three critical thresholds were surpassed in 2009, four in 2015, six in 2023, and seven are projected for 2025.

[18] M. Montini, *Verso una giustizia climatica basata sulla tutela dei diritti umani*, in *Ordine internazionale e diritti umani*, 3, 2020, 509-510. According to the author, the three conditions for exercising climate justice based on human rights can be summarized as follows: first, it is necessary that citizens and associations are entitled to take legal action to protect collective interests related to the climate; second, a causal link must be demonstrated between climate change and the violation of fundamental human rights; and finally, States must be recognized as having a legal obligation to adopt adequate measures to counter climate change, an obligation that must be enforceable before a court.

[19] In this respect, climate justice assumes a dimension that is fully grounded in the framework of fundamental rights. This approach is further reinforced by the International Court of Justice's (ICJ) Advisory Opinion of 23 July of 2025, *Obligations of States in respect of Climate Change*, in which environmental protection is recognized as a legal obligation upon States. Such an obligation encompasses the duty to prevent significant environmental harm and to cooperate at the international level, including from an intergenerational perspective, in line with the objectives and mitigation commitments established under the Paris Agreement. See D. Pauciulo, *Breve nota al parere consultivo della Corte internazionale di giustizia sugli obblighi internazionali degli Stati relativi al cambiamento climatico*, in *Diritto e clima,* 3, 2025, 931-952.

[20] S. Rugiero, *Energia e sostenibilità ambientale come fattori del benessere. Un'analisi dei principali indicatori. Il Benessere Oltre Il Pil. Definire e Misurare La Qualità Sociale*, in *La Rivista delle Politiche Sociali*, 1, 2011, 175-197.

[21] D. De Vincenzo, *Transizione ambientale e transizione Energetica. Il caso dell'Unione Europea*, in *Documenti geografici,* 2, 2022, 343-358.

[22] S. Antoniazzi, *Transizione ecologica ed economia circolare*, in R.P.S. Aloisio (ed.), *Scritti in memoria di Gladio Gemma*, Torino, 2023, 39-62.

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use and to rethink production models. However, unlike the energy transition, this area remains less developed conceptually and operationally: there is a lack of shared criteria and widely adopted methodologies for the systematic assessment of resource use. One major challenge lies in clearly distinguishing between renewable and non-renewable resources. The former can regenerate naturally, whereas the latter, once used, are permanently depleted. From this distinction arises the need to drastically limit the use of non-renewable resources and to promote the balanced and sustainable use of renewable resources.[23]
Such clarification is essential for understanding and evaluating the mechanisms through which environmental policies are formulated, and consequently, for assessing whether these policies can effectively be translated into tools for the management of natural resources. Overall, the energy transition and the productive transition converge into a single process: the ecological transition.[24] This concept synthesizes both dimensions and constitutes the key interpretative framework for the systemic change required to address the planet's increasing challenges, coherently integrating the sustainable management of energy and natural resources.

2. The Green Deal and New Principles of Environmental Law

In response to the commitments undertaken under the Paris Agreement, the European Union's main instrument for achieving the ecological transition is represented by the Green Deal.[25] Through this framework, the EU has strengthened its regulatory framework by introducing significant measures such as the *European Climate Law*,[26] which makes achieving climate neutrality by 2050 legally binding, and the *Taxonomy Regulation*,[27] which provides a uniform definition of what constitutes a sustainable economic activity.
In addition to environmental goals, the Green Deal also incorporates economic and social measures to support those groups most affected by the transition and directing public and private investment toward sustainable models. For example, the Carbon Border Adjustment Mechanism,[28] which imposes a cost on emissions embedded in products imported from countries with less stringent climate standards, demonstrates that the ecological transition is not merely an internal policy, but also a lever of global geopolitical influence – the so-called "Brussels effect".[29]

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[23] R. AHMED, M.T.R. TAMIM, *The Future of Energy: Exploring Renewable and Non-Renewable Resources,* in *International Journal of Science Education and Science*, 2(2), 2025, 85-105.
[24] L. GIURATO, *Il percorso della transizione energetica: da un'economia basata sull'energia pulita alla "rivoluzione verde e transizione ecologica" del Recovery Plan*, in *AmbienteDiritto.it*, 1, 2021, 1-25.
[25] European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Green Deal*, COM (2019) 640 final, 11 December 2019.
[26] Regulation (EU) 2021/1119 of the European parliament and of the council, 30 June 2021.
[27] Regulation (EU) 2020/852 of the European Parliament and of the Council, 18 June 2020.
[28] Regulation (EU) 2023/956 of the European Parliament and of the Council, 10 May 2023.
[29] A. BRADFORD, *The Brussels Effect*, in *Northwestern University Law Review*, 107(1), 2012, 1-68. By setting high regulatory standards as a condition for access to its market, the EU encourages global economic operators to adopt these standards voluntarily even outside the European context. This dynamic is based on a rational economic logic – the preference for a single global standard over a multiplicity of differentiated national regimes – and is applied in the context of the Green Deal through instruments such as the CBAM, which effectively extends European carbon reg-

