

The natural environment. The development of an institutional protection framework - a permanent concern of the European Union

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Abstract

The environmental policy is a relatively new field in the European Union, even at the level of the current year, 2019. Although initially it was based on the creation of general measures programs, within which certain specific measures were adopted, currently, the permanent existing global climate changes can no longer be ignored by national, European or global organizations and institutions. As such, in time, especially in the last decade, the European Union has been forced, by virtue of the principles governing the relationship between the EU law and that of the Member States, to find solutions to the serious problems caused especially by pollution, but also by a series of other climatic causes. Thus, the environmental policy of the European Union is based on a number of principles, including that of precaution, prevention, diminish of pollution from its source, as well as that of the polluter's liability. In this regard, the present paper aims to summarize the measures taken so far at the level of the European Union, as well as to identify additional protective measures that will also lead to the fulfillment of the European Union Sustainable Development Strategy.

Keywords: *environmental policy, sustainable development, environmental causes, action program.*

JEL Classification: K32, K33

1. Introduction

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As such, in time, especially in the last decade, the European Union has been forced, by virtue of the principles governing the relationship between the EU law and that of the Member States, to find solutions to the serious problems caused especially by pollution, but also by a series of other climatic causes. Thus, the environmental policy of the European Union is based on a number of principles, including that of precaution, prevention, diminish of pollution from its source, as well as that of the polluter's liability.

In this regard, the present paper aims to summarize the measures taken so far at the level of the European Union, as well as to identify additional protective measures that will also lead to the fulfillment of the European Union Sustainable Development Strategy.

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Throughout time, the concept of "environment" has had a varied and fluctuating scope, which has led, in time, to the attribution of a multitude of definitions. However, by "natural environment" we must understand "the set of the elements that make up the living environment of man and of all living things that were not generated by human activities."² According to the provisions of art. 4 point 14 of Government Emergency Ordinance no. 57/2007 regarding the regime of the protected natural areas, the conservation of natural habitats, of the flora and fauna, the "natural environment" was defined as „the set of natural, terrestrial and aquatic physical, geographic, biological and biocenotic components, structures and processes, as a keeper of life and a generator of necessary resources”.

2. Summary of the European Union legislation in the field of the environment

Initially, the environmental policy consisted in the adoption, in 1972, of an action program in this direction, within the European Council held in Paris, as a consequence of the debates, declarations and awareness of the heads of state or government of the Member States over the need to develop a community environmental policy.

The first major document that made clear reference to the protection of the environment was the Single European Act in 1987, thus creating the premises of a legal basis for the common environmental policy. Among its goals were the rational use of natural resources, the conservation of the environment and the preservation of its quality, as well as the protection of human health through the measures taken.

Through the regulation contained by the Single European Act, but also by subsequent amendments and revisions, the European Union has taken the first steps in strengthening its commitment to protect the environment.

Each treaty subsequently adopted at the level of the European Union has contributed to the development of this concern, making, over time, the environment officially become a policy area of the European Union. In this respect, the Treaty of Amsterdam from 1999 established an obligation to integrate environmental protection measures into all sectoral policies of the Union, the final aim being to elaborate a sustainable development strategy and to promote this idea among the population of the Member States.

Currently, when the Lisbon Treaty entered into force, in 2009, sustainable development represented a permanent area of interest in relation not only to the other Member States, but also to third countries, and the fight against climate change became an objective of the utmost importance for the European Union which, through the gain of its legal personality, was now able to participate directly in the conclusion of international treaties and conventions in this regard.

However, the European Union was not limited only to a series of

² Cristina Oneț, *Dreptul mediului*, Universul Juridic Publishing House, Bucharest, 2017, p. 8.

regulations within the amending treaties, but its environmental policy was to adopt action programs through which certain specific measures were taken. Although general action programs, these were seven in number and each of them focused on a certain period of time for which it was applicable by adopting special measures taken in the respective field.³ Their general objectives were initially to propose solutions to the problems generated by pollution, promoting the protection of the environment at an international level by cooperating with other international organizations in order to protect the planet.⁴

3. The priorities and aims of the European Union in the environment field

3.1 Aims and principles

According to the provisions of art. 191 TFEU, the European Union's environmental policy contributes to a number of essential objectives. These are:

1. the conservation, protection and improvement of the quality of the environment;
2. protecting people's health;
3. the cautious and rational use of natural resources;
4. internationally promoting measures to counter environmental problems at regional or global level, in particular in the fight against climate change.

