



Crimes against the Environment

Jeton Bunjaku

Student in LLM in Department of Criminal Law, Faculty of Law / UBT - Higher Education Institution, Prishtina,
Republic of Kosovo

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Abstract

The environment is everything that surrounds us and all of us must protect it, it is the one in which man develops his life activity and without it he could not exist, but in recent years societies around the world and in our country are facing major problems regarding the environment such as: pollution, destruction of ecosystems, indiscriminate use of natural resources, etc. The people, focusing daily on making money and personal income for him, is circumventing care for the environment and nature. With air, water, land pollution, damage and gradually endangering and destroying animal and plant ecosystems. As well as in Kosovo, the tide of environmental pollution and systematically destruction of healthy and clean environments has been observed for years. In Albania, cases of environmental pollution are endless, when from day to day the environment is being destroyed. Crimes against the environment (nature) are a form of white collar crime called a green-hat crime. This kind of environmental crime around us worldwide is on the rise. With the construction of many factories, thermal power plants, hydropower plants, etc. are also bringing major pollution to the environment that are a problem for many different countries and states to protect the environment, and consequently all states are issuing at all times the right legal provisions to protect the environment, to prevent and combat crimes against environment which are posing great concern to society.

Keywords: *Environment; Ecosystem; Natural Resources; White Collar Crime; Green Collar Crime*

1. Introduction

Criminality is antisocial behaviour that conflicts with legal and moral norms of behaviour. (Maloku, 2019:174). Criminality presents the group of all actions that endanger and/or undermine basic human values (protected by law). Those fundamental values can be individual (human life, physical or corporal integrity, freedom, wealth, security, etc.), or collective values (social regulation, state security/institution, economic or social system of the state, etc., etc.. (Maloku & Maloku, 2021:60)

Criminality in general in sociological terms analyzed authors Shabani and Maloku (2019a, 2019b), while in terms of criminology, genomically etiology, phenomenology and the criminal aspect of the appearance of criminality, authors Jsarevic and Maloku (2021a, 2021b), the other honours anilate extraordinarily well crimes against the ambient. Crimes against the environment as an honor forms of criminality cannot be fought and prevented without a good international co-operation. (Maloku, 2015a, 2015b, 2015c, 2015d, Gabela & Maloku, 2022, 2023) In this work, the environment-environment is

treated as the space that surrounds us and that we live in, where we develop our activity, etc. ,the variable factors that affect environmental pollution and its destruction, victims who suffer as a cause of environmental pollution. Nowadays society faces numerous and complex ecological problems that come as a result of human activities which is the main subject of environmental pollution, which with its work and inventions has brought society to a high standard level but on the other side has not devoted importance to the environment and has consequently brought the environment to a deformed and destroyed state by bringing great damage starting from living beings plants, animals and especially man who is also the main victim of environmental pollution as well as the main cause of environmental pollution. Criminal actions which in the multitude of cases are shot that cause actual and significant damage to air, water and land pollution are considered acts directed against the environment, in these criminal acts the object is not veto the human environment but the environment of nature in general.

In Kosovo as the largest polluters of the environment have been the Trepça smelter, now it is the thermal power plants in Kastriot, the cement factory in Han of Elez, etc. Then, waste garlic in settlements where they live and near drinking water sources that can cause great risks and consequences for various diseases that can also be deadly. Continued environmental pollution that has occurred so far, despite the consequences it has caused so far, parks an extremely high risk of causing society even in the future, which will not veto that will endanger the lives and health of citizens, but also lead to major planetary disasters, which question the very existence of humanity.

The significance of this paper lies in the importance of the problem it deals with (Maloku, Kastrati, Gabela and Maloku, 2022:141), that is, the importance of the very nature of the topic related to research in the criminal law

2. Methodology

In this paper, appropriate methods were used to achieve the goal (Karovic, Maloku & Shala).The method of analysis and synthesis was used among the special scientific methods, which will

be especially useful in researching the theoretical perspectives of domestic and foreign authors. (Maloku, Qerimi & MALoku, 2022:176). In similar circumstances, the induction and deduction method is also used (Maloku,2020). Content analysis as a necessary method will be used to study the numerous literatures, in which this problem has been addressed in various respects. This method is unavoidable in the study of normative acts. (Maloku, 2021:53)