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However, this path unfolds in a complex context that is influenced by recent events such as the COVID-19 pandemic and conflicts in Ukraine, Palestine, and Iran, which have imposed new priorities related to health security, energy security, economic stability, and industrial competitiveness. The pandemic, in particular, has prompted a rethinking of the Anthropocene by exposing the limitations of a worldview centered on controlling nature.[30] The spread of the virus demonstrated that humanity is not separate from the environment, but deeply embedded in it and, therefore, vulnerable to its dynamics. This has encouraged a renewed understanding of the Anthropocene, opening the way to a more ecocentric perspective grounded in the interdependence between humans and nature and in the need to restore a more balanced relationship with the planet.

A first step toward this new ecocentric paradigm was the introduction of the principle of non-regression,[31] according to which, once a certain level of environmental protection has been attained, neither the legislature nor public authorities may reduce or weaken it. In other words, environmental protection, once guaranteed, must be maintained over time or progressively strengthened, thereby avoiding any regression.[32]

A further decisive step was the introduction of the "Do No Significant Harm" (DNSH) principle,[33] which prohibits activities that cause harm to the environment. This principle differs from other principles of environmental law, which are often formulated in general terms, by explicitly referring to the notion of "significant harm" and requiring the use of objective technical parameters – rather than discretionary judgment – to define and measure its threshold. To render it operational, the European legislator developed the European Taxonomy's green list (2021-2023),[34] which classifies "green" economic activities for access to sustainable capital and more favorable financing conditions.

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ulation to global supply chains. See M. MONTINI, *Titolo: L'azione esterna dell'Unione europea per l'attuazione dello sviluppo sostenibile,* cit., 91.

[30] See E. HONEYBUN-ARNOLDA, T. O'RIORDAN, *Environmentalism after the Pandemic*, in *Journal for the History of Environment and Society*, 5, 1, 2020, 223-233.

[31] T. SCOVAZZI, *Il principio di non-regressione nel diritto internazionale dell'ambiente*, in D. MARRANI (ed.), *Il contributo del diritto internazionale e del diritto europeo all'affermazione di una sensibilità ambientale*, Napoli, 2017, 51-59. According to Scovazzi's normative analysis, the Principle of Non-Regression received its first explicit formulation in the European Parliament resolution of 29 September 2011, adopted in preparation for defining a common European Union position for the Rio+20 Conference. Subsequently, the principle was reiterated in Draft International Covenant on Environment and Development, Fifth Edition 2015; however, its codification may be inferred implicitly from Principle 7 of the Rio Declaration, and explicitly from the Paris Agreement, where, beginning with the Preamble, it is redefined as the "progression principle".

[32] *Ibid.*

[33] See R. BIFULCO, *Nascita di un principio? La tormentata formazione del Do No Significant Harm,* in *Rivista Giuridica dell'Ambiente Online – RGAONLINE,* 2024, 1-10. The DNSH principle, although anticipated by the Green Deal, the DNSH principle entered EU law in November 2019 with Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector. However, while the regulation refers to this principle in the definition of "sustainable investment" (Art. 2(1)(17)), it does not clarify the meaning of "significant harm". Its first comprehensive codification is found in the Taxonomy Regulation, although a reference to the principle had already been made in Regulation 2019/2088. The latter incorporates the DNSH principle in Articles 2(17) and 9, establishing that investments promoted as "sustainable" must contribute to environmental or social objectives without causing significant harm to other environmental objectives. The principle was further developed in EU Regulation 2021/241 on the Recovery and Resilience Facility, and has since been implemented at the national level.

[34] Between 2021 and 2023, the European Union operationalized the Environmental Taxonomy, progressively introducing technical criteria through delegated acts. These acts defined which activities can be considered sustainable

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Subsequently, with the Recovery and Resilience Facility (RRF),[35] the DNSH principle acquired an even broader scope, becoming an essential requirement for access to public funding and, thereby, transforming from a sustainable finance tool into a transversal condition for all incentive plans. Overall, the DNSH principle[36] marks the shift from the general principles of the "first-generation" regulatory framework to the more concrete and operational rules of the "second generation", serving as a practical instrument to guide companies toward sustainable production models within the wider transition from a brown/red economy to a green/blue one.[37]

From an ecocentric perspective, this development is particularly significant because it introduces, for the first time in European positive law, the notion that economic activity is constrained by objective limits rooted in ecological balance. Environmental protection is thus no longer justified solely by human well-being, but by the need to preserve ecosystems as a fundamental condition for the legitimacy of any economic activity.

