



ORIGINAL PAPER

The right to a healthy environment in international and EU states legislation

Adrian Barbu Ilie *

Abstract

In Western society, the concepts of human rights and capitalism both emerged from the European Enlightenment. Little by little, those right arose and gain recognition; but as the society developed so did its needs and it became more and more complex and the rights gained a tendency to lose their substance as they started to protect more abstract values. To be enforceable, rights must be embedded in fundamental legal documents, but in some cases this it's not enough to secure its acceptance, respect and recognition. A right like the one to a healthy environment needs strict procedural aspects that includes the right to information, the right to participate and the right to effective remedies. Even then, this is not enough because it has to be enforced and respected not only at national legislation level, but even at European and international ones.

Keywords: *human right to a healthy environment, international treaties, the European Convention on Human Rights and Fundamental Freedoms, basic human rights, social, economic and political policies*

* Lecturer, PhD, University of Craiova, Faculty of Law, Environmental and Civil law specialization, Phone: 0040723201603, Email: adi_ilie@yahoo.com

The right to a Healthy Environment in International and EU states legislation

Introduction

In the last decades the changes that the environment sustained due to our action is by far bigger than we have done since mankind has appeared to this Earth. Because the evidence is undeniable scientists, jurists and people alike has raised their concerns regarding our future. New ways to protect the environment had to be found. But concrete actions are not enough, there has to be also legal provisions, laws, international treaties that will help enforce those actions. But this has to be done starting from a common denominator, something to focus and crystalize all this actions and legal provisions. So, the idea of a human right to a healthy environment has been born. But there has been a long way for an idea to a legal provision that is respected and enforced. There have been challenges to overcome mainly regarding the way we think. First, we have to establish what the nature of this right is. It is a fundamental human right or not? "All this fundamental rights are a step forward in achieving what is known as a "state of law" (Ticu, 2016: 87) and if we fail to recognise it as so there can't be a true state of law without it.

The right to a healthy environment has known the same evolution as all rights "of solidarity", it had to surpass the misconception of being too diffuse both as applicability, as well as content. Problem with a right to a healthy environment and all this rights "has to do rather with the abstract elements of them, because it conditions us and limits certain rights and tangible present benefits (e.g.: the intensive exploitation of certain resources for material profit, which subsidiary produces pollution) in opposition with other benefits possibly higher in a faraway future and not necessarily easily visible (the same operation performed reasonably and within certain limits brings less tangible economic benefits in the short term, but provides a more balanced and unpolluted environment)." (Ilie, 2016: 15). Once we understand that the benefits in the longer run are better than ones on a short term, there's no more problems in enforcing it. Although the idea seems simple, as we will see from its history and evolution, there has been a long time until this has been reflected in legislation.

Establishment of the right to a healthy environment in international law

The international recognition of this right has been underpinned by the Stockholm Declaration on the Human Environment (1972, June). In the first article it states that "man has a fundamental right to freedom, equality and satisfactory living conditions, in an environment whose quality allows him to live in dignity and well-being. He has a solemn duty to protect and improve the environment for present and future generations". Although there is no explicit provision on the right to a healthy environment, the idea was launched and in the coming years it will be consecrated.

Neither the Rio Declaration on Environment and Development, adopted by the United Nations for Environment and Development Conference (Rio de Janeiro, 3-14 June 1992), explicitly states the right to a healthy environment, the closest formulation being that of Principle 1: people "have the right to a healthy and productive life in harmony with nature." It is noteworthy that the relationship between nature (environment) and man begins, in order for the last one to have a healthy life. A step forward on procedural rights related to environmental protection and the right to a healthy environment is made by the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998. From its very name results the recognition of rights-guarantees regarding the right to a healthy environment,

the idea being that recognizing adequate environmental protection is essential to the well-being and exercise of fundamental human rights, including the right to life itself. The Johannesburg Declaration on Sustainable Development (2002), which refers to the commitment of "the representatives of the peoples of the world" to build "a balanced global society, connoisseur of the needs for the human dignity of all" (point 2) and expresses the hope that future generations will inherit a world free of indecency generated by poverty, environmental degradation and sustainable development patterns. The World Nature Charter (1982) may also be used as an argument for forming a unitary image of this right.

