

# INTERNATIONAL REGULATION OF ENVIRONMENTAL POLICIES

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## **Abstract**

*This paper addresses a number of issues that concern and affect the contemporary world. Environmental protection should not be just a momentary topic of discussion, a 'trend'; it should be a permanent topic of discussion because environmental damage affects humanity in the long run. Pollution is not a national subject, it is an international one. We can have ideals about democracy and the rule of law, but if the existence of species and of all humanity is questioned, the rest is rhetoric.*

**Keywords:** *state, environmental protection, environmental policies, international conferences.*

## **INTRODUCTION**

Cultured people have always written about time and times, be it literature or writings dealing with 'serious' subjects referring to the individual, citizens, liberty, or state. Climate was not only a setting established by the invisible hand of a talented scenographer to create suspense or tragedy in literary works, it could have been a factor in the creation of the first state bodies or the first forms of legal norms.

Ever since antiquity, climate theory has been a serious subject of debate, being called the five-zone theory, attributed to the philosopher Parmenides. In ancient Greek, the word climate meant tilt, referring to the inclination of the axis of the world to the horizon, i.e. the latitude of each place. The current meaning of the word climate was given by that of area, which meant a belt, and in time it got the sense it has today. The ancients approached scientific subjects related to geometry and climatology that they combined with those related to legends, magic, etc. [1]

As has been said, there are a number of factors that shape the law: the natural framework, the social-political framework, and the human factor. Geographical

environment influences social life, and economic or political development. As Charles Montesquieu also said, the laws must be in line with the country's physical, climate and soil characteristics. In this way, legislative measures are taken to combat environmental pollution, to protect the terrain, airspace or the sea. As can be seen, the natural framework is an important factor in the configuration of law and makes a real contribution to the creation of a legal system in a state. [2]

Concern for the environment has always existed, but there have been centuries when concern for economic development has been much greater, neglecting the dangers of consumerism and strong industrialization. We pay a heavy price for the pride of having smoking chimneys. Yesterday's negligence threatens our tomorrows.

The case of environmental damage is also supported by the Great Coral Barrier in Australia, which has been affected by environmental conditions. As early as 1998, the reef began to deteriorate. [3] Important time elapsed, which could have been used to improve the environment, but unfortunately, such situations never make the news, least of all during prime time.

"[...] The spread of industrial production may have already produced irreparable damage to the global environment. Ecological issues not only relate to how we can control and prevent most damage to the environment - such as natural disasters - but also to the very way of life in industrialized societies. If the goal of our continued economic growth has to be abandoned, new social institutions will probably emerge. Technological progress is unpredictable and it may happen that Earth really contains enough resources for the industrialization processes. However, at the moment, this does not seem feasible, and if the Third World countries are to achieve living standards comparable to those currently enjoyed by the West, global readjustments will be needed." [4]

## **INTERNATIONAL CONCERNS REGARDING THE ENVIRONMENT**

At international level there have been political initiatives that led to meetings and then signing of documents that focused on the involvement and raising awareness of the participating states regarding environmental protection. The United Nations is the international organization with the greatest influence, which regulates norms in all aspects of human life, not only the political one.

The ecological crisis has been triggered since the 1960s, requiring international organizations to intervene; 1968 became a decisive year for international cooperation because the UN and two regional international bodies, the European Council and the Organization of African Unity, have launched systemic environmental activities. The European Council adopted the first texts at the beginning of 1968: the Declaration on the prevention of air pollution and the European Water Charter. In the same year, the first of the European environmental treaties, i.e. the European Agreement on the Limitation of the Use of Detergents in Laundry and Cleaning Products, was adopted. With regard to the African organization, it distinguished itself by the signing of the African Convention on the Conservation of Nature and Natural Resources, which is highlighted by its universal character, referring to the preservation and use of soil, water, flora and fauna resources. This universal character has another consequence: some parts of the convention set forth only principles. [5]

The year 1968 seems a good year in terms of international regulations. The United Nations adopted Resolution 2398 in the same year, which called for convening an international conference on the human environment and which culminated in the preparation of the first World Conference on the Environment, in Stockholm, June, 1972. During the preparation of the conference, using a series of ecological disasters for exemplification, such as the one produced by the Torrey-Canyon oil tanker near the French, Belgian and English coasts, adopted a series of international documents, particularly in the field of marine environment protection: the 1969 Bonn Convention, the 1969 Brussels Convention or the Copenhagen Accord of 1971.[6]

The United Nations Conference on Human Environment, held in Stockholm in 1972, began by marking a record in terms of the number of participants, around 6,000 participants, delegations from about 113 states, demonstrating the interest in environmental issues and protection. The document, even if it does not have full legal value, has clearly contributed to the development of environmental law. The seven-point preamble finds that man is both the creation and the creator of his environment. The fact that population increases leads to problems regarding environmental protection and the need to preserve the environment and social progress and the evolution of production, science and technology, and the man's inclination to improve his environment takes

shape daily.[7] It can be observed that social progress and economic development are not neglected, as they are the resort of the contemporary world.

