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THE OBLIGATION OF THE ENTREPRENEUR TO PROTECT THE ENVIRONMENT



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SUMMARY

Protecting the environment is one of the most current topics of debate around the world. From the impact people have through all their actions, to how the planet can be protected, discussions about the environment are of great interest to everyone. If you have a business and you want to have as little impact on nature as possible, you need to be very well informed both about how you act and about the existing legislation in the Republic of Moldova. An environmentally friendly business is one that uses resources efficiently, trying to minimize the impact of environmental risks. Adapting companies to have more sustainable businesses starts with awareness of the issues and understanding the importance of these changes.

Key-words: *entrepreneur, business, obligation, environment, responsibility, liability.*

Topic actuality

If you have a business and you want to have as little impact on nature as possible, you need to be very well informed about how you act, as well as existing legislation. Protecting the environment is one of the most current topics of debate around the world. From the impact that people have through all their actions to the way the planet can be protected, discussions about the environment are of great interest to anyone. In the times we live it has become increasingly important that everyone does everything possible to protect the planet and the environment in which people live, both for the present and future generations.

Goals and tasks of research

The *goal* of the research is to conduct a multi-faceted research on the obligation of the en-

OBLIGAȚIA ANTREPRENORULUI DE A PROTEJA MEDIUL

SUMAR

Protejarea mediului înconjurător este unul dintre cele mai actuale subiecte de dezbatere în toată lumea. De la impactul pe care oamenii îl au prin toate acțiunile lor, până la felul în care planeta poate fi protejată, discuțiile despre mediul înconjurător sunt de mare interes pentru oricine. În acest demers științific autorul abordează un subiect sensibil, care se referă la faptul că o afacere prietenoasă cu mediul înconjurător este cea care utilizează resursele în mod eficient, încercând să minimizeze impactul riscurilor de mediu. Adaptarea companiilor pentru a avea afaceri mai sustenabile începe prin conștientizarea problemelor și înțelegerea importanței acestor schimbări.

Cuvinte-cheie: *antreprenor, afacere, obligație, mediu, responsabilitate, răspundere.*

trepreneur to protect the environment. In order to achieve the intended purpose, we have outlined the following *tasks*:

- a) an analysis of the entrepreneur's obligation to protect the environment in the light of European and national legislation;
- b) the identification of the perseverance and challenges in the field of the research topic.

Methods and materials applied

Research methods in the process of elaboration of this article are as follow: analysis, synthesis, historical method, and comparison method. As scientific materials were used the Law on Entrepreneurship and Enterprises of 1992 no. 845, the Law on Environmental Protection of 1993 no. 1515 as well as valuable doctrinal sources in the field.

Introduction

Beyond all the specialized definitions, the environment is the place where all of humanity lives. The term is most often used to talk about the planet or parts of the Earth. The environment encompasses the interaction of all living species,



climate, and natural resources that affect human survival and economic activity [17, p. 26].

Trofimov I. supports the idea that the environment is the totality of things, phenomena, influences of nature to cause changes of different order in human activity and of man himself, as well as those that do not cause influence, and, but can be influenced by man, as well as those which do not produce influence and cannot be influenced by man, but form an entourage of his life [18, p. 8].

Therefore, the environment means, first of all, its nature and resources. From this, it is easy to understand that the impact of man on the environment has decisively influenced the state of degradation in which he is currently. Population growth and economic development have had a huge impact on the environment due to the consumption of natural resources. The only time we have been able to talk about a genuine interest in protecting the environment is in the 20th century. Due to the actions of humans over the centuries, natural balance has become increasingly fragile and the planet is becoming an increasingly uncertain place for its entire population. Nowadays, there are several environmental regulations and authorizations designed to protect the planet, both nationally, aligned with European Union legislation, and internationally. The need to protect the environment is more widespread than ever. Companies have a responsibility to ensure that their activities are carried out in a sustainable manner [2, p. 110-112].