The first obligatory wording in an international treaty appears in the African Charter on Human and Peoples' Rights (1981), which provides in Art. 24 that: "all peoples have the right to a satisfactory and global environment conducive to their development". Another document of African origin, the African Convention on the Conservation of Nature and Natural Resources (Maputo, 2003) provides, in Art. III.1: "the right of all peoples to a satisfactory environment that favours their development", and art. XVI shows the attributes of this right: "disseminating information and public access to environmental information, public participation in decision-making that can have a significant impact on the environment, access to justice for environmental and natural resource issues."

The Additional Protocol to the American Convention on Human Rights (San Salvador, 17 November 1998) speaks of "the right to a sanitary environment: 1. Everyone has the right to live in a dwelling environment and to benefit from the essential collective equipment; 2. States Parties shall encourage the protection, preservation and improvement of the environment ", thus specifying two important elements, namely: the right belongs to any person and the state has the duty to protect the environment. The U.N. Convention on the Rights of the Child (20 November 1989) states that "States Parties recognize the right of the child to enjoy the best possible state and to receive medical and re-education services" (Article 24 (1)). Par. 2 of the same article stipulates that: "State Parties shall endeavour to ensure the full realization of the abovementioned right and, in particular, shall take appropriate measures to [...] c) fight against sickness and malnutrition in primary measures of health protection, thanks to easy-to-use technology and the provision of nutritious food, drinking water, taking into account the dangers and risks of pollution of the natural environment; ... e) ensuring that all groups of society, particularly parents and children, are informed of ... the benefits of environmental clean-up and accident prevention [...]". We can also recall Convention no. 169 from 27 June 1989 of the International Labor Organization for Indigenous Peoples of Independent States, which obliges the Contracting States to take special measures to safeguard the environment of these peoples (Article 4, paragraph 1). With regard to the recognition of this right in European constitutions, many of the countries of the European Union guarantee the right to a healthy environment in their fundamental laws, which they have often revised for this purpose (including Romania).

The right to a healthy environment in European Constitutions

In France, the Constitution also contains, beginning with March 2005, the Environmental Charter, adopted in 2004, which states: Everyone has the right to live in a balanced and health-friendly environment (Article 1); Each person has the duty to participate in the preservation and improvement of the environment (Article 2); Every person must, under the law, prevent any adverse effects on the environment or, in the worst case, limit their consequences (Article 3); Every person has to contribute to the

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repair of the damages he has brought to the environment, according to the law (art. 4). When possible damage can seriously and irreversibly affect the environment, public authorities will, in the spirit of the precautionary principle and in accordance with their duties, implement the risk assessment procedures and the adoption of the provisional and proportionate measures to prevent damage (Article 5); Public policies must promote sustainable development. To this end, they will harmonize the protection and enhancement of the environment with economic development and social progress (Article 6); Everyone has the right, under the conditions and limits of the law, to access environmental information held by public authorities and to participate in public decision-making that has an impact on the environment (Article 7); Education and training in the spirit of environmental protection must contribute to the exercise of the rights and the fulfillment of the duties regulated by this Charter (art.8); Research and innovation must make a contribution to preserving and enhancing the environment (Article 9); This Charter inspires the European and international actions of France (art.10).

It is obvious that there can be no comparison between two fundamental laws of different structure, such as the Constitution of Romania and France, because the Romanian one does not benefit from the incorporation of such a Charter into it, thus not being raised to constitutional norms. By making a strict comparison between the normative provisions, we can observe that these norms are almost all explicitly mentioned in the Romanian legislation on environmental protection (with the exception of Article 10, obviously), art. 35 paragraph 1 and par. 3 of the Romanian fundamental law having a direct equivalent in art. 1 and 2 of the Charter. Art. 35 para. 2 of our Constitution, establishing a general obligation of the state to provide the legal framework for the exercise of this right, is wider than Articles 3 to 9 of the Charter, provisions equivalent to those of the Charter of the Environment of France, but still found in other normative acts Such as GEO 195/2005 with subsequent modifications (environmental law), GEO 68/2007 on environmental liability and the National Strategy for Sustainable Development of Romania Horizons 2013-2020-2030. Undoubtedly, these provisions have a normative power lower than that of constitutional principles, but the advantage of the French Supreme Law derives from incorporating such a Charter into its content, a fact which is inexistent in Romania, which failed to coagulate the legal norms on environmental protection in a Environment Code and have such a Charter as part of the Fundamental Law. In Germany, the Constitution at art. 20a (1994) uses the notion of "natural foundations of life" and states that the state is obliged to protect them. This wording raises some questions about its content, being obvious that the protection of the social, cultural, built environment, etc., should be excluded, referring only to the natural environment or to the biosphere.