The principles set out in the declaration's text are a complex set of political-judicial requirements, with multiple connotations. For example, the first principle regulates the fundamental right of man to freedom, equality, but also satisfactory living conditions in a quality environment that must enable the individual to live in dignity and wellbeing, therefore a connection between environmental protection and Environmental law must exist. The second category of principles identifies natural resources and states that they do not include just oil and minerals but also air, soil, water, fauna and representative samples of natural ecosystems that need to be protected for future generations.[8] Thus, the concept of sustainable development is being addressed, a concept that still concerns us today. This concern must include a series of actions, because we assist to an increase in population and as a consequence in the use of some resources; therefore our desire to only register economic growth leads to climate change and the occurrence of natural phenomena that create a lot of damage and not only of the material kind.

The third category of principles refers to the need for environmental protection and there are concerns about the link between economic and social development and environmental protection and the need for an integrated and coordinated approach to planning. The last category of principles is dedicated to international cooperation and establishes: the sovereign right of states to exploit their own resources according to their ecological policies and the obligation to carry out activities so as not to cause damage to the environment of other states; the obligation of states to cooperate in the development of a new branch of law - that of international environmental law regarding the responsibility and compensation of victims of pollution as well as of other environmental damage caused outside their borders.[9] It may be noted that they address, diplomatically, the need for states to assume responsibility for environmental damage. A natural thing that involves a minimum of civic education: taking responsibility for any wrongdoing.

The results of this important conference materialized in the adoption of two important documents: the Final Environmental Impact Statement, which contains the 26 principles under debate, the Environmental Action Plan, and contains 109 recommendations to the states regarding environmental protection.[10] These

recommendations can be grouped into three fundamental themes: environmental assessment, management of environmental protection issues and support measures. The first category of recommendations - environmental assessment - is to carry out an analysis, supervision and at the same time to exchange information on the environment, which is why international cooperation that has materialized in a package measures called Earth watch is important; the second set of recommendations - environmental management - refers to natural resources and human settlements, without neglecting the pollution problem; support measures aim to inform and educate the public, as well as to train environmental specialists. All these actions must be regulated internationally, and in this sense a central body with environmental attributions has been created and responsibilities are shared between UN specialized agencies and regional organizations. Thus, the United Nations Environment Program was born [11]. Besides the United Nations Environment Program, the Environment Fund was also created to contribute financially and to support realistic environmental actions, with an important role in the coordination of other international organizations under UN or regional aegis. [12]

Much later, after 20 years, the World Environment Day, June 5, was marked by an important event held in Rio de Janeiro, the United Nations Environment and Development Conference, aiming to develop strategies and measures that contribute to fighting environmental degradation in all countries, in the context of sustainable development. The goal of the organizers was to establish a new international agreement on atmospheric protection, land resources, conservation of biological diversity, protection of freshwater resources, seas and coastal areas, rational environmental management of product waste and toxic waste, improvement of the living and working conditions for the poor, the eradication of poverty and stopping the degradation of the environment, etc. The conference was held in two stages: June 3 - 12, 1992, attended by Ministers of the Environment, similar bodies and representatives of some UN bodies and specialized programs, representatives of intergovernmental and nongovernmental bodies from 181 states; and June 12-13, the Earth Summit, attended by state presidents and heads of governments. [13]

The results of the Rio de Janeiro Conference have materialized by signing important documents: the Rio Declaration on Environment and Development also called

the Earth Charter, Agenda 21, the Convention on Biodiversity, the Framework Convention on Climate Change, the Declaration on Forests and the Declaration on Desertification. The Earth Charter is the result of a compromise, without binding legal force, between industrialized countries and developing countries. This document has largely taken over the principles of the Stockholm Declaration. The element of innovation of the Earth Charter is the thesis that we will not be able to protect the environment without the involvement of the majority of the population that, although in poverty, holds a significant proportion of natural resources. [14]

It is a paradox we live in: we have generous natural resources, but a significant part of the world's population lives in poverty and the exploitation of these important resources in poor countries is done by consortia or bodies belonging to developed countries.

