

Legal liability for violations of the law on hunting and animal kingdom.

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Abstract

Understanding respect for the rules on protection of the environment as a whole, the social responsibility of everyone for this activity and to improve environmental conditions is one of the fundamental problems of form environmental conscience. Legal liability is one of the most important institutions applicable to infringements of environmental law. Legal liability is one of the most important institutions applicable to infringements of environmental law. It should be noted that the conceptual inconsistencies were found regarding the identification of injury were analyzed traditional forms of legal liability such as criminal, administrative and civil.

Keywords: *environment, hunting legislation, environmental liability, ecological damage, criminal liability, hunting legislation, administrative liability.*

1. Introduction

Legal liability is a legal institution of major importance because any problem in contemporary society leads to its application. Generally speaking, the institution of legal liability primarily ensures the effectiveness of rule of law, stimulates the proper attitude of compliance, establish and maintain social order.

Man being um indispensable element of the company is required to comply with certain rules of conduct which forms the subject of evaluation and social reaction. Findings of conduct lie in its confrontation with the model of conduct established by different sets of rules in society. Liability occurs when a certain conduct does not conform to the model established by social norm and this behavior is viewed as negative.[1]

"Man is the only being read Kant, able to act as a moral force fully responsible for their own actions."

Legal liability is a specific form of social responsibility, disregard social norms causing negative consequences for others and for society in general.

Legal liability differs from other forms of social responsibility through that relates to the obligation to be aware of a rule violation. Neglect legal provisions inevitably lead to application to the institution.

Legal liability in environmental law is continually changing due to environmental situations seriously affected by the process of industrialization, application of advanced technologies, irrational use of natural resources and waste. Legal liability for violation of game is only one aspect ratios assembly to be established environmental protection system and rational use of existing resources.

2. Theoretical

There is a need to make certain clarifications on the rules applicable in the Republic of Moldova game, and the damage that can be made from the infringement of those rules. It goes without saying that once subjects of law enforcement violate these rules applicable legal liability.

The hunting farm Regulation[2] expressly provides that "hunting is considered detect the purpose of acquiring, tracking and acquisition of actual animals under natural conditions." Finding people hunting land, including common access routes included weapons holstered, while installed, ready for application with other tools of hunting and hunting dogs and birds (falcons) or game production, equating to hunt. At the same time it stated that hunting is a way of using animal kingdom.

In the Republic of Moldova is allowed amateur sport hunting and hunting in order to establish, regulate livestock and their selection and for scientific, cultural, educational, aesthetic and trophies. The method and the means to hunt shall be determined by the central authority with natural resource management and environmental protection jointly with the central forestry authority, after establishing herd of wild game to be shot.

Hunting rights are granted based on the book hunter approved by the Society of Hunters and Fishermen of Moldova permit (sheet, sheet for harvesting) issued by the Society of Hunters and Fishermen of Moldova for sport hunting of waterfowl and fur animals or authorization to hunt wild ungulates, issued by the central forestry authority.

Each time, the liability will suggest the idea of sanctions or repair. We can deduce that violation of game rules can be brought damage of a certain kind (repairable or not appropriate) which affects the animal kingdom.

Moldovan legislator exposes not express the concept of "environmental damage or ecological" using the term "environmental impact", which in turn forms the direct or indirect environmental changes caused by implementation of planned activities which

affect or may affect both human health as well as biological diversity, soil, subsoil, water, air, climate, landscape of, material assets, cultural heritage and the interaction of these factors. [3]

At the same time, the Romanian Government Emergency Ordinance no.195/2005 on environmental protection [4], determines the concept of "injury" that constitutes the cost of damage quantifiable effect on human health, property or the environment caused by pollutants or harmful activity disasters. According to the definitions of Government Emergency Ordinance no.68/2007 [5], the "injury" generally means "a measurable adverse change in natural resources or measurable impairment of a natural resource service which may occur directly or indirectly".

Referring to the environmental law doctrine, we can deduce that "environmental damage or ecological" is considered "the injury affecting all environmental factors, in one form or another, irreversible effects and consequences difficult to establish." The concept of "ecological damage" includes damage caused to the natural and artificial, legally protected. [6]

Analyzing the above, we can conclude that in fact the concept of "damage and environmental damage or ecological" finally have the same meaning when it comes to harm to the environment.

3. Scientific research.

Legal liability in relation to environmental law in the European Union has changed dramatically over recent decades. At mid-century environmental issues, especially environmental protection and legal responsibility in this area, there were a great theoretical and practical concern, they are not reflected in any international acts such concerns being absolutely isolated.