This is, by nature, more than just the sum of its components and this is where the problem resides, because the concept of a biosphere should be understood as an ensemble, and should not be reduced or reported only to its fundamental elements as if they did not interact, and would only produce effects individually, without affecting each other. If this article is systematically interpreted, in conjunction with Article 1 of the German Constitution (which establishes as the general direction of the Basic Law the protection of human dignity as the primordial foundation of political and constitutional order of the state), some doctrines have understood that formula strictly anthropocentric. References to "future generations" are likely to strengthen this interpretation (Steiger, 1998: 483), because only humans can consciously and directly ensure the protection of the biosphere. Nature, through our understanding and our senses, is devoid of consciousness, and cannot defend itself against external attacks, having a specific reaction to a "organism," rather,

that is, the degradation of the original functions in case of too incisive intervention, so that the people are the ones who have to judge which of the interests is preferable, its own, or that of the unaltered nature. Obviously, this leads us to resume the very sensitive discussion on short-term interests that may be contrary to long-term interests, economic profit premiums, and the latest balance and health of the environment. That is why this wording leaves the state authorities the task of reacting according to the needs of biosphere protection in concrete situations, thus choosing an anthropocentric orientation or, in some cases, adopting an "ecocentric" interpretation. Referring to "responsibility for future generations" only increases the complexity of the problem by adding them to the long list of items to be protected when referring to the biosphere.

Other interpretations of the notion of "natural foundations of life" refer to an original or primitive nature without human influences, but the reduction of the notion to the meaning of a primitive nature, without human intervention, does not correspond to the intent or function of this constitutional norm. Another possible interpretation of the notion would be the combination of all its elements: plants, insects, animals, water, air, climate, soil, rocks, atmosphere, but as we have already said, the biosphere is not solely the sum of these elements, it is an integrated whole. Incontestably, each element needs to be protected, but the goal is to keep the ensemble integrated, both at global, regional, national or local level.

Concluding, the notion of "natural foundations of life" must encompass all natural, biotic and abiotic conditions necessary for the preservation, evolution and reproduction of non-human life, in the diversity of flora, fauna and microorganisms, as well as vital functions and processes (Steiger, 1998: 486). And this protection must be done taking into account both short-term and long-term interests.

Article 23 of the Belgian Constitution includes the right to a healthy environment within the framework of the right to respect human dignity and provides: "Everyone has the right to live a life which is in accordance with human dignity, and in order to do so, any law, decree or regulation shall, in the light of the correlational obligations, guarantee the economic, social and cultural rights and determine the conditions for their exercise. Mainly: the right to work and the free choice of a professional activity (...); the right to social security, health protection and social, medical and legal assistance; the right to a decent home; the right to the protection of a healthy environment; the right to cultural and social advancement." The terms of the Belgian Constitution are therefore not very precise (Suetens, 1998: 494), laying down only a general duty of state diligence to ensure this right at the normative level, leaving this burden on the shoulders of the normative institutions, without having clear constitutional principles on which to rally and without being able to act concertedly. Also, unlike the Romanian Constitution where it is understood that environmental health must be complemented by an ecological balance, this expression and obligation is absent from the Belgian one.

Other European constitutions also refer to this right, more or less developed, for example, the Greek Constitution states: "The protection of the natural and cultural environment is an obligation for the state" (Article 24). The Constitution of the Netherlands also states that "Public authorities shall respect the living conditions of the country, as well as the protection and improvement of the environment" (Article 21). Lastly, the Spanish Constitution and the Portuguese Constitution provide, in Art. 45, respectively in Art. 66, that everyone has the right to enjoy an appropriate environment, but adds that every person has an obligation to protect the environment.