2.1. The Case of the Mar Menor

The previous analysis has highlighted how environmental law increasingly regards the traditional anthropocentric approach insufficient, paving the way for an ecocentric perspective that recognizes the intrinsic value of the environment. This perspective has already been concretely implemented in certain non-European contexts through the legal recognition of the Rights of Nature (RoN).[38] For example, in Ecuador and Bolivia, such recognition has been incorporated directly into their respective constitutions – environmental constitutionalism –,[39] inspired by the Andean Indigenous cosmology of *Buen Vivir*, which conceives nature as a living entity endowed with its own rights. In New Zealand, the Whanganui River was granted legal personality in 2017, following decades of claims advanced by the Māori people.

The Indian Constitution, although initially lacking specific environmental provisions, has progressively integrated such protections, particularly through the 42nd Amendment of 1976, which introduced the duty of both the State and citizens to protect the environment. While these provisions are not directly enforceable, the Supreme Court has interpreted them in conjunction with fundamental rights, ultimately recog-

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and according to which scientific criteria, gradually expanding the list to include various sectors and environmental objectives. In essence, the process moved from a general rule to a concrete system based on precise parameters, aimed at preventing greenwashing and guiding businesses and investors.

[35] *Regulation (EU) 2021/241* of the European Parliament and of the Council, 12 February 2021.

[36] On the juridical interpretation of the principle, see M.L. SÁNCHEZ BARRUECO, *Dogmática del principio de "no causar un perjuicio significativo" (DNSH) en el ordenamiento europeo: desafíos de un criterio con vocación transversal*, in *Lex Social: Revista De Derechos Sociales*, 16, 1, 2025, 1-31.

[37] F. DE LEONARDIS, *La rivoluzione silenziosa del principio Do no significant harm (DNSH)*, in *Rivista quadrimestrale di diritto dell'ambiente*, 2, 2024, 104-128.

[38] S. BALDIN, *Spunti per un modello di dichiarazione dei diritti del fiume da includere nei contratti di fiume*, in *Poliarchie/Polyarchies,* Special Issue, 2025, 10-29.

[39] See P. VIOLA, *From the Principles of International Environmental Law to Environmental Constitutionalism*, in D. AMIRANTE, S. BAGNI (ed.), *Environmental Constitutionalism in the Anthropocene. Values, Principles and Actions*, London, 2022, 133-138. Environmental constitutionalism can be understood in two senses. In an objective sense, it refers to the growing attention of constitutional law to environmental protection, with forms and intensity that vary depending on the legal, geographic, geopolitical, and cultural context. In a subjective sense, it represents a branch of constitutional research that examines the relationship between constitutional texts and environmental issues.

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nizing a genuine right to a "healthy" environment.[40] This orientation has been further strengthened through the instrument of Public Interest Litigation,[41] by means of which Indian jurisprudence has consolidated the role of the State as the guardian of natural resources, entrusted with their protection in the interest of present and future generations.

From these experiences, an emerging interpretative criterion in environmental law has appeared, the *in dubio pro natura* principle, developed in doctrine by Coelho,[42] according to which, in cases of doubt or uncertainty, decision-makers must favour solutions that protect nature. This principle bears certain similarities to the precautionary principle, as both aim to prevent environmental harm even in situations of uncertainty. However, it differs in two key respects,[43] first, it can be applied even when potential harm is neither severe nor irreversible; second, it can operate even when scientific data are available, but doubts remain about the most appropriate course of action. For this reason, its scope of application is potentially broader.

The principle has found greater development in Latin American countries, as evidenced by its recognition in the Constitution of Ecuador.[44]

In Europe, such perspectives continue to encounter significant resistance, as the Western legal tradition, deeply rooted in an anthropocentric approach, has proven reluctant to accept legal subjectivity independent of human beings. Emblematic cases such as *Urgenda* in the Netherlands (2015) and *Neubauer* in Germany (2021) have recognized positive obligations on the part of States to protect the environment, grounded in fundamental rights.[45] The European Court of Human Rights' *KlimaSeniorinnen* judgment,[46]

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[40] L. COLELLA, *Tutela dell'ambiente e giustizia climatica in India: verso un diritto (costituzionale) al clima?,* in *Ambientediritto.it*, 1, 2025, 1-16.