At the same time, the population began to grow rapidly, industries and economic growth in general demands have evolved considerably parallel to it has grown significantly and environmental pollution. It identified the need for shaping a unified environmental policy, organized a global total reflection.

The international responsibility of the state synthesizing find in the Stockholm Declaration [7] (1972), where paragraph 21 establishes that states have the "responsibility to ensure that activities in their jurisdiction or control do not cause

damage to the environment of other States or of areas outside the limits of national jurisdiction. " Similar wording is found in the Rio Declaration on Environment and Development (1992), principle 13 provides a general statement: "States shall develop national law regarding liability and compensation for victims of pollution and other environmental damage (...) States must cooperate with greater timeliness and determination to further develop international law concerning liability and compensation for adverse effects of environmental damages caused by the activities under their jurisdiction or under their control in areas outside the jurisdiction national ".

In civil liability for damages dangerous for the environment to an important step by opening for signature by the Committee of Ministers in March 1993, the Lugano Convention, which has tended to establish a common European matters. The current regulation is contained in the Directive nr.2004/35/EC on environmental liability concerning the prevention and remedying of environmental damage.

Was a question of regulation at EU level of environmental protection by means of criminal law, but it has not failed.

Nationally breach of environmental legislation inevitably lead to the application of criminal responsibility or civil offenses as appropriate. The Law on Environmental Protection[8] and the Law on Animal Kingdom[9] expressly expose when the stipulations existing natural or legal persons shall be subject to appropriate criminal, administrative, and disciplinary materials in the manner and amounts set by legislation. As noted, the Law on Animal Kingdom in addition to traditional forms of legal liability also includes material and disciplinary accountability. No liability as an institution of labor law is the outdated, being used financial liability, which is held under the rules and principles of civil contractual liability. Disciplinary liability is characteristic of labor law, especially being applicable to cooperative relations, having now obsolete character.

Opposite the Romanian environmental law there is a sentient evolving. The first general Law of environmental protection[10] in Article 73 sanctioned application of disciplinary liability, materials, civil, or criminal offenses as appropriate. This law was repealed by Article 89 of the Environmental Protection Law no.137/1995 [11] (as amended), which provided in Article 81 that the violation of this law entails civil, administrative or criminal appropriate. Compared to the previous regulation, gave notice

that the Romanian legislature to maintain discipline and accountability among the forms of material legal liability for violation of this law. This waiver was the right one, because those penalties were for labor law and cooperative law, based on an employee or member of the cooperative of production and work relationships of an individual, who perform the work, and usually, almost exclusive legal entity where he was employed or whose cooperative member was natural. [12]

Moreover, we find that national environmental legislation requires urgent changes to comply unanimous nationally and internationally.

Therefore we address criminal, civil contravention and violation of hunting or harming the animal kingdom.

• **Criminal liability for violation of hunting or harming the animal kingdom.**

Criminal liability arises in any sector of economic and social life in any of the fields of law. It is therefore normal that this form of legal liability should be present in the relations of environmental protection. Under the current criminal regulations, "criminal liability for violations of legal norms on environmental protection expresses some peculiarities of the nature and specific object protected consequences of the alleged misconduct." [13]

Fill in principle on specific criminal liability environmental protection being determined by the nature of the object protected by law, object which prejudice by an act considered an offense. [14]

Offences on the environment can be defined as "dangerous being those facts, which are brought by committing social relations, which is subject to protection of natural and artificial defense of the environment, harm which is reflected in terms of consequences, into damage brought individuals and businesses they control, endangering human health, animal and plant or serious damage to the national economy ".[15]

Currently the Criminal Code of the Republic of Moldova[16] environmental offenses are punishable following:

- illegal hunting (art.233), hunting without proper authorization is prohibited during or in prohibited places or with tools and methods allowed (poaching) or use service situation, if it has caused damage exceeding 200 conventional units, punishable by fine of 200

[17] to 500 conventional units or by unpaid community work for 180 to 240 hours or by imprisonment of up to 3 years and the legal entity shall be punished by a fine of 1000 to 3000 conventional units with the deprivation of the right to practice certain activities.

- the practice illegal fishing, hunting or other exploitation of water (art.234) using explosives and poisonous substances or other means of mass destruction of wildlife if it has caused damage exceeding 200 conventional units, punishable by a fine of 200 to 700 conventional units or by community service for 180 to 240 hours or by imprisonment of up to one year, and the legal entity shall be punished by a fine of 1000 to 3000 conventional units with deprivation of the right to practice certain activities.

• **Liability for breaching the rules of game or harming the animal kingdom.**

Natural and legal persons carrying out activities contrary to the rules of environmental law or do not fulfill their obligations of environmental legal relations are punishable offenses for which the maximum or minimum limit specified by law.