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Ensuring the right to a healthy environment through the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The Convention for the Protection of Human Rights and Fundamental Freedoms (ratified by Romania through Law no. 30/1994 (Off.G. no. 135, 31/05/1994) or the European Convention on Human Rights as it is known is the pivot around which all the fundamental rights of Europeans are built and defended. Given the date of adoption (Rome, 4 November 1950), environmental issues at that time were not an important concern in Europe and around the world, so there is no express reference to them. It was not until the early 1970s and before the first UN World Conference on Human Environment (Stockholm, 1972) that the idea of introducing provisions on the right to a healthy and undeveloped environment began to be put forward, with the Council of Europe proposing, in the Declaration adopted by the European Conference on Nature Conservation (1970), the drafting of an Additional Protocol to the Convention to guarantee this right. This proposal was resumed by Recommendation 720/1973 of the Parliamentary Assembly of the Council of Europe, still unsuccessful. The explanation for this failure comes from the novelty and massive implications that such an express provision, especially of economic and social nature, would have on the weight of its effective guarantee, so that many European states showed great reticence, reaching the situation in which, even today, this right is not expressly enshrined in the Convention or in its additional protocols. Although treaties and conventions from other parts of the world (the African Charter on Human and Peoples' Rights (1981) or the Additional Protocol to the American Convention on Human Rights (San Salvador, 17 November 1998)) provide for a human right to a healthy environment, Their context and their legal power in relation to the European Convention on Human Rights. In the latter, all rights defended are automatically guaranteed by the special mechanism contained in the document, and in African and South American terms this right is purely declarative.

The lack of an express provision in the Convention of this fundamental right has made it invoked through other rights, initially being the right to health and welfare deriving from the right of life, recognized by art. 2 of the Convention (Duțu, 2007: 288). The version adopted by the European Court of Human Rights (ECHR) is different, referring to art. 6.1 which ensures the right to a fair trial and art. 8.1 which recognizes the right of the individual to respect his / her private life, family and home. At present, ECHR jurisprudence has, in terms of guaranteeing the right to a healthy environment, three main elements: its inclusion in the guaranteed right under art. 8.1 of the Convention; the existence of a right to information on the quality and environmental problems and / or hazards; the right to a fair trial (Article 6.1 of the Convention).

The first case which was the basis for the protection of the right to a healthy environment through the extensive interpretation of art. 8.1 is the cause of Lopez-Ostra against Spain. The principle sentence of 9 December 1994 states: "It is self-evident that serious environmental damage may affect the welfare of a person and may deprive him of the right to enjoy a dwelling which secures him the exercise of the right to private and family life without endangering his health. " The Court therefore decided that, by polluting a sewage treatment plant near the applicants' homes, the national authorities had violated their right to a healthy environment, hence, implicit, the right to privacy, which was seen to imply a certain comfort and welfare without which the respect for the right to private life, family and home would be just fictitious, not effective. Other cases were also dealt with in terms of privacy interference and noise pollution caused by the operation of an

airport located in the vicinity of the plaintiffs, or other situations that might affect this right¹.

The same application of Article 8 of the Convention was invoked in *Guerra and others against Italy* (19 February 1998), in which it was pointed out that the harmful emissions of a chemical plant had a "direct incidence" on the right to private life, family and home. In its judgment in *McGinley and Egan v. The United Kingdom* of 9 June 1998 on the exposure of British soldiers to nuclear radiation, the Court included health protection in the scope of Art. 8, considering that the complaint is "a sufficiently close connection with their private and family life".

As regards the right to information on quality and environmental problems / hazards, the first important decision on this matter was in the case of *Guerra and others against Italy*. The Court considered that the State has a positive obligation to take measures to comply with the provisions of Art. 8.1 of the Convention, an obligation which it has not fulfilled by not informing the community of local authorities about the risks that may arise through the construction of a chemical plant. As in *McGinley and Egan*, the Court has held that when the State carries out dangerous activities that are likely to have "hidden hindsight" on people's health, such as nuclear experiences, as is the case in question, it has an obligation to carry out an "effective and accessible procedure" to make the necessary and useful information available to those concerned.

Some clarifications are necessary in connection with the exercise of the right to a fair trial, as provided by Art. 6 parag. 1 of the Convention. This article is applicable to any contestation which has a "patrimonial" character of the "civil rights and obligations (or a criminal prosecution)". Since the right to property is a "civil" right, it can involve the ECHR's intervention to affect the right to a fair trial for violating the right to a healthy environment, in order to obtain a "fair satisfaction" according to art. 50 of the Convention. In the case of *Gorraiz Lizarraga and Others v. Spain* (judgment of 27 April 2004), it was accepted that an environmental association acting on behalf of its members could be the victim of patrimonial damage and the applicants' complaint concerning the lifting of a dam considered to be grounded, bringing a precise and direct threat to personal property and their way of life, justifies the application of art. 6 of the Convention. Last but not least, it should be mentioned that the environmental liability, according to the Romanian legislation, is generally objective, independent of fault and exceptionally subjective. The problem is that all the cases concern the quantifiable damage to the patrimony of private individuals, which makes the environmental damage situation, as set out in OUG 68/2007, as it is limited defined in the text, to be more difficult to apply in front of the Court. There is an explicit specification in the text of the Emergency Ordinance stating that natural or legal persons under private law are not entitled to compensation as a consequence of the environmental damage or imminent threat of such damage, in these situations being applied the provisions of the common law.

