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Opinions on Complying with the Right to a Healthy Environment

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OPINIONS ON COMPLYING WITH THE RIGHT TO A HEALTHY ENVIRONMENT

Oana GĂLĂȚEANU [1] [2]

Abstract

The environment is a common patrimony for all of us and world's states have both rights and obligations towards it, meant to guarantee the normal existing and evolution conditions regarding the quantity and quality of natural resources and of biodiversity, both for the present and future generations.

The right to a healthy environment is one of the fundamental rights recognised to the human being on national and international level. Starting from this reality, we present in this paper a series of aspects that prove that neither all individuals nor all states acknowledge the importance of the surrounding environment for a positive evolution of humanity and that, unfortunately, the actual society based on consumption does not always have positive effects on the environment factors and on the environment as a whole.

Keywords:

healthy environment, fundamental right, patrimony, people

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Galateanu, O., (2013). Opinions on Complying with the Right to a Healthy Environment,Jurnalul de studii juridice, Year VIII, No. 3-4, December 2013, pp: 119-127

Everybody's right to a healthy environment is one of the rights recognised to the human being on both national and international level. Actually, the international doctrine includes this right in the category of the human rights named "solidarity", along with the right to peace and the right to disarm. This category of "solidarity" rights was directly created on international plan, being included in the "third generation rights" sphere which appeared in 1970s.

In our opinion, the right to a healthy environment is a fundamental right of any person, as the lack of a healthy environment would lead to an existence polluted and not long lasting, for any of us. Besides, there are states where the right to a healthy environment is established as a fundamental right of the citizens in their constitutions and we could give as examples the Kingdom of Spain, the Republic of Bulgaria, Czech Republic, Slovakia, the Russian Federation, the Republic of Moldova, Romania (where in art. 35 paragraph (1) - (3) it is acknowledged the right to a healthy environment, being provided that the state acknowledges the right of any person to a healthy and ecologically balanced environment, that the state ensures the legislative framework for exercising this right and that physical and juridical persons have the responsibility to protect and improve the environment). In other states, this right, even though it is not expressly established in the fundamental law, it is acknowledged through special laws.

The acknowledgement of this right to every individual is normal – at world level – and the theoreticians state that, in an evolved and civilized society and in a state subject to the rule of law, humans cannot be deprived of this fundamental right.

The term of "healthy, unpolluted and balanced environment" has a natural dimension which refers to an environment which is adequate and beneficial both to physical and intellectual development of the human being. This notion has a human component as well, pointing to protecting the physical and moral integrity of the individual. This second dimension includes the right of every human being to prevent the pollution, to stop those actions that have as a consequence a harmful pollution, to redress the polluted environment and to repair the prejudice suffered as effect of the pollution.

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The collective part of the right to which we refer to imposes to the states the obligation to collaborate in order to prevent environment's pollution and protection at international and regional level. These are the reasons for which environment protection is performed mainly based on the internal law, for the environmental factors found under national sovereignty – respectively the atmosphere, soil, water, fauna, etc – and for the environment elements found outside the national jurisdiction, it is performed with complying with the international treaties in force, in the area of interstate cooperation. In certain situations, when environment global problems appear, like ozone layer narrowing, acid rains, climatic changes, etc., states' cooperation is necessary. Actually, it is required states' cooperation at international level also due to the increase and diversification of the pollution types, pollution sources and some pollutants increased degree of hazard (which can be dangerous substances, chemical substances, toxic waste and residues, radioactive pollution), which critically endangers the environment, affecting the entire humanity, in a smaller or higher degree.

At world level, the interest for a quality environment and for its protection was discussed in 1972 at the first World Conference of the United Nations on this theme, which took place in Stockholm. On this occasion, it was adopted the Declaration on environment. There were decided certain principles regarding the rights and obligations of the states regarding the protection of the environment and the modalities to develop cooperation in international plan in what concerns the environment.

This is the first document that expressly acknowledged the existence of the connection between environment protection and human rights, stating that "the human being has a 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. It has the supreme duty to protect and improve the environment for actual and future generations".

The environment is a common patrimony of all of us and the national states have both rights and obligations towards it, meant to

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guarantee the normal existence and evolution conditions regarding the quantity and quality of the natural resources and biodiversity, both for the actual and future generations.

Although there are national legal decisions, treaties and cooperation at international level in what concerns environment protection, there is the question of our degree of awareness, for both individuals and states, regarding the importance of environment and environment factors protection and regarding reducing its pollution level.

It seems that the ones who „invented" the protection of nature were the American citizens. This movement begin in 19th century due to philosophers like Ralph Waldo Emerson and Henry River School. In the year 1864 it was created the first area entered under natural protection, represented by the actual Yosemite National Park from California, and Yellowstone Park from Wyoming Federal state, formed in 1872, was the first national park from the world. At present, there is a number of 391 such protected natural areas in the United States of America, extended on a total area of 336000 Km² (having approximately the area of Germany).