3. Results and Discussion

3. 1. Environment and Environmental Pollution Factors

The protection of the human environment has been presented as a necessary need from earlier. It has been noted that the sound environment is security for a better and longer life of man. In various states, measures of sorts have been taken to protect the environment. The norm and legal provisions guaranteeing environmental protection have been issued. These rules and norms, at first, were more administrative-civil, and later criminal legal norms were also issued. (Halil.R, 2016, p. 216) The phenomenon of pollution of the living environment at the end of the 20th century has taken on as many dimensions, which undoubtedly poses one of the greatest risks facing humanity. (Latifi.V - Demoli.H, 2019, p. 563)

The living environment is a good erga omnes, therefore good overall, succession for all humanity and the living world, including plants and animals. The living environment is land, water, air, all over the world. It's res communis omnium, so it's mine, yours and those who will come after us. (Lumani.F, 2013,

p. 74) The problem of conservation and environmental progress is initially currentized in developed states due to the ruthless and uncontrolled exploitation of natural assets, the application of new technologies, etc., almost simultaneously in developing states, whose population, due to poverty and relentlessness, has been subjected to a ruthless exploration of their natural assets by developed states, then because of the importation of old technologies, the dislocation of dangerous technologies in those states and because of the action of natural powers such as sliding, droughts, flows, etc. (Gruda.Z, 2007, pp. 448-449)

Three fundamental factors have contributed to faster pollution of the living environment:

- 1.The increasing rate of inclusion of natural prosperity in industrial production and increasing production of various chemical compounds;
- 2.Rapid and uncontrolled growth of human population, especially urban and urban populations
- 3.The increasing use of synthetic matter, which cannot be unravelled through biological and physical pathways, the use of protective tools in industrial production and food technology (pesticides, etc.), as well as the increasingly massive production of medicines. (Latifi.V - Demolli.H, 2019, p. 565)

According to numerous criminological and victimological data based on the results of studies done, the main factors of environmental pollution and causing ecological casualties are climate change, global warming, air pollution, water pollution and soil pollution. (Halili.R, 2011, p. 114)

Due to the very great importance to people's health and lives as well as the slaughterful and plant world and in general nature, the issue of the environment is regulated by special law and at once the special branch of legal science-Law and Environment Law is established, which is regulated by national laws and with conventions and other international acts. (Salihu.I, 2014, p. 503)

With criminal acts against the environment, illegal acts (actions or omission) that censor the protection of the environment (air, water and land) from pollution are understood, carried out with guilt and expressly foreseen by criminal legislation. (Latifi.V - Demolli.H, 2019, pp. 565-566)

Environmental pollution and the victims caused by it have become one of humanity's greatest preoccupations, so pollution and fear of victimization has become a global concern. This is because it is causing great consequences, starting in the plant world. animal and especially victims in people. Unfortunately, the largest polluter of the ambient is the man, who is at once his main victim. (Halili.R, 2011, p. 114)

The group of criminal acts with which the living environment is protected is understood. Ecological criminality as part of contemporary criminality also possesses its specificities that characterize contemporary criminality such as: massivity, dynamics, adequate degree of organization, permanent expansion and the presence of the foreign element, as well as the adversity of the adaptation of relations but created socially and politically and economically. (Latifi.V - Demolli.H, 2019, p. 564). All forms of criminality and economic criminality can be better fought with better co-operation. (Maloku, 2016a, 2016b and 2018)

3. 2. General Principles of Environmental Law

The various authors, who write about environmental problems, regularly highlight the five-six principles as the most important international legal principles concerning the conservation and progress of the environment, where among them are the Principle of human exploitation of the human environment; Principle of freedom of research; Principle of banning environmental pollution; The principle of providing assistance in case of risk; Principle of warning of actions that could cause pollution, principle of rational exploitation of the environment; The principle of the necessity of co-operation for the preservation and exploitation of natural resources, etc. (Gruda.Z, 2007, pp. 459-460)

3. 3. Environmental Protection in the Republic of Kosova

In the Republic of Kosovo the environment and environmental protection is predicted by - through legal and legal provisions such as:

Constitution of the Republic of Kosovo- Responsibility for the Living Environment (Article 52)

Nature and biodiversity, the living environment and national heritage, are responsible for each. Institutions of public power commit to guaranteeing everyone the opportunity to influence decisions dealing with the living environment where she/he lives.