The most famous case at the ECHR against the Romanian state was the case of *Vasile Gheorghe Tătar and Paul Tătar v. Romania*². By application No.67021/02 against Romania, the two nationals filed a complaint with the Court on 17 June 2000, pursuant to Art. 34 of the Convention, claiming that at the time of the facts, they (father and son) lived in Baia Mare, in a residential area near the gold mining belonging to "Aurul" Baia Mare SA, 100 m from the extraction plant and the Sasar tailings pond, and the technological process used by the company is a danger to their lives. In their support, they believed that the authorities had a passive attitude towards this danger, ignoring the requests they had made. Moreover, the situation worsened after the ecological accident of January 30, 2000,

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when, following the very abundant rainfall, the dam of the tailing pond yielded, overflowing 100,000 cubic meters of contaminated waters with sodium cyanide (about 100 tons of cyanide) that have spread over the fields and the local hydrographic system. Subsequently, a large quantity of polluted water was taken over by the Săsar River, Lăpuș then Someș and Tisa, crossed the border between Romania and Hungary, then in Yugoslavia, entering Romania again, to be later discharged into the Danube and then In the Black Sea through the Danube Delta.

As a result of this accident, Vasile Gheorghe Tătar notified several administrative authorities, each of the notified authorities responded that the activities of the company did not pose any danger to public health and that the technology is also widely used in other states. Also in 2000, the applicant filed criminal complaints against the members of the management of the plant, but the Prosecutor's Office attached to the Maramures Tribunal did not rule on the accident of 30 January 2000, on the ground that "the facts alleged by the first applicant did not constitute offenses under Romanian Criminal Code "and the Prosecutor's Office attached to the Cluj Court of Appeal detained "force majeure caused by the bad weather conditions "and issued a resolution not to initiate the criminal prosecution against the director of the company. Also, regarding the environmental permit, it was noted that on 18 December 2001 the National Agency for Mineral Resources issued an addendum to the initial license, modifying the name of the concession holder, which became SC "Transgold" SA, and the Ministry of Environment issued 3 environmental permits in favor of this last company.

The Court, by its judgment of 27 January 2009, held the following: "Regarding sodium cyanide and human health damage, the substance may be hazardous to health / environment. The Court has therefore found no reason to "question the reality of the second-applicant's suffering" - certified medically by certificates - and found that it is not disputed that sodium cyanide is a toxic substance, which may under certain circumstances endanger human health, nor the fact that there has been a high level of pollution in the vicinity of the applicants' homes as a result of the ecological accident in January 2000. Thus, the Court violated article 8 of the Convention, even if the applicants have failed to establish a sufficiently clear causal link between exposure to certain doses of sodium cyanide and the aggravation of asthma as long as there has been a serious and considerable risk to health and comfort of the applicants, which imposed on the State a positive obligation to take reasonable and appropriate measures to protect the rights of the persons concerned, respect for their private life and their sphere, and, in more general terms, the right to enjoy a healthy and protected environment". As regards environmental protection legislation in Romania, the Court found that the right to a healthy environment is present as a fundamental right in our Constitution, taken from the Law No. 137/1995 on Environmental Protection (environmental law in force at the time of the facts) and besides, it was also recognized in our legislation the precautionary principle that urges States to adopt as soon as possible effective and proportionate measures to prevent the risk of serious and irreversible damage to the environment in the absence of scientific or technical certainty (Ilie, 2017a: 36).

The Court concluded that the Romanian authorities had failed to fulfill their obligation to assess in advance and in a satisfactory manner the appropriate measures to protect the applicants' right to respect for their private life and their domicile and, by way of interpretation, the right to benefit and enjoy a healthy and protected environment.

Regarding the right to be informed about environmental issues, the Court found that public debates were held in November and December 1999, but without the

environmental impact studies being submitted to the participants and without answering them to the questions asked, even if the authorities had a positive obligation to inform stakeholders in the public debate about the environmental impact of industrial activity, especially since the national authorities did not make public the conclusions of the preliminary study of 1993, which was the basis for the company's environmental permit. In other words, this right to information must be based on a positive action of the state, which must explain the possible consequences and dangers of the activity in question. The simple presentation of data in the public debate, without being explained, especially since these data were incomplete, was considered by the Court to be unsatisfactory, so that there was no real public information in its view.

