

The need to intensify measures to protect the environment through legislative and administrative means

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Abstract

One of the serious problems affecting increasingly more the environment and therefore human health in modern society is the pollution under many forms of manifestation: atmospheric soil, water, food, noise etc.

Respecting the principles enshrined in international conventions to which our country is a party and European Union documents on environmental protection, national legal regulations have evolved from a utilitarian approach, of protection of the environment factors directly related to their economic value, with usefulness to humans up to the vision that puts above all the intrinsic value of the environment.

Keywords: *Environmental protection, modern society, progress, pollution, regulations*

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Introduction

The interdependence of environmental elements quality and people's living conditions is confirmed by the causality relation between nature altering and altering of health [1].

Progress in science and technology, especially the explosion of computerization in almost all spheres of activity contribute to raising the living, but also economic development produces negative effects, which, if not properly managed, can significantly affect human rights on maintenance of Health and deployment of existence under normal environment conditions.

Thus, the development of industry, with massive exploitation, often by harmful processes, of existing resources in nature, without taking effective measures for environmental protection, adversely affect quality of life of the inhabitants of the planet, endangering often the health and even existence of human being.

At the same time, agricultural development through the use of toxic substances for crop protection with long-term negative effects on soil, affect product quality, and

thus the health of consumers, as well as obtaining varieties of genetically modified crops without a thorough test of the negative effects.

About pollution as a socio-medical problem of global concern, it says that both in civilized countries and in those at the beginning of the road of socio-economic development, a keen observer of human society development, Jonathan Raban, formulating on the subject a Maximum amazing truth: "In a poorly developed country is preferable not to drink water, and in a super-developed country would be better not to breathe" [2].

Each state has its legal regulations setting out its own law order, but at the same time, must obey international law order in its relations with various states or other subjects of public international law or on the regulation of activities with cross-border harmful effects such as environmental pollution, which requires transposition into national law of certain international regulations [3].

Not subject to a higher authority and having equal legal skills, states create their own order (including in the environmental protection area), but recognize international law as a coordinating element [4] because each state is interdependent of each other and not just independent.

In Romania, as in other countries, environmental concerns are put with acuity, following the amplifying ecological imbalances, especially in large urban areas – predominant causes affecting the environment are industry technology and chemical processing of agriculture, plus the cross-border pollution, all contributing to ecosystem disturbance and worsening living conditions of the people.

Therefore, it requires the formulation and implementation of effective policies in the field, which positively influence the activity of specialized administrative structures by adopting the best regulations and working methods for achieving the targets [5].

Legislative and administrative measures to ensure environmental protection

- In accordance with the rules contained in international conventions, with EU requirements – which recommend countries to have measures and sanctions to protect the environment [6] – and with international practice, our country adopted the Government Emergency Ordinance no. 195/2005 on environmental protection, as amended and supplemented (which establishes several categories of offenses and

crimes for the authorities of central and local government, the other legal entities and natural persons for breach of obligations on to: regulatory procedure, regime of dangerous substances and preparations, waste regime, the regime of chemical fertilizers etc.), Government Emergency Ordinance no. 68/2007 (relating to the prevention and remedying of environmental damage) and the Government Emergency Ordinance no. 58/2012 (which includes regulations concerning the operation of environmental and forests protection authorities, aiming at reducing the bureaucracy of institutions to streamline their work by getting closer to the citizens the environmental decision and the elimination of intermediate links of decision), etc.

- Environmental Administration can be defined as the assembly consisting of all persons (officials, contract agents) and state administrative structures and local authorities in fulfilling administrative functions relating to the environment [7].

Under the authority of the Ministry of Environment, Water and Forests work with environmental protection powers, the following public institution with legal personality:

- National Environmental Protection Agency (ANPM), whose tasks concern: strategic environmental planning, monitoring of environmental factors, authorization of activities with environmental impact, implementation of legislation and environmental policies, through its organizations at national and local level;
- National Environmental Guard (GNM), which is responsible for ensuring the control and implementation of government policies in the field of preventing, finding and sanctioning the acts that violate the law on environmental protection;
- “Danube Delta” Biosphere Reserve Authority – Tulcea (ARBDD), which has the following responsibilities: manages the natural heritage of the reserve, according to the legal status of public property, develops and implements ecological reconstruction programs of ecosystems of reserve meets function environmental authority under the law within the reserve, exercises control over fulfillment of requirements of environmental protection measures, develops and implements programs and projects of cooperation at cross border, regional and international levels;
- The National Meteorology Administration (ANM), as an autonomous administration of national public interest, being responsible for: developing programs for qualified and unified surveillance of air environment, participation in weather risk

prevention actions and to reduce the consequences of natural disasters, participation in domestic or international activities of their own or related to the fields of activity;

- National Administration of Forests “Romsilva” which aims at: sustainable and unified management – in accordance with the rules of forest arrangements and forest regime norms – of forests public property of state; coordination and implementation of the national program for genetic improvement of the horse; ensuring the conservation of biodiversity in protected areas;
- Environment Fund Administration (AFM), which provides financial support for projects and programs on environmental protection, established under the European principles “polluter pays” and “producer responsibility”;
- “Romanian Waters” National Administration, which aims for knowledge, protection, enhancement and sustainable use of water resources (natural monopoly of strategic interest), managing the national network of hydrological, hydrogeological measurements and of quality of water resources belonging to the public domain and implementation of national legislation (harmonized with EU directives) in the field of sustainable management of water resources, conservation of aquatic ecosystems and wetlands.

