

THE RIGHT TO ENVIRONMENT

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Abstract: *This study refers to the fundamental right of the human being to have a healthy, ecologically balanced environment as well as to the necessity of recognizing and guaranteeing this right. We analyze the major components of the human being environment protection, the right to water, the right to fresh air, the right to the environment of the human settlements, the relationship: health – environment.*

A special attention is given to the integration of the sustainable development in the EU policies.

Keywords: sustainable development, the environmental law, the right to environment, the environmental strategy

JEL Classification: Q01, Q56

1. THE RECOGNITION OF THE RIGHT TO ENVIRONMENT

Generally speaking, when we talk about environmental protection, we refer to what is happening or to what we have to do to protect air, water and soil, even if, for the past few years, we hear more and more about the protection of the environment of the human being. This means that *we are referring both to the natural environment and to that environment created by man and for man*, so both to the environmental law as well as to *the right to environment of the human beings*.

Among numerous arguments which we have taken into account, three of them can be considered as being more important:

- The scientific proofs demonstrate that the environment matters represent a serious threat at a global level, the costs generated and the associated risks to the climate changes could rise up to 20% of the GDP, while the services assured by the planetary ecosystem have deteriorated or have been over-used, and the ecological pattern of the humanity over-passes currently with about 25% the regenerating capacity of the planet (Angelescu & Popa, 2009);

- The reason for which the UNO has declared the year 2010 The International Year of the Biodiversity is the decline of the ecosystems. An alert-report presented by the UNO illustrates the devastating state of the present-day environment;
- The world populations ignore the notion of sustainable development and the sense of the theme of the 21 Agenda.

Today, the humankind faces the *Ecologic Revolution*, dictated not by technological discoveries but by a survival instinct. *The earth is not” a business in liquidation”*. *“For the first time a civilization uses the capital of nature instead of living from the interests given by this capital”*, said Toffler. The specialists think that the time we have left is about 10-15 years in order to take the right decisions whose results cannot be seen earlier than 50 years.

Nowadays, we are dealing with the following major environment problems:

- *Pollution* (pollution, pollutants, sources of pollution, prevention, improvement) – thus the environmental protection is more and more necessary;
- *The exhaustion of resources* – the environmental conservation becomes increasingly necessary;
- *Responsiveness* (in agreement with the sustainable development and the corporate ecologism) – the ecologic education and the assuming of responsibility is more and more necessary for everyone. This is the true meaning of the sustainable development.

Despite the importance of the environmental protection by people and for people, the concept of the fundamental human right to have a healthy, ecologically balanced environment and also the necessity of its acknowledgement and guarantee has crystallized and structured only in the second half of the twentieth century. The unsatisfactory results of various international meetings about environmental issues are primarily due to the disproportions between levels of development from different areas of the planet. On the other side, the ecological imbalance developed in time and got worse. A good proof is the international, regional and national concerns from the past twenty years. Even the names given to recent UN environment: conferences: in 1972 (Stockholm) – The UN Conference *for Environment*, in 1992 (Rio de Janeiro) – The UN Conference *for Environment and Development*, in 2002 (Johannesburg) – The UN Conference for a Sustainable Development.

The international consecration of the right to environment was made through the Statement of the first UN Conference regarding the Environment from Stockholm, when it was proclaimed that:” Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being. He bears a solemn responsibility to protect and improve the environment for present and future generations”. This

concept is held a few years later, as a guiding line, within the international relationships, through the World Charter for Nature (1982), and then within the first principle of the Declaration of Rio de Janeiro (1992): “*Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.*” As a result, the international community has focused slowly and rather correctively its attention upon the aspects which had a visible effect, sometimes with serious consequences, the human beings and the spaces where they operate, taking into consideration the following dimensions of this environmental component – the protection of the human being environment:

- *The protection of the human settlements environment ;*
- *The environmental protection from hazardous and radioactive substances;*
- *The environmental protection of the agricultural areas;*
- *The environmental protection against vibrations and noises;*
- *The environmental protection against waste.*

Of course, all these components have an important contribution to ensuring the quality of life and human health and include: *the right to biodiversity, the right to clean and sufficient water, the right to unpolluted air, the right to environmental beauty, to its wealth and resources, the right to information about the environmental conditions, the right to an ecological education, etc.* All the international and national documents that refer to human rights or to the environmental protection also refer to *the right to environment*, for example: *The Charter of the Human Rights, The Romanian Constitution, The Approving Law of OU 195/2005 regarding the environment protection (Art 5, 55, 59, 70, 82, 85, 91, 92), and The Water Law etc.*

The past few years’ decades shows that there are important relationships between environmental quality and protection issues (globally and locally) and issues such as economic development, human development, population growth, poverty, changes in political structures.