"[...] And the world has a problem: it gets warm, flat and crowded. More specifically, global warming, the stunning rise of the middle classes around the globe and the rapid increase in population are converging to a dangerous shake-up of the planet's stability. Particularly the hot, flat and agglomerated convergence leads to the limitation of energy reserves, the intensification of the extinction of certain plant and animal species, an aggravated scarcity of energy, the strengthening of oil dictatorship and the acceleration of climate change. The way in which we approach these overwhelming global trends will greatly determine the quality of life on earth in the 21st century." [15]

Agenda 21 was intended as a call for action. It is an action program that is applied not only by governments, but also by UN organizations and independent sectorial groups in all areas of environmental economic activity that affect the environment, and refers to: the social and economic dimensions, the conservation and resource management for development purposes, strengthening the role of international bodies and the means of execution. The Convention on Biological Diversity provides the measures to be taken to protect ecosystems and different forms of life, and the signatory states undertake to establish protected areas, to integrate these issues into development systems at national level, including the transfer of biological technologies from developed countries to developing countries. This latter aspect has led to controversy, leading to the refusal of some developed countries to sign the convention. Instead, the Convention on Climate

Change is a commitment taken by the countries that have signed the respective Convention to reduce carbon dioxide emissions into the atmosphere to the level of 1990. [16]

The Declaration of Principles on Forests has not become a legally binding document, because there was divergence between northern and southern countries. The text of the declaration contained 17 principles on forest types, representing an important stage in the process of achieving an appropriate international agreement. It insisted on the sovereignty of the states, but it also stressed the importance of adequate forest management. It underscores the intention to continue international cooperation and it states that developing countries must have special financial resources to stimulate economic and social substitution activities with a particular concern for indigenous peoples. The only institution created at this summit was the Sustainable Development Commission. [17] At national level, Romania has expressed its concerns, at least declaratively, regarding the protection of forests. In the past few years, massive forest cuts have been observed, mostly illegal, which has led to the endangerment of the entire ecosystem's equilibrium. Unfortunately, these illegal cuts were supported by cumbersome legislation, by inconsistency in the actions of some authorities, as a consequence to corruption, and materialized in several criminal files in progress.

One of the most important natural resources of Romania is the forests, they occupied more than a quarter of the country's territory, with a special economic value and with important functions in defending the agricultural lands against drought and landslides, in the improvement and restoration of the natural qualities of soil, of the purification of air, but also of the development of human settlements by creating the optimal conditions for grazing and the development of hunting, etc. [18]

When the works for the Rio Conference were prepared, the issue of desertification was not taken into consideration. It was included in Agenda 21, as a separate chapter: the management of fragile ecosystems; the fight against desertification and drought. The action was followed by the United Nations Convention to Combat Desertification, Paris, signed in 1994 by 110 states. [19]

The year 1997 is marked by an important event in the field of environmental protection, which took place in Kyoto, Japan, between December 1 and 11. The event

involved 161 signatory states to the Kyoto Protocol, which stated that by 2012 the average greenhouse gas emissions would be reduced by 5.2% below 1990 levels. By this protocol 55 industrialized countries were required to reduce their gas emissions. On December 3, 2007, 175 countries acceded to the Kyoto Protocol. The industrialized countries did not sign it. [20] In fact, there were all highly industrialized countries, members of the G8; since 2014, when there were dissensions between the big powers and Russia on the conflict in Ukraine, the group consists of seven countries. Most often the highly industrialized countries are also the biggest polluters. Perhaps this is why the Kyoto Protocol has not been signed by all countries.

The Johannesburg Summit in 2002 was held at the request of the General Assembly of the U.N. as an extension of the Rio Conference's concerns, and was devoted to sustainable development by concentrating an impressive group of participants not only on the states of the world but also on civil society. The main objective of the meeting was to take stock of the 10 years that have elapsed since the Rio de Janeiro Convention, adopting a political statement and a plan for the implementation of future objectives. The policy statement includes 6 points, but the implementation plan has 11 chapters addressing important themes such as: eradication of poverty, natural resource protection and management for the purpose of economic and social development, changing unsustainable consumption and production patterns, health and sustainable development, sustainable development in small island developing countries, etc. For the most part, these themes are the objectives that have been taken over from a series of previous international texts, and the states limited to general political commitments without concrete deadlines.[21] It seems it all sums up to political statements, and certainly bigger concerns exists for achieving economic profit, thus neglecting the environmental aspects that regard the future generations. Perhaps this is an unrealistic, individualistic and definitely selfish approach. The same trend covers the 2012 meeting in Rio de Janeiro. "Ideas are being circulated, such as: setting up a position as mediator for future generations, publishing an annual report on the state of the planet, and creating a global environmental organization to strengthen the status of the current UNEP." [22] Mediation presupposes the existence of divergence, so it seems incomprehensible why we need to mediate on an important issue like the environment, especially as the

deterioration of climate conditions affects us all regardless of social status, economic status, ethnicity, citizenship, etc. "Why I'm sure that we have to pay for the future? For two reasons. The first is that we have already reached critical points in terms of energy demand and supply, oil dictatorship, climate change, energy poverty and biodiversity loss. We have no dampers and we cannot hide anywhere; [...] We have reached a stage where the effects of our way of life on the climate and biodiversity of the earth can no longer be outsourced, ignored or limited. Our organic savings account is empty. [...] We either pay now, or it will not be there anymore. The second reason I'm sure we will have to pay is that the real price of all these things becomes visible, measurable, taxable and inevitable." [23]

