

## INTERFERENCE BETWEEN THE ENVIRONMENTAL LEGISLATION IN ROMANIA AND THE EUROPEAN UNION

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**Abstract:** *Environmental policy means the environmental objectives and priorities, regulatory methods and implementation tools designed to ensure the sustainable use of natural resources and prevent environmental degradation.*

*This aims at protecting the environment, increasing the quality of life, population health and sustainable development, with an efficient, environmentally friendly and competitive economy.*

*The environment is a priority for the European Union, so its environmental policy is based on the principles of precaution, prevention, pollution correction at source and „polluter pays”. It tries to implement some of the most advanced environmental protection standards in the world, developed over time.*

*Romania, as a member of the European Union, has the obligation to align its internal environmental legislation with the European legislation.*

**Keywords:** *environment, pollution, legislation*

### Introduction

The term environment is defined differently. We choose to define the environment as “a set of conditions and natural elements of the Earth: air, water, soil, underground, characteristic aspects of the landscape, all atmospheric structures, all organic matter, species and living beings, natural systems in interaction, including material and spiritual values, the quality of life and the conditions that can influence the welfare and health of man.”

European law, more precisely Council Directive 67/548/EEC of 27 June 1967 on the alignment of laws and administrative documents relating to the classification, packaging and labeling of dangerous substances, defines the environment as “the entirety of elements, which in their relational complexity constitute the framework and conditions of human life ... the environment means water, air and soil in their interaction, as well as their relationship with any living organism.”

### **Legislation issues**

As regards the landmarks that Romania has in view and has the appropriate protection framework under the existing legislation, the internal legislation aligned with Community Law and the national law of non-EU countries, we retain the protection of natural resources and biodiversity, namely, the protection of the atmosphere, water and aquatic ecosystems, the protection of soil, underground and terrestrial ecosystem, the protection of fauna and biodiversity, and the regime of products, substances and wastes of all kind.

Thus, regarding the protection of the atmosphere in domestic and international law, including Community Law, it falls under the provisions of Government Emergency Ordinance no.195/2005 on environmental protection, Law no. 104/2011 on air quality. This legislative framework is continuously updated in relation to the Community legislative framework.

At international level, the references in the field are: the Convention of 13 November 1979 on Long-range Transboundary Air Pollution, ratified by Romania under Law No 81/1991, the Vienna Convention on the Protection of the Ozone Layer, adopted in Vienna on 22 March 1985, ratified by Romania under the Law no.85/03 December 1993 for the accession of Romania to the respective convention and the United Nations Framework Convention on Climate Change, signed in Rio de Janeiro on 05.06.1992, ratified by Romania under the Law no.24/1994.

The Romanian legislation establishes the activities of the Central Public Environmental Protection Authority, and the special obligations for the owners of land where there are protective alignments, green spaces, parks, gardens, and improvement of the atmosphere regeneration capacity. In addition, measures are set at national level, as well as objectives for air quality.

International law sets out the general obligations for States Parties, their research activities aiming at economic, social and environmental assessment and other measures to achieve environmental objectives, including the reduction of long-range transboundary air pollution.

These regulations are based on a set of international and community law principles. The general and specific obligations protect the climate system for the benefit of present and future generations, the parties having both the right and the duty to act for sustainable development.

Concerning the protection of water and aquatic ecosystems, at domestic level we take as reference the legal framework provided by Law no.107/1996, updated and published by Government Emergency Ordinance no. 3/2010. It defines the waters that are a natural source, the pollution of

sweet and salt waters, the forms under which water is found in nature, the sources of natural pollution, sources of anthropogenic pollution, thermal pollution, chemical pollution and biological pollution. The Government Emergency Ordinance no. 195/2005 also regulates the protection of aquatic ecosystems, as well as the obligations of natural and legal persons in the field. The legislative framework also regulates water management and the water usage regime as regards both the right of use and the interdictions.

Given the economic analysis and, in particular, the „polluter pays” principle, the EU aims at aligning legal regulations on water in all Member States.

The protection of the soil, underground and terrestrial ecosystems is carried out internally, according to the law, through adequate measures of management, conservation, organization and landscaping, and it is mandatory for all owners according to the provisions of Government Emergency Ordinance no.195/2005.