2. THE RIGHT TO ENVIRONMENT AND THE SUSTAINABLE DEVELOPMENT

Analysing the definitions for “environment” and “sustainable development” we will acknowledge the correctness of our observations regarding the importance of the two concepts, among which the last one is less discussed.

Referring to the legal aspect, the environmental law defines the environment as: a sum of resources that must be protected against pollution and degradation composed of: air, water, soil, subsoil, flora, fauna, natural energy sources and habitable land, a total of resources to meet the

human's needs. ISO 14001:2004 defines the environment as being “the space in which an organization operates including air, water, soil, subsoil, natural resources, flora, fauna, human beings and the relations between them.”

Even the redefinition of sustainable development that focuses on human well being and the action of removing the separation between economy and society still has drawbacks. Sustainable development needs to be based on principles that would apply to all issues whether they are classified as environmental, social, economic or any mix of the three. Haughton (1999) outlines five equity principles:

- (i) Futurity – inter-generational equity-the right to environment of all generations;
- (ii) Social justice – intra-generational equity;
- (iii) Cross-border responsibility – the right of every nation to environment;
- (iv) Procedural equity – people treated openly and fairly–and;
- (v) Inter-species equity – importance of biodiversity.

3. THE PROTECTION OF THE HUMAN SETTLEMENTS ENVIRONMENT

The human settlements are spaces for housing, socio-political and cultural sites, economic objectives, areas for recreation or any other facilities where human beings are operating activities and where the interests of their maintaining and developing, prevail any other issues. (Oprean & Suciu, 2003). The concept of “city” is defined by Toynbee as “a settlement whose people can not produce, within its limits, all the food they need”- which implies the existence of some agricultural land whose products are supplied to the city.

The issue of the human settlements environment protection is highly complex and permanently changed. *The main topics* that must be addressed in the relationship city-environmental protection are:

- *Pollution;*
- *Water;*
- *Garbage, waste;*
- *Transports;*
- *The relationship Environment-Health.*

The increasing urbanization and the explosion of the industrial zones from the past few decades have imposed national strategies to harmonize the interests of the human beings with the ones linked to environment. The following aspects are taken into consideration:

- *The responsibilities of agencies and administrative authorities* referring to the creating and maintaining of a healthy living environment aligned with the socio-economic development of localities and in agreement with the development plans and urban planning (the placement of the objectives and architectural lines, routes and traffic control, sanitation, sewage systems, waste storage stations, water treatment stations, rest and recreation facilities etc.)
- *Creating an appropriate framework of rules ;*
- *Imposing rules of conduct relating to hygiene and public health.*

4. ENVIRONMENT AND HEALTH

From the early beginning, the European Union policy about environment protection took into account health considerations (e.g. Within the Community Action Programme on public health the environment is considered a major determinant factor of health).

The European Environment Agency (EEA) as well as other national organisations reported that it is paid too little attention to the interaction between different pollutants inside the human body and in the environment. Even at relatively low exposure levels, which are being active for longer periods of several decades, a so called “cocktail” effect appears, “cocktail” of different pollutants from air, water, food, consumer products and building materials that can dramatically affect the health of the European population. (E.g. The EEA report for 2002 regarding “The children’s health and environment” revealed a significant increase in the incidence of asthma on children in Western European countries and the emergence of some disturbances in their development.)

Taking into consideration the size and complexity of environmental and health problems *in 2003 was adopted the European Environment and Health Strategy* having as main purpose to reduce diseases caused by environmental factors , and in 2004 the “SCALE” initiative was launched (Science – Children - Awareness – Legal instruments – Evaluation) through which the community efforts go hand in hand, in line with sustainable development objectives, in order to protect the most vulnerable groups in our society and those who will shape tomorrow’s society.

Until now, the environmental risk allocation and the environmental policy actions have been focused on one type of pollutant from an environmental factor (air, water, soil) and a number of environmental problems could be solved. However, solving the impact on health in this way lead to

underestimated results, because real situations are more complicated: the pollutants may be transferred between different environmental factors (from air into soil or into water people are exposed to a combination of pollutants which interact in the environment and inside the human body. These effects are not sufficiently taken into account in current policies, as they are not sufficiently integrated, meaning that the air monitoring data are not correlated with water or soil monitoring data and neither with those of health, and as a consequence, they do not effectively address the specific interface for environment and health.

In order to achieve an understanding of conditioning and causes between the environmental threats and the adverse effects on health and to allow decision makers to take into account these complex combined effects, an integrative approach is needed. This implies:

- An integrated *community information*;
- Integrated *research*;
- Integrated *policies*;
- Integrated *decisions and actions*.

