

THE PREVENANCE OF ENVIRONMENTAL DEGRADATION BY FORBIDDANCE AND ENDORSEMENT OF PROLIFERATION, REMOVAL AND DESERTION OF SOME POLLUTING MATERIALS*

Daniel-Ștefan PARASCHIV¹

ABSTRACT:

SCIENTIFIC AND TECHNICAL PROGRESS OF HUMANITY, IN GENERAL, HAS AS A SIDE EFFECT THE DEGRADATION OF ENVIRONMENTAL CONDITIONS, SO THAT IT'S REQUIRED THE RESTRAINT OF TOXIC WASTE, THE OCCURENCE OF HARMFUL SUBSTANCES OR COMPONENTS FOR HUMAN HEALTH AND OTHER LIVING CREATURES. MOREOVER, THERE ARE IMPOSED SEVERE MEASURES FOR THEIR INACTIVATION, PROHIBITING THEIR STORAGE IN SOME AREAS OR THEIR EXPORTATION IN THE COUNTRIES WITH A MORE PERMISSIVE LEGISLATION, THAT ARE, USUALLY, LESS DEVELOPED ECONOMICALLY. TO PREVENT SUCH ACTS, IT'S NECESSARY TO PUT MORE EMPHASIS ON THE RESPONSABILITY OF THOSE GUILTY, WITH THEIR OBLIGATION AT THE RECOVERY OF DAMAGES PRODUCED TO THE ENVIRONMENT.

KEY WORDS: ENVIRONMENT, PREVENANCE, POLLUTION, DAMAGES, SANCTIONS.

INTRODUCTION

In a general sense, *the environment* reffers to the natural, physical, chemical, biological, cultural and sociological conditions, sensitive to act on the living organisms and human activities².

Civilization led to human dismissal of the natural environment, being unable to benefit from his many advantages, health benefits.

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¹ PhD., Public Notary, e-mail: daniel.paraschiv@hotmail.com.

² Mircea Duțu and Adrian Duțu, *Răspunderea în dreptul mediului* (București: Editura Academiei Române, 2015), 41.

Protecting the environment is the responsibility of each of us, institutions and global, regional or national duties in this regard so as to ensure better living conditions and to ensuring the health of future generations.

The man later realized quite harmful effects of pollution on nature, so that the activities of industrialization without any respect for nature and its degradation by other activities has already led to a significant degradation of the environment³.

Until 1950, when it adopted the Convention for the Protection of Human Rights and Fundamental Freedoms, environmental problems were not an important issue in mind public opinion or concerns authorities, which explains the absence of consecration in this Convention, the fundamental right to a healthy environment.

Awareness of environmental crisis in the 1960s led to the emergence of legal rules designed to limit environmental pollution, the emergence of policies, strategies and even certain institutional structures that aim to protect the environment⁴.

Improving regulatory and institutional structures to ensure environmental protection and accountability of individuals and legal persons convicted of altering it also applies to the future, the more so since it was found that about 30% of all the factors affecting health is the environment of the population.

Mechanization, automation or chemical processing and industrial agriculture have generated soil, water and air, accumulation of toxic waste - all of which led to the emergence of so called diseases of civilization.

However, the human body adapt to new living conditions is especially difficult as the ecosystem changes are faster. To prevent spoilage accentuated health and to preserve the environment for future generations is an increased focus on reducing polluting the responsibility of those who alter living conditions.

PROHIBITIONS REGARDING THE ENVIRONMENTAL POLLUTION

Globalization, especially in the economic field has the effect of performing activities with a high degree of danger to the environment, especially by transnational corporations, which focuses values important material and have complicated structures, so have imposed regulations to prevent pollution in all fields, both nationally and especially regionally and globally.

Numerous regulations have been adopted in recent years to *conserve biodiversity* and to the regime of *protected areas* and *natural monuments*.

Nature is protected in particular by the establishment of protected areas and the conservation of natural habitats, wild flora and fauna.

Protection and nature conservation are considered as *protected areas*:

- natural reserves, covering areas very beautiful, with unique features or habitats of rare or endangered flora;
- national parks, which aim to protect vegetation, landscape and wildlife in certain areas;
- natural monuments, which include areas or objects (trees, rocks, waterfalls) of great historical or cultural value;
- hunting reserves, aimed at rational management of hunting and nature conservation in agriculture and massive deforestation ban;

³ Irina Moroianu-Zlătescu and Octavian Popescu, *Mediul și sănătatea* (București: Institutul Român pentru Drepturile Omului, 2008), 14.

⁴ Mircea Duțu, *Dreptul mediului, Ediția 3* (București: C. H. Beck, 2010), 124 and the following.

- natural parks, which refers to areas where natural vegetation is protected by the prohibition of certain facilities or jobs.

Numerous other regulations are aimed at protecting the soil, subsoil and terrestrial, so the environment is not affected by spatial planning, preparation of forest management, soil erosion control, conducting studies and geological or hydrological by mining, exploitation and conservation of other natural resources etc.