The underground is analysed through the legal framework from the perspective of mineral raw materials, and the presence or absence of resources. The Government Emergency Ordinance no.195/2005 also defines the ecosystem, the forests, the process of formation, evolution and conservation of soil, soil protection against erosion, regulation of atmospheric air composition, reduction of noise pollution, microbial treatment, and agro forestry curtains. An important role in this respect lies with the central public authority for environmental protection.

The dramatic level of soil problems, from increased erosion due to degradation in arid or semiarid regions, does not have an appropriate international regulation. However, the 1977 UN Conference on Desertification in Nairobi that developed an action plan with a limited effect, the World Charter on Soils adopted within FAU in 1981, the 1982 World Charter for Nature, and the UN Convention for combating desertification in countries severely affected by drought from Paris in 1994, to which Romania adhered by Law no. 11/1998 should be taken into consideration.

At Community level, the reference is Regulation no. 2152/2003 of the Energy Congress, which nevertheless did not fully align all the forest management activities.

As regards the protection of fauna and biodiversity, domestic fauna, hunting and wild fauna have been defined. The protection of animals in general is legally ensured by Law 205/2004 on the protection of animals modified by Law 9/2008. This governs the obligations of animal owners and the prohibition of ill-treatments against animals.

The protection of wild animals subject to game is provided by the Law no. 407/2006 on hunting and the protection of the hunting fund, modified by the Law no.66/2011 regarding the approval of Government Emergency Ordinance no. 102/2010 amending and supplementing the hunting and protection of the hunting fund law. Thus, the principles established by law, the hunting fund and the civil liability for damage caused by game were defined within the legal framework.

The protection of fauna in international law has to be legally referred to the 1971 Conference on Wetlands of International Importance, in particular as a habitat of Aquatic Birds, the 1973 International Convention for the International Sale of Wild Fauna and Flora under Extinction in Washington, conventions to which Romania has adhered by Laws no. 5/1991 and 69/1994, the Strasbourg European Convention for the Protection of Animals from 2003 and the 1992 Convention on Biological Diversity of under the auspices of the United Nations.

At Community level, we refer to Regulation no. 338/1997, in particular as regards the import permit.

The regulations on hazardous activities for the environment, especially those concerning the regime of products, substances and waste of any kind are not to be neglected either.

The internal reference is the Government Emergency Ordinance no. 195/2005 and Law no.211/2011 on the regime of waste. The European reference framework is the European Agreement on the International Carriage of Dangerous Goods by road, to which Romania has adhered by Law 31/1994, modified by Law No 333/2007, the European Agreement concerning the International Carriage of Dangerous Goods by inland waterways (Geneva, 2001), to which Romania adhered by Law 159/2005 and the Convention (Rotterdam, September 10, 1998) on the Probable Consent Procedure in the Conventions of Practice Applicable to Certain Hazardous Chemicals and Pesticides Subject to the Individual Trade, to which Romania adhered by Law no. 91/2003.

The regime of chemical fertilizers and products for phytosanitary use, in relation to the chemical agriculture, is legally regulated by the Government Emergency Ordinance no. 195/2005 on environmental protection and Order no. 134/27 February 2006 on the approval of the national procedure for plant protection products containing modified active substances for which no confidence decision has yet been taken on the list of active substances authorized in the European Union. The Order regulates the National Commission for the Homologation of Plant Protection

Products together with Order no. 116/153/358 of 17 February 2005, the certificate of approval and the removal the certificates of approval.

Civil liability in environmental law is usually governed by the Romanian Civil Code.

### **Conclusions**

Civil law, namely the institution of civil liability has its application in the field of environmental law, as several legal texts stipulate this. Thus, the Constitution, in Article 135 paragraph 2 requires that "the State must ensure ... e) the restoration and protection of the environment, as well as the maintenance of the ecological balance" - environmental protection being achieved including by applying the civil interdiction of the tort liability.

In fact, the objective liability is limited only to the quantifiable cost effect of damage to human health, property or the environment caused by productions, harmful activities or disasters.

### **References**

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