“Such an integrative approach is essential for future development of environmental legislation and for the measures taken to protect the human health.” (Popescu, 2006). The integrated approach will be implemented in successive cycles and on phased topics. The first cycle (2004-2010) will focus on clearly defined priorities and create the basis for the next cycle. Thus the following directions were selected:

- The European Integrated System of Environment and Health Monitoring and Response, in order to determine the overall impact of the environment on human health;
- Research in order to achieve a better understanding on issues of environment and human health;
- Reduce exposures.

This strategy is evolving and it is based on the participation of all “actors” and on the best available scientific knowledge as it was established in the 6th European Environmental Action Programme. The technical standards imposed to the industrial platforms and to the household and office appliances are increasingly demanding. The pollutants emissions are diminishing in some parts of the globe. Yet, the health of a growing number of people degrades. On the one hand, new concerns about the level of protection techniques, health protection and modern lifestyles appear, on the other side, there is a “race” between chemical and pharmaceutical increased effectiveness and adaptive evolution of the species concerned. Some of the new signals and health concerns related to the right to environmental law issues are:

- *The transfer of viruses and bacteria* by means of transport but also because of climate trends
- *Increasing resistance to antibiotics and plant products* driven by excessive use of these products and by the transfer of species from long distances;
- *Undesirable effects unforeseen) of genetically modified organisms (GMO's);*
- *The negative effects of air pollutants* (respiratory and cardiovascular diseases due to fine particles, carcinogenic volatile hydrocarbons, plant protection products present in aerosols and rainwater, etc.);
- *The indirect effects of ecosystems disturbance* (e.g. the dystrophy or accelerated eutrophication due to the excess of nutrients lead to toxicity through the development of species, scallops, fishes, that consumed by humans can cause paralysis or even death);
- *The adaptation of pathogenic species or predators to the products which are usually used to combat them* (in 1998 The European Commission has proposed banning the use of four types of antibiotics used for humans on animals).

5. THE ECOLOGICAL MOVEMENT

According to experts, the three supporters of sustainable development are *the environment, the economy and the society*. The introduction and the acceptance of the concept of sustainable development were due to the emergence of “conflicts” between these supporters. There is, thus, an interdependence *man- natural environment*, an indissoluble unit with a complex and dynamic nature and with profound implications on the social-economic development that mankind began to understand.

Failure to have the right to environment and to the environmental law has led to the development of the ecology movement.

The development of the *ecological movement* has proved that there is a lot to do in order to maintain equilibrium of environment and to prevent a conflict between *economy-ecology-society-technology*. The ecological movement was born with Rachel Carson's *Silent Spring*, the book which is widely credited to have helped the launch of the ecological movement. The book documented detrimental effects of pesticides on the environment, particularly on birds. She also accused the *chemical industry* of spreading *disinformation*, and public officials of accepting industry claims uncritically. But she was only a pioneer. Now, the worldwide researchers agree that *a new ecological world order* is needed to be established. The events of recent years reflect this.

Solving the conflicts with the environment is vital for the ecological movement. It implies a radical change in the policy making process, mainly because of communities' distrust in public institutions and in the technical control structures. Both the ecologist movement and the politicians must necessarily take into account the local, social, cultural and economic requirements, otherwise they risk losing the consensus among population. Therefore, the unilateral decisions of the authorities are viewed with suspicion and may be considered illegitimate.

Man is the cause of the environmental imbalance but also ... the solution. The green consumer, the "eco" phenomenon in politics, in research and technology, in education, in tourism, in public administration, in management and marketing are evidences of increasing concerns about the right to environment.

In order to get the expected result, the practice of a management with a serious impact upon the environmental education should focus on creating networks and strategic alliances among the parties involved: the one who produces the act of education in institutions, the one who distributes permanent environmental education and the one who finances the program.

6. CONCLUSIONS

The general environment protection and its economic, ecological, social and cultural function represent a preliminary condition for the approach of the main ecological challenges at the international level. The role of the environment in satisfying primary, vital needs is generally well-known, but the concrete possibilities to interfere for modeling social processes in such way that they contribute to the harmonization of this relation are less obvious or hardly accepted.

The right to environment must be respected, measured. "To measure means to understand, to understand means to get knowledge, to have knowledge means to have the power" (H.J. Harrington, 2000).

The education and the training is the primary foundation of the sustainable development. In the analytical report for 2009 of the European Union's Strategy for Sustainable Development it is encouraged the effort of the Member States to create a strategic approach regarding the exchange of knowledge and best practices in order to stimulate environmental education and sustainable development. (http://ec.europa.eu/education/more-information/doc/sustdev_en.pdf)

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