Liability contravention is an objective, which means that administrative penalty of a fine or research will be without fault offender. If criminal liability apply to actions which create a serious social threat, then the liability administrative- low social danger.

At the same time we can formulate the concept of environmental liability offenses which means "a state reaction consisting of applying administrative sanctions for unlawful acts or omissions committed with guilt, which creates a social risk lower than the offense because of the uniqueness actions, creating a hazard damage or injury very minor, taken individually, and environmental factors".[18]

Contravention Code of the Republic of Moldova[19] provides for administrative sanctions in the following cases:

- Violation of acts is concerning the use and protection of hunting (Article 128). Violation of acts concerning the use and protection of hunting, the hunting and other kinds of wildlife resource use is punishable by a fine of 20 to 50 conventional units for individuals and by a fine of 200 to 400 conventional units function liability. Hunting without permission (license), without the hunter's license or firearm possession without authorization d use of arms and hunting, harvesting exceeding standards established game and hunting in prohibited places and at times of prohibition, use of weapons, tools

and Prohibited Methods shall be sanctioned with a fine of 50 to 100 conventional units for individuals and by a fine of 200 to 400 conventional units for responsible.

- The destruction or willful damage to fauna living places (Article 129). Destruction or willful damage to the dens, molehills and nests of birds and other wildlife living spaces on forest land is punishable by a fine of 20 to 50 conventional units or by unpaid community work for up to 60 hours.

- Collecting or destroying plants and capturing or destroying animals listed in the Red Book of Moldova and Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora Endangered (Article 140). Collecting or destroying plants and capturing or destroying animals listed in the Red Book of Moldova and Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora endangered (CITES) and committed other acts or omissions that may cause reduction the number of such plants and animals or their disappearance is punishable by a fine of 50 to 100 conventional units. Violation of export or import of plant and animal species included in the Red Book of Moldova and Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora endangered (CITES) is fined from 100 to 150 conventional units for individuals and by a fine of 400 to 500 conventional units for legal entities.

• **Civil liability for the violation of hunting or harming the animal kingdom.**

Civil liability is one of the classic manifestations of legal liability, which appears as a very large and complex institution in civil law, made up of all the legal rules governing the obligation of any person to repair the damage caused by his act for which contractual times called by law to respond. [20]

Civil liability arises in environmental law as a means to that last resort, with priority given to other techniques and instruments, especially those of economic and fiscal nature. For these reasons and in view of its specific fundamental, it appears more like a repair, rather than as a liability in the classical sense.

In the application of tort liability in environmental law will be met the following conditions:

- Be committed an act unlawful,
- To produce injury,

- There is a causal link between the unlawful act and injury,
- Culpability be unlawful act,
- Have the capacity tort Author.[21]

The act of unlawful conduct is outlined in an action or omission contrary to the law aimed at hunting rules and regulations concerning animal kingdom. The effect of the unlawful conduct prejudicial externalizes in which it appears, is always patrimonial.

Ecological damage is damage or injury caused wildlife, unapproachable, res nullius, or community interests through the receiving environment - air, water, and soil, independent of direct damage to a human interest. In environmental law, the damage must be certain. They are certain, however, not only actual damage, but future damage if there is certainty that they will produce.

Establishing a causal link between the wrongful act and the damage or ecological damage is subject to some uncertainty. The literature states that it is necessary to consider the case coexistence and conditions (for example: time and space), including in the causal facts that constitute not only necessary cause, but also conditions caused, that the infringements which have made possible environmental and causal action. The recognition of causation is necessary to know all the concrete conditions of the process of determining causal.

Guilt is the author's psychological attitude towards crime actions and probable consequences. Application specific fault liability practice environmental law is the protection scope of the principle of presumption of guilt or presumption of responsibility that will lead author unlawful act liable if it proves that the damage is caused not by his own guilt.

The concept of capacity is one like tort civil capacity, which states the existence of discernment in committing the illegal acts of environmental law.

4. Conclusions and Implications

Analyzing all applicable forms of legal liability for violation of hunting and damage kingdom we can conclude the following:

- Nationally to be made to certain conceptual clarifications concerning the determination of the concept of injury, environmental damage or impact on the environment, thus uniting environmental legislation;

- It is necessary to exclude disciplinary and material responsibility, in the context of these forms being outdated environmental legal liability;
- Taking best practices from neighboring states legislation applicable in relations platform environmental liability;
- Adherence to international bodies empowered to assign systems to monitor compliance with environmental legislation;
- Finalization and unanimous acceptance of the existence of legal liability environment, in addition to other traditional forms of liability such as civil, administrative and criminal.

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