[41] Public Interest Litigation (PIL) is a procedural mechanism developed by the Indian Supreme Court that enables individuals to access the judiciary not only to protect personal interests but also to vindicate the public interest. Through this mechanism, issues concerning collective or widespread rights – such as environmental protection, public health, and human rights – can be brought before the courts. PIL has also broadened access to justice, enabling even the most vulnerable individuals to obtain judicial protection and allowing courts to intervene in matters of social significance, even when the directly affected parties are unable to act.

[42] L.F. COELHO*, In dubio pro natura interpretaçao crítica do direito Ambiental*, in Á.A. SÁNCHEZ BRAVO (ed.), *Políticas públicas ambientales*, Sevilla, 2008, 157-187.

[43] S. DE VIDO, *In dubio pro futuris generationibus: una risposta giuridica eco-centrica alla slow violence*, in M. FRULLI (ed.), *L'interesse delle generazioni future nel diritto internazionale e dell'Unione europea*, Napoli, 2023, 57-78. G. FONTANELLA, *Nuovi principi eco-giuridici per un diritto antropocenico: New Eco-Legal Principles for an Anthropocene Law*, in *Diritto Pubblico Comparato ed Europeo Online*, 64(2), 2024, 949-970.

[44] Constitution of the Republic of Ecuador (2008), Article 395(4).

[45] In the *Urgenda case*, Dutch courts ordered the State to reduce greenhouse gas emissions on the basis of the duty of care established in Articles 6:162 and 6:248 of the Civil Code, in conjunction with Articles 2 and 8 of the European Convention on Human Rights (ECHR) (right to life and right to respect for private and family life), as well as the principles of the United Nations Framework Convention on Climate Change (UNFCCC) (1992) and the Paris Agreement (2015). Similarly, in the *Neubauer* case, the German Constitutional Court held that the climate protection measures adopted were insufficient in light of Articles 2 and 20 of the *Grundgesetz*, affirming that environmental protection is also necessary to safeguard the rights of future generations. See F. GALLARATI, *La giustizia costituzionale salverà il mondo? Obblighi positivi di protezione e discrezionalità politica nell'Antropocene*, in *Diritto Pubblico Comparato ed Europeo Online*, 66(SP2), 2025, 1053-1068.

[46] The judgment of 9 April 2024 of the European Court of Human Rights concerns a complaint brought against Switzerland for failing to implement sufficiently effective climate policies. The case was initiated by the association *Verein KlimaSeniorinnen Schweiz*, which argued that the State's inaction in addressing climate change jeopardises funda-

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while not recognizing an autonomous right to a healthy environment, affirms the States' duty to protect fundamental rights[47] against the adverse effects of climate change, limiting political discretion and strengthening the role of the judiciary.

However, it is with the case of the *Mar Menor* in Spain that environmental justice has taken a decisive step forward: for the first time, a Member State of the European Union recognized an ecosystem as a rights-holder, thereby introducing the ecocentric paradigm into its legal system. Through *Law 19/2022*, the Spanish State granted the Mar Menor ecosystem and its basin specific rights, as well as mechanisms for representation and protection, marking a departure from the traditional anthropocentric approach enshrined in Article 45 of the Spanish Constitution.[48]

The Mar Menor is a coastal lagoon in the Mediterranean Sea, physically separated from the sea by a sandbar known as La Manga. It is the largest saltwater coastal lagoon in Europe, covering 135 square kilometers with a maximum depth of 7 meters. The ecological degradation of this area prompted the creation of the platform "Popular Legislative Initiative for the Mar Menor: Rights for the Sea," aimed at ensuring effective protection through the attribution of legal personality to the ecosystem.[49] At the same time, the so-called "*Topillo case*" emerged, aimed at establishing liability for the severe environmental degradation of the lagoon.[50]

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mental rights. The Court held that climate change may adversely affect the rights guaranteed by the European Convention on Human Rights, particularly the right to respect for private and family life under Article 8. This judgment establishes a positive obligation on States: it is not sufficient merely to recognise rights; rather, they must adopt concrete, timely, and consistent measures to reduce emissions and ensure effective protection. In the present case, Switzerland was found to be in breach of its obligations, having failed to adequately define emission limits and to meet its climate targets. The Court also recognized that associations have standing to bring such claims, whereas it is generally more difficult for individual applicants to demonstrate that they are directly affected. See R.R. SEVERINO, *Il caso VereinKlimaSeniorinnenSchweiz e altri c. Svizzera: l'emergenza climatica davanti alla Corte Europea dei Diritti dell'uomo. Quali possibili conseguenze per il contenzioso climatico italiano?*, in *Gruppo di Pisa*, 2, 2024, 152-184.