The actual evidences highlight the reality that American citizens are constantly preoccupied by environment protection, as compared to previous years (for example, year 2004), when many people considered that domains like economy, social security, taxes, education or health had a higher importance. We mentioned above that there are evidences to this extent and we are going to present some real examples, as follows:

- In Austin, Texas State, it is foreseen that up to 2015 all houses will be energetically efficient, so that to be able to be supplied with renewable energy; up to year 2020, it is desired that the town (with 710000 inhabitants) will cover 30% from the energetic quantum with recyclable energies.
- Also, there is in Texas the largest windmill farm in the world, of 735 megawatts, which was possible due to the fact that a law regarding developing wind energy was adopted in 1999 by state's governor (Ge. W. Bush).
- In California State, there is a constant preoccupation in what concerns environment protection. This state was the first that introduced the catalysts for cars in 1970s. As compared to the level of energy consumption per person from the USA, which had increased with 50% in a period of 30 years (up to 2008), this level remained almost constant in California, due to the legal

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regulations regarding improving and increasing the efficiency of appliances and buildings at the end of the seventh decade. Those constantly improved norms were undertaken also by Russia and China, years later.

- In the north of San Francisco, the first ecological town in USA was build, where CO2 emissions represent only a tenth from the American average grade.
- In San Francisco, „California Academy of Sciences"- a live ecosystem was created in Golden Gate Park.
- In Silicon Valley, many businesspersons have been investing millions of dollars in companies that want to produce electricity with the aid of sun, wind and water.
- It is constantly increasing the number of students from Stanford and Berkeley Universities that enlist to seminars, semester wise, on themes on solar efficiency, atmosphere chemistry and ecosystems analysis.
- In 2006, it was decided in California that up to 2020, CO2emissions to be decreased with 25%.
- In the USA, in 2008, a number of over 700 mayors were preoccupied with reducing the gas emissions with greenhouse effect from their own towns.

It seems that the development of a state does not necessarily mean a preoccupation for environment protection. An example in this respect is represented by China that became the third economic force of the world, breaking the records at protection and export. Unfortunately, the preoccupation for consumption and competition down-throw determined a terrible development of industrialization which was done many times without taking into consideration humans and environment health, this fact being evident.

One of the examples is, we believe, represented by Wuhai industrial part (which translated means "black sea"), where there are very large reserves of coal hidden at a small depth beneath ground. This is a stark landscape, constituted by many factories, power plants and mines, a "forest" of furnaces that issue black, gray and yellow clouds into the air. An ash layer covers the earth on this large area of 4500 ha, and the evacuation gasses do not allow sun rays to breach them. The air that issues an acrid and unpleasant smell enters the lungs of the inhabitants and the children, due to the coal dust that enters into skin's pores, seem

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like "wrinkled ancients". The effects of the coal and its harmful carbon, sulphide, nitrogen, mercury dioxide emissions, are devastating.

The ones who felt the first the negative effects of the industrial pollution from Wuhai area were the inhabitants of Beishan region who sent a protest to the local authorities in 2006, due to the fact that the crops were affected, the animals, following to the depasturage from the area, gave birth to cubs that could not survive, and the population was suffering from chronic cough. Unfortunately, their protest had no positive effects for the population, the fight for "industrial development" and profit being more important for the authorities.

The researchers estimated that out of an urban population of 560 million inhabitants, only one percent breathes an air which is considered acceptable from the point of view of the European Union limit values. The World Bank data highlight that out of 30 cities with the highest air pollution degree, 20 are only in China. Out of 1,3 billion Chinese people, it seems that only 23% have access to drinking water.

The preoccupation for the free development of the heavy industry, with using old equipments, determined that in China, the energy consumption is three times more than the rest of the world, as reported to the economic achievements.

The American researchers performed many measurements and concluded that there are days when a quarter of the air contaminants from above Los Angeles comes from China, and the acid rains generated by sulphurous and ashes emissions from the Chinese energetic plants waters also regions of Japan and Korea.

In China, the number of patients with cancer and cardio-vascular affections increased considerably due to the fact that the pollution registers high values. The studies performed in 2008 showed that the common calculations of the World Bank and Environment and Health Protection Chinese Ministries have evidenced that approximately 650000 Chinese citizens die every year, before their time, following to air pollution effects and other 60000 die due to infested water. The World Health Organization estimated the number of "environment victims" at about 750.000 pee year.

The excessive industrialization with undeveloped equipments, the preoccupation for obtaining a higher profit, through means that are damaging to the environment, produce dramatic effects on it as a hole, to the extent that they determine air, water pollution, they transform the land

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into desert, acid rains, etc, and all above affect only negatively the life of humans, and they even shorten it.

