

THE EXTENT OF THE RESEARCH ON THE ECONOMIC AND FINANCIAL INSTRUMENTS OF ENVIRONMENTAL PROTECTION IN THE ROMANIAN DOCTRINE

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Abstract

The reasoning that led us to consult the vision of the Romanian doctrine on the economic and financial instruments for environmental protection is determined by the need to know, through it, the European legal framework in the field. However, in the age of globalisation, the unification of policies, in particular those relating to environmental protection, are becoming indispensable in conditions and realities in which pollution knows no borders. For the Republic of Moldova, the unification of these policies, initially at the European level, is not only a necessity but even a condition that stands in the way of realizing the aspirations of European integration. In these circumstances, the theoretical and practical importance of the proposed research becomes even more obvious every time we remind of the political vector of European integration of our country, the current requirements of aligning the national legislation with the provisions of the European Union directives and of ensuring sustainable development of the country by promoting the green economy.

We are convinced that the result of the planned research will show its practical usefulness through the immediate impact on the quality of the regulations in the field of environmental protection, but certainly also the economic one, once it will be based on the model of the Romanian legislation adopted long before on that segment, experienced and connected to all the current needs.

Taking into account the fact that the problem of environmental protection within the economic activity, exercised specifically through legal-financial instruments, does not find its reflection in the scientific works in the country, we consider that the research on this subject in comparison becomes quite opportune and welcome, forecasts a positive and immediate impact on the social-economic development plan of the country, of the science of law in general, but also environmental law in particular.

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1. General considerations regarding the degree of a scientific approach to economic and financial instruments for environmental protection

The natural disaster in which mankind has been found for several decades now seems to not have an end to them, just as the activities of any kind that man carries out in the rush for comfort, the selfishness manifested in front of future generations, the waste, the excessive and irrational consumption of goods and services, the pretended concern for the deplorable state of the environment covered by the stakes of his capacity for continuous self-regeneration, to which is added ignorance and incognizance. The warnings of nature manifested by the catastrophes of proportions, the suffocations to which man is permanently exposed due to the degraded state of the environment, it seems that they no longer have an awareness effect, nay, because of the fit, make him more immune and unyielding, determined to find new means of defence and survival.

In these conditions, the mechanisms for repressing human conduct that is dangerous to the environment have worked relatively effectively until recently, today, many of them have become ineffective, which leads us to resort to other strategies, tactics and instruments of environmental protection.

Because economic activities have always left the deepest sequelae on the human ecosystem, we consider it reasonable to start by looking for some innovative instruments of environmental protection that will be applied within the economic activity or even from the moment of its planning, which will also influence on the main beneficiary of its result - the consumer - the largest generator of the waste and negative influences on the environment.

We refer to the legal and financial instruments of environmental protection with predominant application in the context of entrepreneurial activity and not only, in the context of all activities of an economic nature. Although in the literature, the main environmental protection instruments are classified into legal instruments; economic instruments; financial-fiscal instruments; informational instruments, in this paper, we have decided to resort to the combined research of financial instruments for environmental protection applicable to economic activities with impact, supported by legal instruments.

However, we believe that it is not possible to identify new, more effective and inspired environmental protection instruments without studying in detail the existing ones, which requires their multidimensional research in terms of doctrine, legislative and applicative, both at the national and international level.

In general, all international research that has been imposed on economic and financial instruments for environmental protection and their critical role in the process of sustainable development has as its genesis the United Nations Conference on Environment and Development in Rio de Janeiro (June 1992), and in particular, the interpretation and implementation of Principle 16 of the Rio

Declaration, which states that: 'National authorities should endeavour to promote the internalisation of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the costs of pollution while respecting the public interest and without distorting international trade and investment'.

These being specified, in the text that follows we will be concerned with the analysis of the scientific research that has emerged over time in the international doctrine, especially the doctrine of specialized Romanian that addresses the subject related to the functionality of the economic and financial instruments of environmental protection applied within the economic development of the state.

2. The degree of the approach of financial instruments for environmental protection in scientific-didactic materials published in Romania

Many times, the Moldovan doctrine, when initiating the research of one subject or another, resorts to the comparison of Romanian regulations or doctrinal opinion, taking into account aspirations, regulatory traditions and common norms in the field of law. The same thing we intend to do in our study, where we have a great need to know the degree of research on the issue of economic and financial measures of environmental protection in the specialized Romanian literature.

In this respect, we identify that a considerable contribution to the development of the Romanian doctrinal space on the segment of research of economic and financial instruments for environmental protection belongs to the great and distinguished University Professor, Academician *Mircea Duțu*.

Among his first works in the content in which he dedicates special chapters to the field of economic and financial instruments for environmental protection is the one from 1998. It is Chapter III of that book, entitled 'Economic and fiscal levers for environmental protection' in which it deals in a particular way with economic and fiscal incentive measures, price policy in favour of environmental conservation, detaxations and subsidies, pollution exchanges, environmental funds and other innovative categories of instruments of the field concerned (Duțu, 1998, pp. 124-135).