[47] European Convention on Human Rights, Article 8.

[48] R. MARTÍNEZ DALMAU, *Una laguna con derecho a existir. La Naturaleza como sujeto de derechos y el reconocimiento de la personalidad jurídica del Mar Menor*, in *Teoría y Realidad Constitucional*, 52, 2023, 357-375.

[49] An initial legislative intervention is represented by *Law 3/2020* of the Region of Murcia, which, through a systemic approach to the protection of the Mar Menor, extends the scope of protection to the entire hydrographic basin and the surrounding areas, while establishing the Consejo del Mar Menor as the body responsible for the management and coordination of the lagoon.

[50] Initiated in 2017, the proceedings, divided into thirty-nine separate cases, acquired a new legal dimension with the entry into force of *Law 19/2022*, which introduced the possibility of considering the *Mar Menor* as a direct victim of the environmental harm suffered. On this basis, in 2023 the Court of Cartagena admitted the lagoon's participation as an injured party, thereby granting it an initial form of procedural legal standing. However, in 2024, the *Audiencia Provincial de Murcia* (Order No. 52/2024, 6 February 2024, Appeal No. 525/2023) overturned this approach, denying municipalities and NGOs standing to act on its behalf and holding that such a function belonged exclusively to the representative bodies established by law, which had not yet been constituted at that time. As a result, the *Mar Menor* was formally recognized a legal person, yet lacked the institutional mechanisms necessary to effectively exercise its rights in judicial proceedings. Only with the adoption of *Real Decreto* 90/2025, establishing those representative bodies, was this gap partially addressed. The *Topillo case* thus illustrates how the recognition of the rights of nature is insufficient in the absence of adequate institutional mechanisms for their effective implementation. See F. PÉREZ-CRESPO VINADER, G. CUADRADO-QUESADA, S. SCHMEIER, *The Mar Menor and the Rise of Rights of Nature in Europe: A Critical Analysis of a Transformative Legal Paradigm*, in *Earth System Governance*, 29(100336), 2026, 1-12.

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Owing to significant public support, with over 500,000 signatures collected, the initiative was accepted by the Spanish Congress, and the bill was approved by a majority of parliamentarians, with the exception of the VOX party, which subsequently brought an appeal challenging *Law 19/2022*[51] on four grounds of unconstitutionality.

First, the applicants argued that the legislature had intervened in an area in which the Constitution grants broad regulatory powers to the Autonomous Communities, thereby undermining the balance of competences established under Articles 148(1)(9) and 149(1)(23) of the Spanish Constitution.

Second, the applicants challenged the legislature's reinterpretation of Article 45 of the Spanish Constitution (CE), particularly with regard to the recognition of the legal personality of the Mar Menor and the rights conferred upon it under Articles 1, 2, and 6 of the Law. It was argued that Articles 10(1) and 24(1) CE reserve the status of rights-holder and the concept of dignity exclusively to natural persons, whereas Article 45 CE frames the environment as an object of protection in the interest of human beings, rather than as an entity capable of autonomous legal subjectivity.

A further ground of appeal concerned the principle of legal certainty enshrined in Article 9(3) CE. According to the applicants, the rights attributed to the Mar Menor were formulated in excessively broad and indeterminate terms, thereby leaving wide interpretative discretion to administrative and judicial authorities. Moreover, the clause repealing provisions incompatible with the Law risked creating uncertainty in its coordination with the European, national, and regional legal frameworks already applicable to the lagoon.

Finally, Articles 4 and 5 of the Law were challenged insofar as they regulate liability arising from the infringement of the rights of the Mar Menor and the nullity of acts incompatible therewith. According to the applicants, these provisions introduced forms of criminal, civil, administrative, and environmental liability that lack sufficient normative precision, in breach of the principles of legality and specificity enshrined in Articles 25(1) and 81(1) CE. Conversely, if interpreted as merely referring back to the pre-existing legal framework, they would be rendered substantially redundant while still contributing to further uncertainty in their practical application.

The Spanish Constitutional Court subsequently confirmed the constitutional legitimacy of the law in Judgment 142/2024, albeit narrowing its scope by adopting a cautious approach described as "moderate ecocentrism". This judgment provides an evolutionary interpretation of Article 45 of the Constitution,[52] construing it as an open-ended provision capable of accommodating innovative instruments of environmental protection.[53] In this regard, the recognition of the legal personality of the Mar Menor does not constitute a rupture of the constitutional order, but rather a possible evolution within the framework of positive law.