Therefore, the European Union's environmental policy aims to achieve a high level of protection, but not in any way, but taking into account the diversity of circumstances, especially the differences in the problems arising in relation to various regions of the EU.

In the context described above, the harmonization measures involve, for the better protection of the environment, a safeguard clause that gives the Member States the possibility to take provisional measures subject to a control procedure by the European Union, every time it is necessary to take protection measures without economic implications.

As it can thus be seen, another need for the constraint of taking unitary, harmonized environmental measures is also the fact that, in addition to public

³ Environment Action Programme EAP 1 (1973-1977), EAP 2 (1978-1981) – improving pollution and sanctioning the polluter, EAP 3 (1982-1986) – saving the environment and natural resources, EAP 4 (1987-1992) – including the solutions of the problems generated by the protection of the environment in the economic policies, EAP 5 (1993-2000) – regulating the principle of sustainable development, EAP 6 (2001-2012) – diminishing the effects of the climate change on the planet, EAP 7 (2013-2020) – improving the European awareness of environmental issues and the need to move to a "green economy" by reducing carbon dioxide emissions.

⁴ Nicoleta Diaconu, *Dreptul Uniunii Europene. Politicile Uniunii Europene*, Universul Juridic Publishing House, Bucharest, 2017, p. 171.

health and enhanced protection, possible measures taken by Member States on the environment can become non-tariff barriers regarding the free movement of goods and services.⁵

The European environmental policy is thus based on three broad basic principles, namely: the precautionary and the preventive action principle; the principle of improvement, with priority at the source, of the damages caused to the environment and the "polluter pays" principle.

The precautionary principle is a risk management tool used in the case of scientific uncertainty regarding a potential risk to which the people or the environment could be exposed. The measures taken should not be exaggerated in relation to the information held until the time of their adhibition, but proportionate, non-discriminatory and revised whenever new information is available regarding the degree of danger of the existing risk factors.

Regarding the principles of applying a remedy to the source and cost support by the polluter, they are constantly interdependent.

Directive 2004/35/CE of the European Parliament and the Council from the 21st of April 2004 on environmental liability with regard to the prevention and remedying of environmental damage aims to offer a remedy for the damage caused to the protected species or natural habitats, the water and the soil. Thus, the operators who carry out their activity as professionals by transporting harmful substances or discharging them into water, must first of all prevent environmental damage. In the event of their occurrence, they will have to take the necessary measures to remedy the caused disaster, as well as bear the costs.

3.2. Institutional protection framework

In order to be able to implement the measures adopted on environmental policy, the European Union has created an institutional environment protection framework, composed of a number of institutions and bodies implementing the measures in place and maintaining a close cooperation with the governments of the Member States.

The European Parliament itself plays an essential role in this institutional framework, through its legislative role. The European Parliament is responsible, among other things, for the elaboration of the legislation deriving from the circular economy plan, namely the waste, the vehicles that have been put out of use, the batteries, the recycling of a series of materials harmful to the environment, as well as issues related to the current climate change and forestry. In this regard, the representatives of the European Parliament have repeatedly stated that the effective implementation of the measures taken at EU level on environmental policy must be one of the main priorities of the European Union and the Member States as a whole.

⁵ Ion Gâlea, *Tratatetele Uniunii Europene. Comentarii și explicații*, C.H. Beck Publishing House, Bucharest, 2012, p. 364.

Other institutional structures with competences and attributions in the implementation of the environmental policy are: the Directorate-General for Environment, created in 1981, the Council of Ministers of the Environment, the European Committee of the Regions and the European Economic and Social Committee,⁶ the European Commission, the European Environment Agency⁷ and the European Environment Information and Observation Network.⁸

The transition from the present economy, characterized by linearity (based on extensive use of the natural resources, that impacts the environment and produces waste), towards the circular economy is envisaged by the European Commission. This process may lead to waste reduction and keeping a larger part and for longer time the value of the products, raw materials or resources within the production cycle⁹.

3.3 Sustainable development

The concept of "sustainable development", widespread at the level of the European Union, was internationally adopted for the first time after the first United Nations conference on environmental issues, held in Stockholm, in 1972, the main topic of discussion being the eco-development.