As a result, the Court found that Romania had failed to fulfil its obligation to guarantee the applicants' right to respect for their private and family life, within the meaning of Article 8 of the Convention, and, in summary, decided: Unanimously, that the provisions of Article 8 of the Convention have been violated; 2) Unanimously, a) that the respondent State must pay jointly to the claimants, within 3 months of the date on which the judgment becomes final, in accordance with Article 44 § 2 of the Convention, the sum of EUR 6,266 plus any sum which may be due by way of tax to them, for expenditure to be converted into the national currency of the respondent State at the exchange rate applicable on the date of payment; (B) that, from the expiry of that period and until payment is made, these amounts must be increased by simple interest at a rate equal to the marginal lending rate applied by the European Central Bank during that period and increased by 3 Percentage points. 3. Dismisses, by 5 votes to 2, the application for equitable reparation for the other heads of claim (Pulbere, 2011: 135).

The right to a healthy environment in Romanian law

In our legislation, before 1989 there was no such provision and it was recognized for the first time in Law no. 137/1995 on environmental protection. Several years later, it became a constitutional principle after Law revision of the Constitution of Romania (Official Gazette no. 669 / 22.09.2003). In the article 35 where is recognised this right, entitled *The right to a healthy environment*, there are provisions regarding the obligation that persons have to protect the natural environment and the obligations the state and state institutions have to provide laws and procedures in this matter and enforce them. The actual environmental law, Government Emergency Ordinance no. 195/2005, also protect this right, at article 5. The provisions of this article, beyond recognizing it, also gives certain guarantees for enforcing it, like: the access to environmental information, the right of persons to assembly in environmental organizations and to be consulted regarding environmental policies and developing plans, programs and infrastructure, the right to appeal competent judicial authorities and courts if their right to a healthy environment is violated and the right to be compensated for the damage caused by those who, through their actions, polluted the environment. As we can see, "the provisions regarding the right to a healthy environment in the Romanian Constitution are on par with every European constitution and in most cases, even better except for Environmental Charter from French Constitution, that "are more complete and more clearly prove." than those from Romanian one." (Diaconu, 2006: 98, Thieffry, 1998: 28).

Conclusions

It's clear that this wave of new "solidarity rights" has changed or mentality regarding the way we have to interpret and use our subjective rights. This kind of new

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rights have an apparent abstract content making them harder to apply unless we change our mentality and understand that there are greater things to respect and protect than just concrete short term rights. Most states had understood this and started to enforce this law by providing general constitutional guarantees, as well as specific procedural guarantees (Deleanu, 2003: 101). Secondly, the population was given rights to participate in process decisions regarding environment. This kind of "consultation and participation in decision making is not specific just to environmental law, but in other law branches as well, for example in urbanism law" (Bischin, 2016: 125, Ilie, 2017b: 70-72). Last but not the least, environmental laws provide clear procedures (Ilie, 2010: 117-118) regarding certain economic activities (e.g. mining operations) that pose a potential impact to the environment that has to be respected in order to ensure a clean and healthy environment as a desiderate for a sustainable development.

¹ *Cause Powell. Rainer vs. UK* (1990). Selejan-Guțan, B. (2004). *Protecția europeană a drepturilor omului (European Protection of human rights)*, Bucharest: All Beck. See also: *Buckley vs. UK*, Decision from 25.09.1996, par.74 și par.77; *Coster vs. UK* (nr. 24876/94); *Chapman vs. UK* (nr. 27238/95); *S.Barba vs. UK* (nr. 24882/94); *Lee vs. UK* (nr.c 25289/94) și *Jane Smith vs. UK* (nr. 25154/94); *Zvolsky și Zvolská vs. Cech Republic*, decision from November 12, 2002; *Papastavrou and others vs. Greece*, decision from aprilie 10, 2003; *Hattpe and others vs. UK*, decision from October 2, 2001; *Grand Chamber vs. UK*, decision from July 2, 2003; *Katsoulis and others vs. Greece*, decision from July 8, 2004; *Zazanis and others vs. Greece*, decision from, November 18, 2004.

² For a more detailed analysis of the case see also Dușcă, A. I. (2014). *Dreptul mediului, (Environmental law, 2nd Edition, revised and supplemented)*, Bucharest: Universul Juridic, 55-59.

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