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[51]Spanish Constitutional Court, *Judgment 142/2024, Recurso de inconstitucionalidad No. 8583-2022*, 20 November 2024.

[52] Article 45 of the Spanish Constitution provides as follows: (1) Everyone has the right to enjoy an environment suitable for the development of the person, as well as the duty to preserve it. (2) The public authorities shall ensure the rational use of all natural resources with a view to protecting and improving the quality of life, defending and restoring the environment, on the basis of the indispensable principle of collective solidarity. (3) For those who violate the provisions of the preceding paragraph, the law shall establish criminal or, where appropriate, administrative sanctions, as well as the obligation to repair the damage caused.

[53] Regarding the analysis of the arguments advanced by the Spanish Constitutional Court: A.M. VELARDE, *La constitucionalidad del mar menor como persona jurídica: una solución anómala en el Derecho español y de dudosa eficacia protectora, in Revista española de estudios agrosociales y pesqueros*, 265, 2025, 122-166.

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Furthermore, the close interconnection between human dignity and environmental protection is highlighted by the Court, emphasising that ecosystem degradation directly affects the material foundations necessary for the exercise of fundamental rights. It follows that the centrality of the person is not diminished by environmental protection, but is instead realized through the ecological conditions that make the enjoyment of such rights possible.

Standing to bring legal actions for the protection of the ecosystem is also granted to citizens, associations, and public or private entities, thereby expanding participatory instruments and distributing more widely the responsibilities for environmental protection, which are no longer exclusively entrusted to public authorities.

The Court further clarifies that Article 45(2) of the Constitution is not limited to a principle of environmental conservation, but incorporates a duty of intergenerational solidarity, which entails the requirement to ensure environmental protection for the benefit of future generations.

At the same time, it is specified that the rights attributed to the Mar Menor do not constitute full-fledged subjective rights in the strict sense, but rather programmatic instruments of protection. This approach allows the preservation of the Constitution's anthropocentric framework while introducing a hybrid and, therefore, moderated form of ecocentrism.

Finally, the adoption of such an evolutionary paradigm is justified by referring to comparative extra-European experiences, in particular the recognition of RoN in the 2008 Ecuadorian Constitution and in Bolivian legislation of 2010 and 2012, which constitute an important precedent in the process of expanding the forms of ecosystem protection.

Critics argue, however, that the Court's reasoning does not fully justify the paradigm shift and that the Spanish law draws upon external models – from Ecuador, Bolivia, and New Zealand – rooted in Indigenous cultural perspectives that are not entirely compatible with European legal traditions.[54]

In addition, the failure of traditional environmental policies, invoked by the Court in support of the new approach, does not appear to constitute a sufficient justification for such a far-reaching transformation of the constitutional framework. This is further compounded by the departure from the established case law of the European Court of Human Rights, which continues to ground environmental protection in the safeguarding of individual rights.[55]

Against this background, RoN recognition risks creating tension with traditional legal categories without demonstrating greater effectiveness in terms of environmental protection. For this reason, the Mar Menor case is interpreted as a predominantly symbolic innovation, incapable of substantially altering the still anthropocentric structure of the legal order.[56]

In conclusion, both the critical scholarship and the scholarship supportive[57] of the Court's interpretation agree in recognizing that the Mar Menor case marks a turning point in the evolution of European environ-

[54] T. Vidal Marín, *Personalidad jurídica del Mar Menor y cambio de paradigma interpretativo del medio ambiente: consideraciones críticas de la STC 142/2024*, in *InDret : Revista para el Análisis del Derecho*, 3, 2025, 451-486.

[55] *Ibid*.

[56] J.F. Alenza García*, Sobre los aparentes derechos reconocidos al Mar Menor, A propósito de la STC 142/2024 sobre la ley que reconoce personalidad jurídica al Mar Menor*, in *Revista de Administración Pública*, 226, 2025, 155-186. A. Padrón Villaba, *Sobre la personificación de la naturaleza*, in *InDret*, 3, 2025, 67-110.

[57] Á. Serrano de Nicolás, *Personalidad jurídica de la laguna del Mar Menor y derechos conexos, desde el ecocentrismo de la Ley 19/2022 y la STC 142/2024*, in *Derecho Privado y Constitución*, 47, 2025, 133-166.