As a concept and established aim at a European Union level, the "sustainable development" was regulated in the Maastricht Treaty in 1993, followed by the implementation, in 2001, of the "European Union Sustainable Development Strategy" within the European Council from Gothenburg.

In 2010 the European Commission published the Communication - "Europe 2020. A European strategy for smart, green and inclusive growth"¹⁰, in which measures are proposed for restructuring the European Union's economy after the economic crisis¹¹.

⁶ Having an advisory role in the environmental issues, but ensuring the collaboration of the authorities at both a local and regional level on the decision-making process regarding environmental issues.

⁷ EEA is a EU agency aiming at protecting and improving the environment and supporting sustainable development. In this regard, the Agency provides unbiased, reliable and comparable information so that: measures are taken to protect the environment; the results of these measures can be evaluated; the public be informed about the state of the environment and the EU countries benefit from the necessary technical and scientific support.

⁸ Regulation (CE) no. 401/2009 of the European Parliament and the Council from the 23rd of April 2009 on the European Environment Agency and the European Environment Information and Observation Network, which describes the aims of the European Environment Agency (EEA) and of the European Environment Information and Observation Network (EEION). They can provide information to support the development of EU environmental policy. EEION, coordinated by EEA, is the EU information network on environmental issues. It has representatives from all EU countries, as well as from Iceland, Liechtenstein, Norway, Switzerland and Turkey.

⁹ Mariana Vuță, Mihai Vuță, Adrian Enciu and Sorin-Iulian Cioacă, *Assessment of the Circular Economy's Impact in the EU Economic Growth*, „Amfiteatru Economic”, 20(48), 2018, p. 249.

¹⁰ The communication can be consulted here: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:RO:PDF> (consulted on 1.11.2019).

¹¹ For details see Cătălin-Silviu Săraru, *Drept administrativ. Probleme fundamentale ale dreptului public*, C.H. Beck Publishing House, Bucharest, 2016, p. 824.

Europe 2020 proposes three mutually supportive priorities:

- smart growth: developing an economy based on knowledge and innovation;
- sustainable growth: promoting a more resource-efficient, greener and more competitive economy;
- inclusive growth: promoting an economy with a high rate of employment, which will ensure social and territorial cohesion.

The "sustainable development" contributes to the improvement of the quality of life and can be achieved through three requirements, namely by economic well-being, the establishment of social and cultural systems, as well as by the protection of the environment. The main objectives of the European Union's Sustainable Development Strategy are: to reduce climate change factors, their negative effects and the costs associated with adopting and implementing these measures, promoting sustainable production and consumption patterns, conserving natural resources, achieving efficient and sustainable means of transportation to meet the economic and social needs, promoting a healthy life and collaboration between generations, by raising awareness of the impact of their actions on the environment.¹²

At the heart of sustainable development is the transition to the bioeconomy. The objective of this transition is to achieve a low-carbon innovative economy that reconciles the demands for sustainable agriculture and fisheries, food security and the sustainable use of renewable biological resources for industrial purposes, while ensuring biodiversity and environmental protection¹³.

4. Conclusions

As seen above, the awareness over the environmental issues at the level of the European Union took place relatively late and only to a limited extent.¹⁴

Therefore, it cannot be disputed that, since a proposal for environmental protection was initiated, within the Cardiff European Council in 1998, a permanent concern has developed at the level of the institutions of the European Union for the integration of the measures to protect the environment in other EU policy areas, such as energy, transport or economic policy.

Right now, at the level of the European institutions, its representatives and employees are working, at the same time, at a series of normative acts that protect both the species and the natural areas of the European Union, in order to guarantee the quality of the air, the water, the drinking water and the one for bathing, as well as, of increasing importance, waste management, disposal of highly degradable

¹² Communication on the next steps for a sustainable European Future, downloaded from the following site https://ec.europa.eu/info/strategy/international-strategies/sustainable-development-goals/eu-approach-sustainable-development_ro (consulted on 1.11.2019).

¹³ Daniela Pașnicu, Mihaela Ghența and Aniela Matei, *Transition to Bioeconomy: Perceptions and Behaviors in Central and Eastern Europe*, „Amfiteatru Economic”, 21(50), 2019, p. 10.