The EU's environmental legislation has been in existence since the 1970s. There are currently hundreds of directives, regulations, and decisions in this area. However, the effectiveness of European environmental policy is largely determined by its implementation at the national, regional, and local levels, and poor enforcement and proper non-compliance remain a major problem. Monitoring - both the state of the environment and the level of application of EU environmental legislation - is fundamental.

EU environment policy dates back to the European Council held in Paris in 1972, at which the Heads of State or Government (in the aftermath of the first UN conference on the environment) declared the need for a community environment policy flanking economic policies, and called for an action programme. The Single European Act of 1987 introduced a new 'Environment Title', which provided the first legal basis for a common environment policy with the aims of preserving the quality of the environment,

protecting human health and ensuring rational use of natural resources. Subsequent treaty revisions strengthened the Community's commitment to environmental protection and the role of the European Parliament in its development. The Treaty of Maastricht (1993) made the environment an official EU policy area introduced the co-decision procedure and made qualified majority voting in the Council the general rule. The Treaty of Amsterdam (1999) established the duty to integrate environmental protection into all EU sectoral policies to promote sustainable development. "Combating climate change" (2.5.2) became a specific goal with the Treaty of Lisbon (2009), as did sustainable development in relations with third countries. The Treaty of Lisbon also granted the EU legal personality, which enables the EU to conclude international agreements [15].

EU environment policy is based on the principles of precaution, prevention and rectifying pollution at source, and on the 'polluter pays' principle. The precautionary principle is a risk management tool that comes into play when there is scientific uncertainty about a suspected risk to human health or the environment emanating from a certain action or policy. For instance, should doubts arise about the potentially harmful effects of a product, and should - following an objective scientific evaluation - uncertainty persists, this principle calls for the product to be removed from the market. Such measures must be non-discriminatory and proportionate and must be reviewed once more scientific information is available [19, p. 8-28].

In 1990, the European Environment Agency (EEA) was established in Copenhagen to support the development, implementation, and evaluation of environmental policy and to inform the general public on the matter. In 2020, it published its sixth State of the Environment Report on the status and outlook of the European environment.

Since 1973, the Commission has issued multiannual Environment Action Programmes (EAPs) setting out forthcoming legislative proposals and goals for EU environment policy. In May 2022, the 8th EAP entered into force, as the EU's legally agreed upon common agenda for environment policy until the end of 2030. It reiterates the seventh EAP's vision for 2050 which is to ensure the well-being of all while staying within planetary boundaries. Within the framework of the European Green Deal, in May 2020 the Commission presented its farm-to-fork strategy, which aims to make food systems fair, healthy,

and environmentally friendly. Parliament largely endorsed the vision and goals of this strategy in October 2021 [15].

Each country has legislation dedicated to the environment and its protection, and it is important that entrepreneurs comply with all these regulations. Often, these laws may be complicated or their provisions may seem unclear. It would be ideal to respect the legislation both in the field of entrepreneurship and in the field of environmental protection. The ecological legislation of the Republic of Moldova is a complex branch of the national legislation, it consists of all the normative acts containing ecological legal norms and regulates the social relations related to the rational use of natural resources and the protection of natural and artificial factors of the environment, intending to prevent and combat the negative influence of economic and other human activities on the environment and human health (against chemical, physical and biological pollution). Therefore, the overwhelming importance of ecological legislation in regulating the relations in society is determined by the fact that it is meant to ensure both the protection of the environment and the direct human being.

The right to a healthy environment has also been reflected in the Constitution of the Republic of Moldova, and under Art. 37 of the fundamental law, „everyone has the right to a safe environment for life and health, as well as to harmless food and household items...”[7].