Protection of the atmosphere, atmospheric changes and noise management Ambient is also areas where there were numerous regulations designed to protect environmental pollution by motor vehicles and aircraft, reducing the ozone layer, reducing ambient noise etc.

Regulations on the protection of aquatic ecosystems have been improved constantly in recent years, establishing the legal status of water quality and quantity management of water resources, preventing and combating accidental pollution effects of their economic exploitation of water etc.

Maritime was established principles⁵ on the use of underwater territory beyond the limits of national jurisdiction of States and international regulations on the exploitation of natural resources in these areas.

There were also adopted rules for resolving disputes in the resource exploitation of the high seas, and saw the establishment of the International Tribunal for the Law of the Sea, responsible for cases that have not been resolved by agreement of the parties.

With the development of urban settlements with numerous negative consequences on environmental pollution, there were a number of regulations, particularly at the national level on spatial planning, environmental assessment of plans and programs for urban planning, protection of green spaces, etc. so as to ensure normal living conditions of people living in large urban areas.

Taking into account the increase in waste quantity and diversification with the development of economic activities have been adopted numerous regulations regarding the collection, transportation, treatment and disposal and on the responsibilities of those who manage waste.

However, bans were imposed on the movement of waste is prohibited abandoning them or export to underdeveloped countries.

There have been developed also management rules and liability for improperly using *chemical substances and preparations, the Fertilizer and chemical plant protection products and on the regime of nuclear activities*.

In line with progress in the field of modern biotechnology were adopted specific regulations that establish the legal status of *genetically modified organisms*, so they do not affect human health or produce other harmful effects.

LIABILITY FOR ACTS AFFECTING THE ENVIRONMENT

The interaction between man and nature are virtually indispensable ecological harm, but when it was found that they exceeded a certain limit, it was necessary to regulate the legal liability to reduce the negative environmental impacts resulting from human intervention.

Environmental damage, broadly covers environmental damage (damage via the environment polluted or degraded, people and goods, as injury aim derivative), and on the other

⁵ Laura Magdalena Trocan, *Regimul juridic al teritoriilor submarine* (București: C.H. Beck, 2008), 14 and the following.

hand, *the damage caused directly environment* (as damage lens produced immediate environment independent of harming a human interest).

The concept of *ecological damage* should not be confused with the *ecological damage*, the first being an objective fact, and the second involves a subjectivity damage, the damage is borne by a subject of law, therefore the damage to the environment. The same damage can arise more damage, environmental damage is often doubled by a social and subjective⁶.

Both internationally and nationally there are many regulations on the liability of causing injury to the environment.

The "polluter pays" principle underlies all forms of liability, but lately promoted the principle of "*social responsibility*" of enterprises, especially after multiplying transnational corporations, which have structures diluted and complicated, focuses substantial resources and activities with a highly dangerous environment.

Social responsibility aims to respect the public interest, fining businesses multinationals, while respecting the fundamental values of a global society⁷.

The main role in the field of liability for environmental damage lies with the means of civil and administrative (AAS, prohibitions, offenses etc.), but an important role and criminal law sanctions, which have a predominantly repressive character, intervening to facts worst, which produce most of the time, irreparable damage to the environment.

Civil liability, which aims to recover damages caused by its degradation is the main form of liability.

By particulars of presents, environmental law, form a distinct branch, independent, governed by specific principles so that liability has some peculiarities, of which the most important is considering preventing damage in the future and restoring as much as possible, destruction products, punitive element having a secondary role.

Therefore it was proposed⁸ even the establishment of specialized jurisdictions, which may have increased efficiency, as would the specifics of environmental damage and the need to repair their priority; remain in the common law would create some drawbacks and inaccuracies that can not lead to adequate protection of the environment.

CONCLUSIONS

The right to a healthy environment is recognized in most democratic countries, including the Constitution. Although there have been no five decades after the first Conference of the United Nations on Environment (Stockholm, June 1972) they have been adopted numerous regulations nationally and internationally which aim to protect nature and to hold accountable those guilty of degradation so as to ensure better living conditions for the people and for other living things.

The environmental problems require specific solutions flexible to ensure good protection thereof and punishing those guilty and ordered them to restore damage to nature, so as to respond to changes and progress in all fields.

⁶ Mircea Duțu, "*Considerații în legătură cu delimitarea și corelarea sistemelor (regimurilor) juridice de prevenire și reparare a daunelor ecologice în dreptul român*", *Dreptul* 3 (2013): 240.

⁷ Mircea Duțu, "*Dimensiuni, particularități și semnificații ale unui drept penal al mediului*", *Dreptul* 2 (2013): 206-07.

⁸ Mircea Duțu, "*Considerații referitoare la oportunitatea, posibilitatea și particularitățile jurisdicțiilor specializate în materie de mediu*", *Dreptul* 1 (2013): 179 and the following.

In this regard, it is necessary that the traditional techniques of elaboration of international and national regulations, specific to be *adapted* to the current requirements of environmental protection at national, regional or global levels and to identify the most appropriate sanctions or measures to remedy damage so as to ensure better respect the fundamental right to a healthy environment.

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