The impact on the living environment is taken into account by public institutions in the decision-making process. (Constitution of the Republic of Kosovo, 2008)

Code No. 06/L-074 Penal of the Republic of Kosovo in chapter XXVII-Criminal acts against the environment, animals, plants and cultural objects has preceded criminal acts against the environment in the nets (338–341):

Pollution, degradation or destruction of the environment (article 338)

1. Anyone who violates the law does pollution, degradation or destruction of air, water or land or exploits natural resources excessively, is punishable by a fine or imprisonment of up to two (2) years.
2. If criminal acts by paragraph 1. Of this article is carried out out of carelessness, the head is punishable by fine or imprisonment of up to one (1) year.
3. If criminal offence by paragraph 1. This article results in damage to the health of a large number of people or with the complete or partial annihilation of the animal, plant or drinking water reserves or any other environmental damage with serious consequences, or with the addition of pollution levels at critical scale, the chairman is punishable by fine and imprisonment of up to five (5) years.
4. If criminal acts by paragraph 2. This article results in damage to the health of a large number of people or with the complete or partial annihilation of the animal, plant or drinking water reserves or any other environmental damage with serious consequences, or with the addition of pollution levels at critical scales, the chairman is punishable by a fine and imprisonment of up to two (2) years.
5. If criminal acts by paragraph 1. Of this article results in damage or impermissible environmental destruction or endangerment of protected natural assets, the head is punishable by a fine and imprisonment of one (1) to eight (8) years.
6. If criminal acts by paragraph 2. Of this article results in damage or unimproved environmental destruction or endangerment of protected natural assets, the head is punishable by fines and imprisonment of six (6) months to five (5) years.
7. Whoever performs the work foreseen in paragraph 1 of this article as a member of the group is punishable by fine and imprisonment of up to four (4) years. (KPPRK, 2019)

Illegal possession of hazardous substances and waste (article 339)

1. Anyone who violates the law, discards, treats, deposits, transports, exports or imports dangerous substances or waste that may cause the death or serious bodily injury of any person or material substantive damage of air quality, land, water, animals, plants or wealth, is punishable by fine and imprisonment of one (1) to four (4) years.
2. Anyone who violates the law casts, treats, deposits, transports, exports or imports substances or radioactive waste that may cause the death or serious bodily injury of any person or material substantive damage of air quality, land, water, animals, plants or wealth, is punishable by fine and imprisonment of one (1) to five (5) years.

3. If criminal offence by paragraph 1. Of this article is carried out out of carelessness, the head is punishable by fine or imprisonment of up to one (1) year.
4. If criminal acts by paragraph 2. Of this article is carried out out of carelessness, the head is punishable by fine or imprisonment of up to two (2) years.
5. If works from paragraph 1. or 2. Of this article results in death or serious bodily injury of any person or with material substantive damage to wealth, animals or plants or to the material substantive deterioration of air, water or land quality, the head is punishable by fine and imprisonment of three (3) to twelve (12) years.
6. If criminal acts by paragraph 3. Of this article results in death or serious bodily injury of any person or with material substantive damage to wealth, animals or plants or to the material substantive deterioration of air, water or land quality, the head is punishable by fine or imprisonment of one (1) to eight (8) years. (KPPRK, 2019)

Allowing the illegal construction or direction of factories and installations that pollute the environment (article 340)

1. Anyone who violates the law on environmental protection allows the construction or installation of the factory or manages or manages the factory or installation in which dangerous activity is carried out and with this risks causing the death or severe bodily injury of any person, pollutes the environment, air, land or water or causes damage to many of the five thousand (5. 000) Euros or more of animals, plants or wealth, punishable by fine or imprisonment of up to four (4) years.
2. If criminal acts by paragraph 1. Of this article is carried out out of carelessness, the head is punishable by fine or imprisonment of up to one (1) year.
3. Anyone who violates the law allows or applies technology that pollutes the environment or territory on a large scale is punishable by a fine or imprisonment of up to four (4) years.
4. If criminal acts by paragraph 3. This article results in the complete or partial annihilation of the animal, plant or large-scale pollution for which long time or large expenses are needed to sanitise it, the head is punishable by fine and imprisonment of six (6) months to five (5) years.
5. When pronouncing the penalty for criminal offences by this mother, the court may force the head to take certain measures to protect, preserve and improve the living environment. (KPPRK, 2019)