At EU level, environmental issues have been addressed over time. Treaties establishing the European Communities have not included community competences in the field of environmental protection. Even though environmental pollution signals have begun to emerge since the 1960s at Community level, interventions have been punctual about the functional aspects of the common market. The main factors that prevented for a long time the development of a concrete environmental policy at European level were, among other things, the wide differences in environmental standards applied by member countries; the limitation of treaties and the application of the subsidiarity principle to studies on environmental issues and their long-term impact, etc. Member states have had to adopt national measures to combat the phenomenon of pollution, which is a cross-border phenomenon and cannot be effectively combated only within national borders [24].

Since the provisions of the Kyoto Protocol on greenhouse effect and global warming have ceased to be applicable, it was decided, at international level, to hold another meeting to establish a new set of measures to control the global warming phenomenon and to find legal means of public international law to financially support poor countries to cope with climate change. Again, the United States denied the signing of the Copenhagen protocol in December 2009, so it became just a political agreement.[25] A lot later, in Paris in 2015, the Agreement on climate change was signed, including the main international polluters: the United States, China and India. This Agreement can be considered a historical one, because the main subjects who always refused to sign

international documents in this respect were brought into the group of those who signed the document.

The objectives of the Paris Agreement were, among others, keeping the average temperature under 2°C, as a long term objective; participating countries decreed to present their contributions every five years, in order to establish even more ambitious objectives. Also, it was decided that the actors involved in this agreement manifest transparency and inform both themselves and the public over the results of the efforts invested; financing these efforts is also important to fighting climate change. [26] Due to political changes in the United States, what was once considered as an important moment in environmental protection was overturned by the United States' decision to retreat from this Agreement, in spite it being one of the largest polluters globally. Thus, what is considered merely an internal politics decision can provoke unimaginable consequences internationally.

The environmental issues were not included in the Treaty on the European Economic Community (1957, March) when it was amended by the Single European Act (April 1987) and it finally resolved the Community competence in the field of environmental protection. Over time, there has been a growing concern over the field of environmental protection, and eventually a derived right and a special policy in the field developed.[27] Regarding the Paris Agreement on Climate Change, considered a historic moment in the field of environmental protection, the European Parliament gave its consent, almost a year after, to get the Agreement ratified by the European Union. At least 55 parties had to ratify the Agreement in order for it to enter into force - condition fulfilled. Among the Member States that have ratified the Agreement was also Romania. The European Union accounts for about 12% of global greenhouse gas emissions. Following the consent of the Parliament, the Council was able to adopt the decision to finalize the ratification process. [28]

After the United States announced their withdrawal from this Agreement, the European Union Council approved the conclusions through which the European body confirms that all the conclusions of the Paris Agreement are adapted to its purpose and therefore it cannot be renegotiated.

In February this year, in Brussels, the results of the works of the European Union Council on Climate Diplomacy established the importance of a global order regarding the fulfilment of climate action and set out to implement the 2030 Agenda, with the UN at its centre; it took note, with great concern, of the evidence indicating the acceleration of climate change, especially in the Arctic areas, which is twice higher than the world average; it established the decision to fulfil the commitments made in Paris; it noted, also with concern, the deterioration of water resources and ecosystems; it underlined the importance of cross-border cooperation regarding the environment between member states and partner states, etc. [29]

Agenda 2030 for sustainable development was the result of the 2015 UN Summit and set 17 objectives for sustainable development, with the focus being on the following: the eradication of poverty and hunger; ensuring a healthy life; guaranteeing quality education; gender equality; clean water and sanitation for all; ensuring everyone's access to sustainable, affordable energy; etc. [30]

## **IN LIEU OF CONCLUSIONS**

Environmental concerns have started in the 1960s, as environmental pollution and deterioration have been noted. These concerns were initially in the form of meetings, international conferences, without any improvement in the environment. As a rule, the issue of the environment becomes a hot topic in the electoral campaigns of the world, along with the fight against terrorism, job creation and wage growth. Humanity cannot survive without actual measures of environmental protection and without creating a real climate of social justice at international level.

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