THE REGIME OF PROTECTED NATURAL AREAS IN THE FRAMEWORK OF ENVIRONMENTAL LAW

Lecturer Mihaela Cristina PAUL, PhD.
,,Titu Maiorescu" University of Bucharest, Romania
av.mihaelapaul@yahoo.com

Abstract :
The protected natural areas cover an area of over 24% of Romania's territory. With the discovery of nature and its benefits and beauty the care of its protection also began, with the purpose of protecting areas and species that are important not only from an aesthetic point of view, but also scientifically.
At the national level, the activity of environmental protection and ensuring a healthy life have long been regulated by a multitude of laws that, even if they were not perfect, they could be perfected over time.
In this paper we want to bring the environmental science in the field of nature conservation to legal sciences. Both theoretical and legal aspects will be presented, as well as legal aspects related to the regime of protected natural areas, but also practical aspects present in cases solved by the Romanian courts.
Keywords: *environmental law, protected natural areas, sustainable development, protected area.*

The good development of the economic and social activity is related to the need to protect nature.

Romania is the country with the highest biodiversity in Europe, having an extremely rich and varied nature, owning a third of the Danube and half of the Carpathian Mountains.

Currently there are 14 natural parks, the most recently established being Vacaresti Park, the smallest, but also the only urban natural park in the country. The largest natural park is located in the Maramures Mountains.

Protected natural areas are a significant legacy that today's world can leave to future generations.

A world devoid of protected natural areas, dispossessed of wild natural sites, would become an extremely impoverished environment. [1]

Protected natural areas have a great potential to become models for the harmonious development of human society, because in these areas the sustainable management of natural and cultural resources is promoted. [2]

From a legal point of view, the Romanian Constitution guarantees *the right of every person to a healthy, well preserved and balanced environment*.(art. 35). The same article also provides for the correlative obligations of the State to *provide the legislative*

framework for the exercise of such right, as well as that of all persons *to protect and improve the environment* along with the obligation of the state to ensure *restoring and protecting the environment, as well as maintaining the ecological balance* art. 35 lit. e).

At the international level, nature conservation is done in the form of protection of wildlife.

The Convention on Biological Diversity (1992) defines sustainable use *as the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.*

In the context of defining biological diversity, the protected area is also defined as *a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.*

Government Emergency Ordinance no. 195/2005 on environmental protection, approved by Law 265/2006 defines the protected natural area *as the terrestrial, aquatic and/or underground area, with the legally established perimeter and which has a special regime of protection and conservation, in which there are species of wild plants and animals, biogeographical, landscape, geological, paleontological, speleological or other elements and formations, with special ecological, scientific or cultural value.* [3]

The definition given by GEO 195/2005 coincides somewhat with the definition given of the protected natural areas by GEO 57/2007 regarding the regime of the protected natural areas, the conservation of the natural habitats, of the wild flora and fauna, approved by Law no. 49/2011 (Framework Law on the regime of protected natural areas).

The terms *protection* and *conservation* of nature or biodiversity are frequently used, but a clear distinction must be made between them. Nature protection involves actions to keep species and ecosystems in a state as natural as possible.

Nature conservation can mean maintaining rare species and habitats in the most natural state without intervening in natural processes, but it also allows active interventions to maintain these natural values.

In order to highlight the role of protected natural areas, it is recommended to use the term nature or biodiversity conservation [2], environmental law ensuring the right to development, being a collective right, but also a right of solidarity.[4]

The notion of natural patrimony is defined in the national legislation [5], but also the good of the natural heritage. The whole world is currently trying to protect the national natural heritage by designating protected natural areas of national interest: national parks, natural parks, nature reserves, natural monuments, etc. there are also protected natural areas of European interest (Natura 2000 sites) and of international interest (biosphere reserves, Ramsar sites, universal heritage sites). All these, at the level of each country, make up the national network of protected natural areas.

The representative forum that tried to solve the problem of protected natural areas was the International Union for Conservation of Nature (IUCN).

Currently, IUCN categories are found all over the world and are taken as a reference in any debate on protected areas.

Naturally protected areas must be defined by their management objectives, not by the title of the area and not by the efficiency of the management and the fulfillment of those objectives.

The six IUCN administrative categories for protected areas are [6]: strict nature reserve, national monument, natural park, habitat/species management area, protected landscape/seascape, protected area with sustainable use of natural resources.

In relation to other objectives, the priority establishment of the protected area regime [7] is done by: law (for natural sites of universal national heritage and for biosphere reserves), Government decision (for national parks, natural parks, geoparks); order of the head of the central public authority for environmental protection, decisions of the county or local councils (for the areas naturally located on terrestrial or aquatic surfaces that belong to the public domain of county or local interest). [8]

In the pursuit of economic development and material well-being, man can lose sight of the fact that there is no development without natural resources.

The doctrine states that if there is a field that seeks to repair the damage that has already occurred, it is meaningless, as the biggest goal should be the protection of wildlife. [9]

In practice, no effective solutions have yet been found regarding the assessment of environmental damage, especially with reference to habitats and species.

In order to ensure special measures for the protection of natural heritage assets, a differentiated legal regime [10] is established for the categories of protected areas, established both at national and international level.

The terrestrial and aquatic surfaces that belong to the public domain and that require the establishment of the protected area regime, will remain in public property and will acquire the protection regime.

The protected natural areas will be delineated in the national and zonal plans of territorial arrangement and town planning. [11]

The central public authorities for environmental protection and the Romanian Academy are responsible for establishing the ways of managing protected areas and other natural heritage assets, placed under protection and conservation.

Article 16 of GEO 195/2005 specifies that the administration of protected areas can be done through specially established administration structures.

Regarding the goods with natural heritage value, owned in private property regime, they will be protected and preserved by their owners, in accordance with the law, otherwise, the measure of temporary or definitive preservation will be ordered, in order to establish a special administration of them.

Therefore, the regime of protected natural areas is subject to the legal provisions in the field, both general and special laws in force.

Failure to comply with or violation of the general provisions on environmental law entails civil, contraventional or criminal liability.

The contraventional liability is the form of legal liability that intervenes most frequently in the situation of non-compliance with the rules regarding the protection of these natural environmental factors, whenever the deeds committed meet the conditions of a contravention. [12]

The framework law provides in Article 12 (paragraphs 1-34), a considerable number of contraventions to the Danube Delta Biosphere regime, in addition to the contraventions established by the provisions of Article 96 of the GEO on environmental

protection, as well as by the provisions of GEO no. 236/2000 amended by Law 462/2001, updated.

Criminal liability occurs when unlawful acts are committed voluntarily or involuntarily. These deeds constitute crimes. Given the degree of social danger of the facts, the sanctions that apply in such cases are a criminal fine or imprisonment.

Civil liability is the legal liability that occurs when the wrongful act is caused by a property damage, which must be protected. The ecological damage is solved according to the "polluter pays" principle, and the civil liability is usually objective, independent of fault. Environmental responsibility can be solidary, in the case of the plurality of authors.

Conclusions

Protected areas fulfill a number of beneficial functions for the human socio-economic system. In order to create protected areas that achieve their purpose and ensure effective conservation and protection, a number of aspects must be taken into account.

Ecosystems are dynamic systems that develop over time, and this process must not be stopped.

Protected natural areas have a special importance in the conservation of natural and cultural capital, because within these areas we meet representative areas in terms of biodiversity, natural and culturally associated values.

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