

ASPECTS REGARDING LEGAL PROTECTION OF SOIL RESOURCES

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Abstract

Along with specialty items used for the development and implementation of sustainable development, protection and conservation of the environment, legal protection component of soil resources play an essential role. Legal and institutional framework provides a much protection of soil resources. Soil is the thin layer of organic and inorganic materials that covers the Earth's rocky surface. A soil pollutant is any factor which deteriorates the quality, texture and mineral content of the soil or which disturbs the biological balance of the organisms in the soil. Pollution in soil has adverse effect on plant growth.

Violations of laws on the legal protection of soil attract imposition of legal liability of three forms: administrative, civil and criminal. System of penalties for soil protection is provided by a series of laws, government decisions, government emergency ordinances and ministerial orders.

Keywords: soil, protection, law

1. INTRODUCTION

Soils have six basic functions, three of them for ecological domain and the other three in the industrial, socio - economic and cultural domains. The basic functions are: the production of biomass, acting as a filter and buffer, serve as a gene – bank and protective medium for flora and fauna, providing ground for the erection of houses, industrial area, roads, leisure facilities, waste – disposal, etc, providing resources of numerous raw materials such as clays, sands, gravels, minerals, coal, oil, etc.

Main soil degradation processes are represented by erosion, degradation of organic matter, contamination, salinisation, and compaction, soil biodiversity loss, removing land from agricultural system, landslides and floods. Soil is a very precious natural resource, representing a reservoir of minerals, organic matter, water and energy and primary means of production in agriculture and forestry

The concept of degraded lands is given by section 48 of the Annex to the Law. 46/2008 - Forestry Code, as amended and supplemented, being considered as such “Land under the influence of erosion, pollution or destructive action of anthropogenic factors have permanently lost agricultural production capacity, but can be arranged through afforestation”.

2. MATERIAL AND METHOD

The main acts of legislation analyzed were Government Decision no. 1403/2007, Government Decision no. 1408/2007, Government Decision no. 918/2010, Government Emergency Ordinance no. 195/2005, Law no. 18/1991, Law no. 137/1995 and Law no. 46/2008.

We identified the main aspect of legal protection of soil resources in accordance with the latest acts of legislation. We analyzed a series of laws, government decisions, government emergency ordinances and ministerial orders. The research design was structured in three parts: institutional framework, legal regime and regime penalties.

3. RESULTS AND DISCUSSIONS

Institutional framework

Appearance of the first environmental institutions is closely related to the development of concepts and concerns to protection and conservation of nature. Environmental policy is increasingly present

more in all countries as a factor in renewal and diversification of public institutions, ensuring the defense of general interest common to all societies.

The institutional expertise in developing and implementing legislation on soil protection is mainly represented by the following institutions:

- Ministry of Environment and Forests
- Ministry of Agriculture and Rural Development
- National Environmental Protection Agency
- National Environmental Guard
- National Research - Development Institute for Soil Science, Agrochemistry and Environmental Protection

National Environmental Protection Agency is an institution specialized of central public administration, subordinated to the Ministry of Environment and Forests, which has skills to implement policies and environmental legislation, conferred on the Government Decision no. 918 of 30 August 2010 on the reorganization and functioning of the National Environmental Protection Agency and public institutions subordinated to it.

In the field of soil and subsoil competent authority for environmental protection work is to implement the law on the protection, conservation, development and rational use of soil, subsoil and terrestrial ecosystems.

Legal regime

To achieve effective legal protection of soil resources, legal and institutional framework must establish safeguards and an appropriate framework for authorizing public institutions or private activities that have significant negative environmental impact.

In this regard, the Environmental Protection Law no. 137/1995 expressly provided "the right of everyone to a healthy environment" stipulating a series of guarantees to meet this goal:

- access to information on environmental quality;
- right of association in organizations defending environmental quality;
- right to consultation in decision-making regarding policy development and environmental standards legislation;
- release agreement, permits and environmental authorization;
- entitled to compensation for damage suffered.

Article provided by statute. 49. the Framework Law on Environmental Protection no. 137/1995, the central authority for environmental protection, in consultation with the competent ministries, determine:

- soil quality monitoring system for understanding the current state of soil and its trends;
- regulations for protection of soil quality, underground, terrestrial ecosystems and biodiversity;
- authorization procedure for environmental issues included in landscaping plans, soil erosion, drilling and geological and hydrogeological studies and mineral extraction activities;
- regulations regarding the restoration of the environment in areas where the soil, subsoil and terrestrial ecosystems have been affected by natural phenomena or activities with negative environmental impact.