Another important work (Treaty of Environmental Law) in which he continues to examine the field of economic and fiscal instruments for environmental protection, is the one from 2007, placing here the emphasis on the reality in which "national laws and the practice of different states, as well as international regulations, have experienced and applied a series of economic and fiscal levers, such as taxes for emissions, or certain products, subsidies, specialised funds, negotiable emission allowances, the Eco-label, etc., intended to change the behaviour of physical and legal persons towards the environment' (p. 437).

With some additions and developments in the researched field, the author also imposes himself in his next work (Environmental Law, edition 3), in which he refers with great enthusiasm to the specifics of eco-labelling, considering that “such a method requires manufacturers to examine the entire life cycle of the product (production, distribution, use, disposal) to prevent environmental degradation at all stages and concerning all sectors: air, water, soil” (Duțu, 2010, p. 216).

In a more recent work of the envisaged author, environmental financial instruments are brought to the category of mechanisms for achieving environmental liability regarding the prevention and remedying of environmental damage. The main argument of this consideration is that at the Union-European level, the forms of financial collateral, including for insolvency cases, and the measures for the development of the offer of financial instruments on environmental liability are foreseen and defined, allowing operators to use them in case of guaranteeing the obligations of the special harm prevention regime (Duțu, 2015, p. 176).

A fairly significant value in the field of environmental protection through legal and financial mechanisms is also held by the works of the great Romanian doctrinaire *Ernest Lupan*, who in 1996, in a work of his reign, emphasizes that “the centralized establishment of a price for the environment (that is, based on hypothetical considerations, which has nothing to do with economic self-regulation) does not concern only those who pollute, but also those who suffer from environmental pollution, because the costs of removing the consequences of pollution, in general expenditure on activities to overcome environmental pollution, are usually supported by consumers” (2007, p. 187).

In the content of a cherished work of his own, the author strongly supports the idea that the link between economic policy and environmental protection becomes even more linked, closer, based on an international co-interest. They cannot express only abstract theoretical relationships, but necessarily concern concrete, objectively existing practical relationships (Lupan, 2009, p.24).

We bring appreciation for the interest shown in researching the field of economic, financial and fiscal instruments for environmental protection, to the renowned author *Daniela Marinescu*, who dedicated a special compartment to that segment, entitled “Aspects of economic and financial policy in the field of environmental protection”. Here the author notes that taxes are used to penalize products or activities that harm the environment. The imposition of taxes is proportionate to the degree of pollution it governs; in this case, the products made will have these taxes included in the costs (Marinescu, 2008, p. 112).

However, the greatest contribution to the development of economic and financial mechanisms of environmental protection, throughout the Romanian space, we consider that the well-known University Professor, *Vladimir Rojanschi*, has. We say this because he devotes an entire work to the field of

environmental protection through economic mechanisms (Economic approaches to environmental protection). Here the author presents in detail aspects such as the economic component in global politics; assessments of environmental costs; the national system of accounts and the environment; economic and ecological aspects in different sectors of activity; waste management; the environmental fund and other issues tangent with the researched field (Rojanschi, Bran, Diaconu & Florian, 2003, p. 230).

Another imposing work on the segment of examination of economic instruments for environmental protection, the author dedicates it to researching the elements of economics and environmental management, where it is required by the relevant study on the economic evaluation of environmental goods and services; the environmental conditionality of the economic decision; environmental labels and declarations; environmental performance assessment; life cycle assessment of goods and other important areas (Rojanschi, Bran, Diaconu & Florian, 2004, p. 671).

The following work of his work enjoys a lot of value and appreciation, entitled: integrated management systems for economic agents, in which they are concerned with studying a wide range of environmental quality indicators, continues to expose themselves to the peculiarities of the evaluation of the life cycle of the product, on labels and environmental declaration, but also to the procedures for assessing the environmental performance (Rojanski, Duduman & Florian, 2007, p. 410).

With various approaches to the structure of payment instruments that, moreover, can be widely used and the case of making payments for environmental uses or guaranteeing for possible damages to the environment, the renowned author *Rodica Diana Apan* is also expressing through her appreciated works (2017, pp. 96-142).

The efforts of the author *Mirela Gorunescu* in addressing the issue of the instruments, called by her economic and fiscal mechanisms for environmental protection, cannot be easily overlooked either. About these, the author writes in the content of the paper “Crimes against the environment”, pointing out that the instruments of this kind available to those involved in environmental protection are: eco-taxes, price policy, detaxations and subsidies, consignment systems, pollution exchanges and the green label (Gorunescu, 2011, p. 57).

3. Research of economic and financial instruments for environmental protection within the doctoral studies carried out in the Romanian doctrinal space

Valuable contributions to the Romanian doctrinal space are also made on the researched topic by the renowned researcher *Constantin Dragomir*, who in his doctoral thesis described in detail the peculiarity and essence of economic instruments such as ecological procurement; environmental taxes; the

Community emissions trading scheme; funds for the environment, as well as the aspect of supporting the improvement of environmental performance in economic organisations. Ensuring the sustainability of the knowledge economy must be underpinned by sustainable consumption and production, by the bioeconomy.