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mental law.[58] Indeed, the innovative significance of the case paves the way for European environmental law to evolve towards an ecocentric perspective, where ecosystems are recognized as rights-holders in their own right, rather than merely serving human interests. Therefore, a renewed conception of the relationship between humans and nature is introduced into legal discourse, which is likely to shape the future development of environmental law.

3. European Perspectives on Environmental Law

The progressive destabilization of global ecological balances has rendered the environmental issue one of the most pressing topics in contemporary debate. Human activities have reached an intensity capable of compromising the very habitability of the planet, thereby placing future generations at risk. Sustainability, therefore, can no longer be regarded as an ancillary principle or a merely desirable objective; it must be recognized as a fundamental pillar for political, legal, and economic decision-making. It thus becomes the guiding through which development models, regulatory systems, and forms of coexistence are reconsidered.

From this perspective, the adoption of an ecocentric approach – recognizing nature as possessing intrinsic value essential for maintaining a durable balance between humans and the environment – appears increasingly necessary. In the European Union, although the issue of RoN has not yet reached the level of development observed in some national legal systems, such as Spain's, there are nevertheless indications of conceptual openness.[59] Some scholars have sought to interpret existing instruments in an ecocentric light,[60] such as the *Habitats Directive*[61] and the *Water Framework Directive*,[62] while also proposing new tools – for instance, the adoption of a Directive on the legal personality of ecosystems (*Natureship Framework Directive*) based on Articles 191 and 192 TFEU.

This European Citizens' Initiative, promoted in 2017 by the NGO Nature's Rights, aimed to collect one million signatures across at least seven Member States in order to invite the European Commission to propose a directive on the RoN. The initiative was ultimately abandoned due to procedural complexity and excessive administrative costs. Additional challenges include defining the entities authorized to represent and protect the interests of nature, determining which ecosystems should be covered, and addressing issues of sovereignty in transboundary contexts.[63]

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[58] F. Pérez-Crespo Vinader, G. Cuadrado-Quesada, S. Schmeier, *op. cit.*, 1-12.

[59] F. Alves, P. M. Costa, L. Novelli, D. G. Vidal, *The rights of nature and the human right to nature: an overview of the European legal system and challenges for the ecological transition*, in *Frontiers in Environmental Science,* 11(1175143), 2023, 1-10.

[60] H. Schoukens, *Rights of Nature as an Unlikely Saviour for the EU's Threatened Species and Habitats: a Critical Introduction to a Revolutionary Idea*, in M. Boeve *et al.* (ed.), *Environmental Law for Transitions to Sustainability* 2023, 187-206.

[61] Council of the European Communities, *Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora*, in *Official Journal of the European Communities*, L 206, 1992, 7-50.

[62] European Parliament & Council of the European Union. *Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy*, in *Official Journal of the European Communities*, L 327, 2000, 1-73.

[63] N. Hoek, I. Kasteen, S. van Gils, E. Janssen, M. van Gils, *Implementing Rights of Nature: An EU Natureship to Address Anthropocentrism in Environmental Law*, in *Utrecht Law Review*, 19(1), 2023, 72-86.

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Some scholars note that, even in the absence of explicit recognition, the EU legal order affords indirect protection for ecosystems, creating a form of "weak rights" derived from sectoral legislation.[64] In other words, the *in dubio pro natura* principle is indirectly applied as an interpretative criterion favouring environmental protection. Nevertheless, the EU's commitment to recognising the right to a safe, clean, and sustainable environment remains evident within the conventional framework, as reflected in Council of Europe *Recommendations No. 2211 (2021)*[65] and *No. 20 (2022*).[66]

This approach has also been confirmed in case law, where nature protection has been ensured through the extension of fundamental rights and the application of the principles of non-regression and Do No Significant Harm, without granting nature autonomous legal personality. To date, reliance on human rights remains the most effective tool in the EU for environmental protection. Rather than fully adopting an ecocentric paradigm, the tendency is to strengthen protections through an "ecological" interpretation of human rights, providing indirect environmental protection.[67]

Moreover, it must be added the possibility of conceptualizing the protection of RoN within a framework of coexistence between anthropocentrism and ecocentrism, as demonstrated by the *Mar Menor case*. In this regard, recent advisory opinion of the Inter-American Court of Human Rights (IACtHR) on climate change provides a significant example.[68]

While maintaining human rights protection at its core, the IACtHR recognises that the protection of ecosystems constitutes an essential condition for the effective enjoyment of such rights.

On this basis, the environment is neither protected solely as a function of human interests, nor regarded as entirely autonomous from them; rather, it is conceived as an entity endowed with intrinsic relevance, whose conservation is essential to ensuring the dignity and well-being of present and future generations. Particularly significant, in this respect, is the Court's reference to the need for a harmonious interpretation of the *pro persona* and *pro natura* principles,[69] which frames the protection of the individual and that of nature as mutually interdependent and functionally reinforcing dimensions.