Under the new Forest Code no. 46/2008, the categories of degraded land are:

- land with very strong surface erosion and excessive;
- land with erosion depth - ravines, torrents;
- land affected by active landslides, collapse, collapses and mud leakage;
- sandy soils exposed to erosion by wind or water;

- land with clumps of gravel, boulders, debris, rocks and alluvial deposits of rain;
- land with permanent excess moisture;
- highly acidic or salty land;
- land contaminated with chemicals, oil or noxious;
- land filled with mining waste dumps, industrial waste or household
- unproductive land, if they are not as natural habitats;
- mobile sand land, requiring afforestation works to fix them.

Degraded land under Law no. 46/2008, as amended and supplemented, can be improved through extensive afforestation, to protect soil, water balances recovery and improved environmental conditions (Law no. 100/2010 on afforestation for degraded land). Degraded lands, suitable for afforestation, improving perimeter established, are included in the national forest fund within 30 days after their transmission to the National Forestry Agency – ROMSILVA. Grazing on degraded lands improving by afforestation is prohibited.

According O.U.G no. 68/2007 approved by Law no. 19/2008 as amended and supplemented, on environmental liability with regard to the prevention and remedying of environmental damage, the damage to land means any land contamination, which is a significant risk to human health is adversely affected as a result of the introduction directly or indirectly, of substances, preparations, organisms or microorganisms in the soil or subsoil.

According to the "Methodology for the implementation of environmental impact assessment for public and private projects" in accordance with Ministerial Order no. 135/2010, soil and subsoil protection consists in eliminating sources of pollutants to soil, subsoil and groundwater, and by implementation of adequate facilities for soil and subsoil protection. Remedying of land damage means the following aspects:

- mobile sand land, requiring afforestation works to fix them;
- take the necessary measures to ensure, at least, eliminate, control, containment or reduction of pollutants that contaminated soil, taking account of current or future use, when approved injury no longer poses any significant risk for negative impact on human health;
- presence of such risks is assessed through risk assessment procedures, taking into account the characteristics and usage of soil, type and concentration of substances, preparations, organisms or microorganisms dangerous degree of risk they pose the possibility of leakage;
- land use category shall be determined by regulations concerning land use and other relevant regulations in force at the time of soil damage.

Government Emergency Ordinance no. 195/2005 on environmental protection, establish a general obligation for all landowners that protect the soil, subsoil and terrestrial ecosystems to be considering permanently by them through appropriate exploitation, conservation, organization and planning.

The legal framework for self cleaning, repair and reconstruction of ecological zones in the soil, subsoil and terrestrial ecosystems have been affected is provided by Government Decision no. 1403 of 2007. The recovery of the geological environment is to remove sources of contamination from the soil, in isolation and decontamination of contaminated areas, and excluding the possibility of limiting the spread of pollutants in the geological environment and achieving normal values for concentrations of pollutants.

Regime penalties

Violations of laws on the legal protection of soil attract imposition of legal liability of three forms: administrative, civil and criminal. System of penalties for soil protection is provided by a series of laws: Law for Environmental Protection no. 137/1995, Government Emergency Ordinance no. 195/2005 on environmental protection, Government Decision no. 1403 / 2007, Government

Decision no. 1408/2007, Land Law no. 18/1991 with subsequent amendments and completions, etc. Finding contraventions and penalties shall be made by the competent institutions included National Environmental Guard or RNP.

4. CONCLUSIONS

Legal protection of soil is an essential component for achieving sustainable environmental development. Socio-economic development requires continuous updating and improvement of permanent soil protection regulations.

Monitoring of soil resources is attributing of the competent authority for environmental protection.

5. REFERENCES

Government Decision no. 1403/2007 on the restoration of the soil, subsoil and terrestrial ecosystems have been affected.

Government Decision no. 1408/2007 for methods of investigation and evaluation of soil and subsoil pollution.

Government Decision no. 445/2009 on assessing the impact of public and private projects on the environment.

Government Decision no. 918/2010 on the reorganization and functioning of the National Environmental Protection Agency.

Government Emergency Ordinance no. 195/2005 on environmental protection.

Government Emergency Ordinance no. 68/2007 approved by Law no. 19/2008 as amended and supplemented, on environmental liability with regard to the prevention and remedying of environmental damage.

Law of land no. 18/1991 with subsequent amendments and completions.

Law of environmental protection no. 137/1995.

Law no. 46/2008 - Forestry Code, as amended and supplemented.

Law on afforestation of degraded lands no. 100/2010.

Ministerial Order no. 135/2010 regarding the methodology for the implementation of environmental impact assessment for public and private projects.