Damage to objects and equipment for environmental protection (Article 341)

1. Anyone who harms, destroys, removes or otherwise renders objects or equipment unusable for environmental protection, is sentenced to a fine or imprisonment of up to four (4) years.
2. If criminal acts by paragraph 1. Of this article is carried out out of carelessness, the head is punishable by fine or imprisonment of up to one (1) year.
3. If criminal offence by paragraph 1. Of this article results in air, water or land pollution on a large scale or large territory, the head is punishable by a fine and imprisonment of six (6) months to five (5) years.
4. If criminal acts from paragraph 2 of this article result in air, water or land pollution on a large scale or large territory, the head is punishable by fine or imprisonment of up to three (3) years.
5. If criminal acts by paragraph 1. And three. This article results in the complete or partial annihilation of the animal, plant world or large-scale pollution that is needed long or great expenses to sanitise, the head is punishable by a fine and imprisonment of one (1) to eight (8) years.
6. If criminal acts by paragraph 2. And four. Of this article results in the complete or partial annihilation of the animal, plant or large-scale pollution that is needed long or large expenses to sanitise, the head is punishable by a fine and imprisonment of six (6) months to five (5) years.
7. When pronouncing the penalty for criminal offences by this mother, the court may force the head to take certain measures to protect, preserve and improve the living environment. (KPPRK, 2019)

With criminal works of this chapter is protected not vetoum the human environment, but according to the concept co-ordinates the object of protection is the environment of nature in general, such as air, land, water and sea, climate, flora and fauna in their punishing influences. (Salihu.I, 2014, p. 503)

Law No. 03L-025 for environmental protection:

"environment" is the natural surroundings: air, land, water, climate, flora and fauna, in the entire interaction and cultural heritage as part of the surroundings which man has created;" environmental pollution" is the direct or indirect impact of polluting or energy matter on the environment, caused through human activities or through natural processes that have harmful consequences on environmental quality and human health. ;" Pollutant" is the legal or physical person who with his action or inaction causes environmental pollution. (Article 4)

The bodies responsible for managing environmental protection are:1. Government;2. Minister;3. Municipalities (Article 5)

1. Principle of sustainable development;2. Principle of environmental protection integration;3. Principles of gradual harmonisation with European Union standards;4. The principle of vigilance and prevention, to the point of reasonable action;5. The Prevention Principle applies through Strategic Environmental Assessment, Environmental Impact Assessment and Implementation of Integrated Pollution Prevention and Control;6. Lack of overall scientific knowledge cannot be reason for not undertaking preventive measures to prevent environmental risk and degradation, in possible or existing cases that have possible impact on the environment;7. The principle "polluter" pays;8. The "user pays" principle;9. Principle of subsidy responsibility;10. Principle of encouraging measures;11. Principle of protection of rights in court;12. Principle of public access to information;13. High-level defence principle;14. Principle of compliance with European Union law;15. Principle of precautions;16. The principle that environmental damage must be regulated at source;17. The principle of spending coverage. (article 6)

Environmental protection is regulated by: legal infrastructure; environmental protection documents; economic instruments;documents for assessing the impact on the environment; environmental monitoring instruments; management of environmental protection by legal or physical persons. (article - Instruments for environmental protection) (Law No.03/L-025, 2009)

Law No. 03/L-233 for the protection of nature;

Law No. 02/L-102 for noise protection etc.

Conclusion

Environmental crimes have always been a global challenge for society, even in past times, but those nowadays with industry modernization have taken a wide spread and present a major problem for state bodies to protect the environment.

The development of society, industry and population focus in major cities other than positive sides, raising standards, education, economic development, etc. has also brought many negative sides which for society have increasingly caused environmental pollution and the environment in which they live. Damage and destruction of the environment at all times is coming and growing, and this phenomenon has influenced various countries and states to discriminate in their criminal legislation actions that cause pollution, damage or environmental destruction measures to prevent and combat criminality against the environment.

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