There remains the possibility that experiences from other contexts, such as Latin America, may inspire a more pronounced evolution in nature protection in Europe. Environmental constitutionalism is today an important reference even for EU Member States. The growing presence of environmental protection provisions in constitutions demonstrates the growing centrality nature protection, particularly in relation to emerging social conflicts. However, these provisions are not always effective in practice. Fundamental

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[64] Y. Epstein, E. Bernet Kempers, *Animals and Nature as Rights Holders in the European Union*, in *The Modern Law Review*, 86(6), 2023, 1336-1357.

[65] Council of Europe, Parliamentary Assembly, *Recommendation 2211 (2021): Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe*, 29 September 2021.

[66] Council of Europe, Committee of Ministers, *Recommendation CM/Rec(2022)20 to member States on human rights and the protection of the environmen*t, 27 September 2022.

[67] S. Baldin, *Il costituzionalismo ambientale in un'ottica multilivello: Environmental Constitutionalism in a Multilevel Perspective*, in *Diritto Pubblico Comparato ed Europeo Online*, 58(SP2), 2023, 57-78.

[68] Inter-American Court of Human Rights (IACrtHR*). Advisory Opinion OC-32/25 of 29 May 2025 Requested by the Republic of Chile and the Republic of Colombia: Climate Emergency and Human Rights*, 29 May 2025, https://www.refworld.org/jurisprudence/caselaw/iacrthr/2025/150252 (last visited 13/06/2026).

[69] *Ibid*. points 281, 315. See R.R. Severino, *L'emergenza climatica e le corti regionali dei diritti umani: una lettura comparata dell'opinione consultiva OC-32/25 della Corte interamericana e della giurisprudenza della Corte europea*, in *Federalismi.it*, 11, 2026, 158-182.

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concepts such as sovereignty and rights may therefore require reconsideration, with greater emphasis placed on duties and responsibilities towards future generations.

From this perspective, constitutionalism appears increasingly oriented towards assuming a global and central role in protecting environmental balances.[70] This does not entail a diminution of human rights, but rather a move beyond the traditional hierarchical view that has historically considered nature merely as an instrument. Principles of dignity and equality can thus be interpreted more inclusively, encompassing the needs of ecosystems as well.[71] This shift demands an evolution of legal categories and a proactive role for legal scholars, who must develop tools better suited to contemporary challenges. In this way, the law is called to fulfill its fundamental role: protecting even those entities that cannot defend themselves.

In this process, education assumes a strategic and indispensable role, as it constitutes a prerequisite for developing awareness of the interdependence between humans and nature and the capacity to act ethically and responsibly toward the environment.[72] Finally, the role of technology cannot be ignored, as it represents one of the main challenges in overcoming anthropocentrism.

Technocentrism[73] tends to reduce technology to an instrument serving economic interests, thereby relegating nature to a mere resource. This reinforces a utilitarian perspective and renders the development of alternative approaches more difficult. The assumption that technological progress is inherently beneficial may obscure its adverse environmental impacts, while environmental protections, if not accompanied by more profound structural change, risk remaining confined within the same logic of exploitation. In this context, principles such as the Do No Significant Harm principle represent an attempt – albeit still incomplete – to introduce a logic of ecological responsibility into the deployment of new technologies.[74] Critically rethinking the role of technology is a necessary condition for moving towards an ecocentric perspective. In this process, instruments such as the DNSH principle could represent a first legal safeguard capable of placing the environment at the centre of development strategies, in the interest of future generations.

[70] R. Bifulco, *"Il compito che definisce la nostra generazione": la I. cost. 1/2022 nella prospettiva dell'Environmenal Constitutionalism*, in *Passaggi Costituzionali*, 2(4), 2022, 44-78.
[71] H. Schoukens, *op. cit*., 187-206.
[72] M. D'Avino, *L'educazione come strumento di cambiamento: "formare cittadini ecologici per il futuro"*, in *Cultura-pedagogica e scenari educative,* 3(2) 2025, 107-121.
[73] R.E. Purser, C. Park, A. Montuori, *Limits to anthropocentrism: Toward an ecocentric organization paradigm?*, in *Academy of management review*, 20(4), 1995, 1053-1089.
[74] B. Marchetti, *I costi ambientali dell'IA*, in *BioLaw Journal – Rivista di BioDiritto*, 1, 2025, 525-527.

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