To prevent, limit and control the negative effects of human activities on the environment, these specialized institutions and other bodies have imposed development of specific administrative techniques, classic or new, and establishment of a system of permits, agreements and authorizations, to determine and establish environmental tolerance limits in achieving certain tasks.

Also, restrictions have been established (different in nature and content), and the imposition of conditions for activities with possible negative impact on the environment, bringing it some limitations in the exercise of certain fundamental rights such as the right to property, free enterprise or right of use of certain common goods, etc., on behalf of superiors public interest on environmental protection and respect for fundamental human right to a healthy environment [8].

Environmental protection through administrative sanctions

In environmental law, it is often resorted to administrative responsibility (contravention), to prevent and combat acts of non-compliance with specific regulations, as a rule, harm to the environment are relatively low, most not realizing the seriousness of the social danger specific to the offense.

According to the criterion of applicable fines in art.96 of Government Emergency Ordinance no. 195/2005 are provided three categories of offenses.

The first group includes 27 contraventions (less serious) consisting of violations of legal provisions on environmental protection, such as obligations of legal entities to perform self-monitoring systems and report their results to the competent authorities, as well as accidents affecting the environment or incidents that can create accident hazards; obligations to keep strict records of dangerous substances and preparations, identify and prevent risks they may pose to human health and the environment; the obligation of individuals and legal entities authorized to apply through their own systems, surveillance programs for radioactive contamination of the environment; the obligation to keep running local environmental monitoring capacity; obligation of landowners with title or no title, to maintain forest belts and protection alignments etc.

The second category (with 34 offenses) refers to violations of legal requirements, such as obligations of local authorities to improve urban microclimate to inform the public about the dangers of the operation or the existence of goals with average risk; obligations of individuals and legal entities to adopt measures and special facilities for isolation and sound insulation of noise and vibration generating sources, etc.

The third category of environmental protection related offenses (considered the most serious) comprises of 15 violations, which illustrate: the obligation of individuals and legal entities to reduce, modify or terminate the activities generating pollution, upon reasoned request of the competent authorities, to carry out fully and timely measures imposed in accordance with regulatory acts and legal provisions following environmental inspections; obligations of individuals and legal entities to bear the cost to repair environmental damage and to remove the consequences of it, restoring the previous conditions of the damage, according to the principle “polluter pays”, etc.

The sanctions that apply to facts considered contraventions main and complementary.

The main contravention sanctions are: warning, contravention fine and providing community service activities (art.5 par. 2 of Government Ordinance no. 2/2001), and those complementary are:

- Confiscation of goods intended for, used or resulted from contraventions;
- Suspension or cancellation, as appropriate, of permit, approval or authorization to exercise an activity;
- The closure of the facility;
- Freezing the bank account;
- Suspend the activity of the entity;
- Withdrawal of the license or approval for certain transactions or for foreign trade activities temporarily or permanently;
- Dismantling works and bringing the land to its original state (art.5 par. 3 of the Government Ordinance no. 2/2001).

It can be sanctioned according to the law, any person guilty of altering the environment, regardless of nationality or residence.

The legal entity is responsible for certain facts affecting the environment in the cases and conditions provided by law (art.3 par. 2 of Government Ordinance no. 2/2001).

For other facts affecting environmental offenses are regulated in various laws relating to certain industries, such as waters, the hunting, forestry, nuclear activities, etc.

Conclusions and proposals

Increased degradation of natural ecosystems, along with the interaction between trade and environmental issues bring environmental issues to the forefront of government and international concerns.

International bodies have not yet managed to promote comprehensive regulations and policies able to contribute to the defense of the environment in the long term, though natural resources are limited, and some major damage cannot be repaired.

Preservation of biosphere required to maintain health, but also ensuring at the same time prosperity of people through increasing production of goods constitute the ideals achievable only by building a new economic, social and ecological order.

The globalization of environmental problems and increased globalization process, primarily economic, mark the public and environmental policies of the states, amplifying the developments in standardization and universalisation meaning of objectives and instruments to achieve them [9].

Due to the complexity and multitude of environmental factors, their protection is a very technical endeavor and in the context of the environmental crisis that manifests itself in the world, the effectiveness of the recommendation norms for environmental protection and of the regulations on legal liability is insufficient [10].

Thus, it is necessary to intervene in many types of situations can affect the environment, especially by way of judicial review of the various authorizations, environmental administrative documents in general, making that the most common sanctions imposed for environmental damage to be offenses for which finding and sanctioning are not necessary complex procedures that take time.

In the environmental strategies, constraining measures of regular order are the oldest, representing, in general, restrictions on arrangement of land, ban of potentially harmful activities and processes, establishment of protected areas etc., set by the minimum standards of protection.

By applying sanctions for contraventions regarding the environment it is aimed also to achieve certain goals: determining the pollutant to promote the technologies and techniques that protect the natural environment, creating an economic balance factor, so that those who pollute should not benefit from higher returns than units that comply with legal requirements in the field, obtaining funds to be used to fund anti-pollution investments, etc.

In the field of liability for harm to the environment a key role goes to preventive means and civil or administrative liability – the criminal one which have a predominantly repressive character, playing a secondary role and is governed by the principle of minimum intervention.

The spectacular evolution of environmental law under the pressure of widespread environmental crisis, on the one hand, and concerns of developed countries to protect the environment, on the other hand, revealed the inadequacy and ineffectiveness of recommendation rules for environmental protection and of the forms of civil and contravention liability.

Applying effective environmental policy and its institutionalization within existing administrative institutions is sometimes difficult, so it requires restructuring of some of these organs.

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