¹⁴ Mircea Duțu, Andrei Duțu, *Dreptul mediului*. 4th edition, C.H.Beck Publishing House, Bucharest, 2014, p. 45.

materials and reducing the use of harmful chemicals.

In the first part of 2019, the European Commission published the annual Report on forest fires in Europe, the Middle East and North Africa for the end of 2018. According to this report, although the fires destroyed less than half of the area affected by the same causes in 2017, however, we can talk about a destroyed area of about 178,000 hectares of forest in Europe during 2018, with more countries than ever affected by forest fires.¹⁵

Currently, only in the summer of 2019, the statistics are discouraging on climate change, reminding for example the most representative issues, namely the outbreak of fires in the area of Amazon and Siberia, the natural and wildlife damage being irreparable.

In these circumstances, the size of the global, not just European, climate problem, as well as the importance of environmental protection through any technical, social and, above all, legal means, through the permanent cooperation of the European Union with any international organizations with competence in this field, is undeniable. Such organizations are the UN, the United Nations Environment Program, the World Health Organization, the International Atomic Energy Agency etc.¹⁶

Moreover, according to the European legislation, respectively the provisions of art. 218 TFEU, there is a clear regulation on how to negotiate agreements between the European Union and third countries or international organizations. This was one of the main innovations brought by the Treaty of Lisbon, namely the conferring of a coherence on the European Union in its action abroad, through a unique procedure for concluding international treaties.

Bibliography

1. Diaconu, Nicoleta, *Dreptul Uniunii Europene. Politicile Uniunii Europene*, Universul Juridic Publishing House, Bucharest, 2017.
2. Dușu, Mircea; Dușu, Andrei, *Dreptul mediului*, 4th edition, C.H.Beck Publishing House, Bucharest, 2014.
3. Gâlea, Ion, *Tratatele Uniunii Europene. Comentarii și explicații*, C.H. Beck Publishing House, Bucharest, 2012.
4. Marinescu, Daniela; Petre, Maria Cristina, *Tratat de dreptul mediului*, 5th edition revised and extended, Universitară Publishing House, Bucharest, 2014.
5. Oneț, Cristina, *Dreptul mediului*, Universul Juridic Publishing House, Bucharest, 2017.
6. Pașnicu, Daniela; Ghența, Mihaela and Matei, Aniela, *Transition to Bioeconomy: Perceptions and Behaviors in Central and Eastern Europe*, „Amfiteatru Economic”, 21(50), 2019, pp. 9-23.

¹⁵ European Report "Forest Fires in Europe, Middle East and North Africa 2018", downloaded from the following site <https://ec.europa.eu/jrc/en/publication/forest-fires-europe-middle-east-and-north-africa-2018> (consulted on 1.11.2019).

¹⁶ Daniela Marinescu, Maria Cristina Petre, *Tratat de dreptul mediului*, 5th edition revised and extended, Universitară Publishing House, Bucharest, 2014, p. 808.

7. Săraru, Cătălin-Silviu, *Drept administrativ. Probleme fundamentale ale dreptului public*, C.H. Beck Publishing House, Bucharest, 2016.
8. Vuță, Mariana; Vuță, Mihai; Enciu, Adrian and Cioacă, Sorin-Iulian, *Assessment of the Circular Economy's Impact in the EU Economic Growth*, „Amfiteatru Economic”, 20(48), 2018, pp. 248-261.
9. European Report "*Forest Fires in Europe, Middle East and North Africa 2018*", <https://ec.europa.eu/jrc/en/publication/forest-fires-europe-middle-east-and-north-africa-2018> (consulted on 1.11.2019).
10. Communication on the next steps for a sustainable European Future, https://ec.europa.eu/info/strategy/international-strategies/sustainable-development-goals/eu-approach-sustainable-development_ro (consulted on 1.11.2019).
11. Directive 2004/35/CE of the European Parliament and the Council from the 21st of April 2004 on environmental liability with regard to the prevention and remedying of environmental damage.
12. Regulation (CE) no. 401/2009 of the European Parliament and the Council from the 23rd of April 2009 on the European Environment Agency and the European Environment Information and Observation Network.
13. The Treaty on the Functioning of the European Union.
14. Romanian Government Emergency Ordinance no. 57/2007 regarding the regime of the protected natural areas, the conservation of natural habitats, of the flora and fauna.
15. Romanian Government Emergency Ordinance no. 195/2005 on environmental protection.