It seems that in the last period, Beijing government has been preoccupied with the problems related to the environment and China's national politics wants to grant subventions in order to support the efforts of development and of introducing alternative energy resources, as it was expressed by the strategic analysis director for Trends Asia Ltd, Bill Dodson, in 2010.

Another example of the fact that not always a developed state is preoccupied with environment protection, and it actually does it, is Italy. In Naples, there are levied the highest sanitation taxes from all over Italy. The ones that hold monopoly on city's sanitation obtain very high profits from legal and illegal collecting and storage of trash, although they infected large areas from the surroundings, following to the illegal burn of the waste that pollute the ground water and the air with dioxin. There is no functional crematorium in Campania region, the garbage tanks are often too full, and the politicians, although they are aware of the situation, do not take any measures in order to change this state of things, and the ones that deal with this wastage are not penalised. It seems that nobody is interested in the harmful effects the ground water infestations with toxic waste have on human beings, effects like cancer, for example. A proof is the fact that in 2008, the garbage from the city amounted to mountains of a few meters. Both the authorities and politicians are aware of these abuses and harm brought to the environment and indirectly, to human beings; despite this, no measures are taken.

Following to the massive pollution caused by humans' activities, during the last years, important climatic changes and an accentuated global warming have been observed, which many specialists have been preoccupied with. The researches highlighted that in USA, from 1953 to 2005, an average of 40 tornadoes had occurred during January and February, while 368 tornadoes were recorded in 2008. „Global Warming Solutions Act", the first document from the USA that comprises solutions to the warming of the planet, has granted the force of the law to the fight against climatic changes.

The international scientific organizations' studies performed until 2007 and having as object the global warming process assert that the changes produced at the level of oceans and glaciers and polar calottes meltdown haven't stopped, but they are phenomena still in progress.

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According to the estimations, there will be an increase with 1 m of the sea level up to the year 2100. These climatic processes, as well as the morpho-sedimentary transformations will occur also in Black Sea area and they will lead to increasing the risk degree for the costal area of Romania.

As opposed to the developed states that, unfortunately, do not grant too much attention to respecting the nature, the environment and implicitly, the health of the citizens and of the future generations, we will give the example of Bissagos Archipelago inhabitants from the colony named Guinea-Bissau, that won its independence from Portugal in 1974. This archipelago is constituted from 80 Islands in front of Atlantic coast of Guinea-Bissau.

From economy point of view, this archipelago is almost without value, according to the statements of the governance from Bissau. Until 2008, on the territory of the above mentioned Islands, there was only one asphalt road and the motorized transport was reduced to an extremely small number of cars. The capital island, named Bubaque, has less then 3000 inhabitants and few shops.

The true richness of these islands is represented by a still unspoiled nature, a remarkable fact in this "era of global pollution and species' extinction". The archipelago was declared a reservation of biosphere by UNESCO in 1996, and in 2008 this international forum had as purpose to rate Bissagos Islands as cultural and natural world patrimony, here existing numerous spectacular species of birds, fish, animals, turtles and vegetation.

Within the archipelago, the diversity from the nature could be kept in its entire beauty due to the inhabitants that understood and did not want to exploit the environment, but to protect it, not requiring more than what it was strictly necessary. The inhabitants of this archipelago consider the nature as alive and that the soul within each thing must be understood as a general vital force that gives and requires respect. The island inhabitants believe that they have the obligation to understand these norms and not to destroy the nature, this being the only way to prevent all bad things that might happen. They consider that there should be a reciprocal protection between them and the natural environment.

The ecologist experts advocate that the best way to protect the human being and the environment is democracy; that the support does not come from harsher laws, or from larger factories, or from better technologies.

Galateanu, O., (2013). Opinions on Complying with the Right to a Healthy Environment,Jurnalul de studii juridice, Year VIII, No. 3-4, December 2013, pp: 119-127

In our opinion, in order to be able to benefit from a healthy environment, it is required that every one of us acknowledges that we must respect the environment in which we live in, that we cannot dissociate from it and that we cannot set aside the extremely harmful effects which we can provoke to the environment factors in our run after higher profits obtained from the activities which we develop. It is absolutely necessary to be aware of the reality that by destroying the environment, we harm ourselves and indirectly, the persons dear to us, and that we deprive ourselves of this fundamental right to have a healthy existence, in a healthy environment. A diseased environment will determine also a diseased human society.

We believe that the experts mentioned above had in view just these concepts that all people must have and that when speaking about "democracy", we believe they had in view just that fact that people should respect and protect the environment, which is our treasure, freely and not limited by miscellaneous legal decisions.

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