The basic idea put forward by the author in the context of economic measures for environmental protection, which we undoubtedly support, is that “Ensuring the sustainability of the knowledge economy must be based on sustainable consumption and production, by the bioeconomy” (Dragomir, 2007, p. 17).

An ample and meaningful analysis of the concept of sustainable development, a phenomenon that completely encompasses the economic and financial measures of environmental protection, is carried out in 2018 by the author *Cojocaru Diana* in her doctoral thesis (2018, p. 5). In particular, the study that reflects the different approaches to the concept of sustainable development by developed and developing countries draws our attention.

The author also reveals some truths that can be found in other works in the field (Du Plessis, 2002, p. 22) with which we fully agree and which confirm our assertion that legal-economic instruments for environmental protection have less effectiveness in developed countries and greater efficiency in developing countries, because:

- there are high levels of inequity in developing countries, many of which promote a dual economy characterised by a wealthy elite and the average population living in poverty;
- developing countries consume far fewer resources and release far fewer greenhouse gases into the environment compared to developed countries.

From here we also discover the paradox according to which in developing countries some economic and financial measures for environmental protection are more effective than in developed countries, with a rich population, while the economic activities of the last, hurt higher the environment. For example, some measures such as the integration of environmental protection costs into the price of the product, environmental taxes, excise duties, etc. do not have the effect of repressing and changing the behaviour of the rich.

Also, with extensive research on the financial instruments for environmental protection comes the author *Iuga Anca*, the finality of which presents a wide range of new instruments such as:

- stimulating innovation and investment in human, social and environmental capital;
- ensuring adequate financial support at the local, national and European level;

- providing ASSISTANCE and advice to SMEs and micro-enterprises through European networks and centres of excellence empowered to develop knowledge, skills and markets through financial support in the field of training;
- providing effective and specific structural funds (green microfinance) (2017, p. 75).

Approaches aimed at the general aspect of applying the economic and financial measures for environmental protection, we also identify in the work of the author *Minea Elena-Maria*, and in concrete terms, approaches that highlight the reality of the relations between the economy and the environment, trying to show the need to consolidate a distinct compartment at the intersection between the economic field and that of the legal protection of the environment.

In the same paper, we find an ample analysis of the link between production and consumption, in the context of establishing their limits by applying the economic and financial instruments of environmental protection. Moreover, the work in question, although indicated for the level of didactic training of the students within the faculties of law, treats with great seriousness the imminence of the danger of economic activities for the environmental components, coming up with forecasts and recommendations for a financial nature to achieve the control of the economic progress (Minea, 2008, p. 13).

4. General opinion on the difference between the level of research of environmental protection instruments by the Romanian and Moldovan doctrine

Although in a smaller number than that of the Romanian doctrinaires, we express gratitude to the authors of the Republic of Moldova who has completely dedicated themselves to researching the issue of legal-financial instruments for environmental protection in the content of *scientific papers* (doctoral theses, scientific articles, monographs), offering us precious materials that inspire us and determine us to sacrifice in the common mission that concerns us. Among the distinguished authors, it is worth mentioning Professor Arcadie Capcelea, Dr Pavel Zamfir, Igor Trofimov, Grigore Ardelean, Alina Rotaru, Gh. Duca, V. Vlaicu, A. Cretu, R. Iordanov, G. Mărgineanu and others dedicate their time every day to researching the field of environmental protection in the Republic of Moldova.

Therefore, the comparative study of the legal instruments of environmental protection allows us to understand the current level of regulation and research of the economic and financial instruments for environmental protection and, in particular, at the national level (the situation of the Republic of Moldova compared to that of Romania) to find that:

- the period up to 1998 denotes the superficial concern of our young state for the protection of the environmental components through economic and

financial measures (they almost did not even exist), but also towards the idea of promoting an environmentally friendly economic policy;

- even in 2010 the economic instruments for protecting the environment against the negative impact coming from the economic activities in the Republic of Moldova remain to be quite limited including only the environmental taxes for the use of natural resources, the pollution taxes and the fines for non-compliance with the legislation in the field;

- in the last two years, through the economic and financial instruments existing in the Republic of Moldova, it has been possible to obtain an impressive fund for the level of development of our country, but the paradox is that the accumulated financial resources have not been spent for their natural purpose for financing the activities of prevention and restoration of the affected environmental components through activities of an economic nature;

- the doctrinal framework for interpreting the essence of economic and financial instruments for environmental protection is a poorly developed one, with very few doctoral papers that only tangentially address the field in question and none that directly investigate that category of instruments intended for environmental protection. As for the spectrum of works with a narrower area of research, such as scientific articles in journals, conference materials, and monographic papers, which address exclusively the issue of financial instruments for environmental protection, they are completely missing.

Conclusion

We claim that the Romanian specialty doctrine is characterized by an obvious preponderance in the research material of economic instruments for environmental protection compared to the doctrine of the Republic of Moldova, which is only at the beginning of its journey in this area.

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