The need to involve citizens in solving environmental problems, as well as the application of democratic decision-making methods practiced in Western countries, they determined our state to promote in the new legislation measures and possibilities of involving the public in the decision-making process [16, p.71], thus, the right of the public to participate in the elaboration and adoption of environmental decisions within the activity of public administration is stipulated in the following normative acts: Law on environmental protection (art. 30, letter c) and d)) [10], Natural Resources Act (art. 29) [11], Law on Fish Fund, Fishery and Fish Breeding [12], Law of State Protected Natural Areas (art. 17) [13], etc.

In the Republic of Moldova, the institutional framework of environmental protection management includes several structural-functional components that participate in the protection of the environment: structures with general competences, such as central (Presidency, the Parliament and Government), regional and lo-

cal (council) public administration bodies. They have a decisive role in developing policies and strategies in the field of environmental protection and coordinating their implementation, in approving normative-legislative acts in this field, in the ecological planning of the territory, in the management of land resources and waste etc. [3, p. 115].

In the process of receiving and processing information, in the protection of the environment, a wide range of institutions, such as scientific centers, central and territorial subdivisions of ecological authorities, branch subdivisions, participate, government agencies and services specialized in the management of certain natural resources, ecological NGOs, local public administration, etc. [14, p.57].

The Environment Agency is an administrative authority subordinated to the Ministry of Agriculture and Food Industry, responsible for the implementation of state policy in the following fields of activity: a) prevent environmental pollution; b) air protection and climate change; c) protection and regulation of the use of water resources; d) protection and regulation of the use of the animal kingdom and the plant kingdom, aquatic biological resources; e) biodiversity conservation and management of state-protected natural areas; f) waste management; g) biosafety. The basic functions of the Agency are: ensuring the implementation of public policy documents and legislation on environmental protection both at the national and local levels [1].

Certain types of business that could have significant environmental impacts, for example, a factory or plant, are subject to an environmental impact assessment. In such cases, the environmental aspects are already integrated in the planning stage and the possible consequences are considered before the approval or authorization of a project, or, to ensure a high level of environmental protection.

It is important for businesses to find ways to mitigate and even change the impact their business has on the planet. Moreover, people are beginning to be more aware that every environmentally friendly choice can have a significant impact.

Pollution is currently the greatest challenge facing all of humanity. This process of pollution means the release into nature of elements that affect the quality of life. These polluting elements are largely freed from the pursuit of economic activities, from entrepreneurship. Air pollution, water pollution, as well as soil pollu-



tion, can have extremely harmful effects on animals, plants, and humans. Although all sorts of measures have been taken to combat pollution, experts are warning about the dangers facing the environment every day [8, p.23].

Reducing pollution is one of the safest ways to have a healthier planet. Under environmental legislation, economic operators have a number of obligations that they must adopt to protect the environment. On a personal level, there are a lot of things that people can do to responsibly consume resources and have as little impact on the planet as possible.

Analyzing the ECHR jurisprudence we can list the following cases, which are subject to the protection of the healthy environment by the extensive interpretation of Art. 8 of the Convention (right to private life) based on the application of „technique by ricochet”.

In 2006 the ECHR examined the case of *Giacomelli c. Italy* [4]. The complainant, who lives near a factory that has as its object of activity the storage and treatment of „special waste”, asked several times in court to re-analyze the factory authorization. Following the examination of the case, the Court considered that the public authorities did not comply with the obligations imposed by the internal law and ignored the judicial decisions establishing that the activity of the factory was illicit, therefore, the State has not complied with its obligation to ensure respect for their private and family life, being violated in the same way Art. 8 of the Convention.

Special attention deserves the causes of *Fadeieva c. Russia* (2005) [5] and *Ledyayeva and others c. Russia* (2006) [6] in which the Court established that the Russian authorities had not taken the necessary measures to protect the right to privacy against certain serious environmental damage to the plaintiffs, who lived around steel plants, even more than that, the authorities did not ensure the relocation of the plaintiffs, nor did they offer them a sum of money to allow them to buy another home, nor has it developed or implemented any effective policy that would oblige owners of steelworks to reduce pollutant emissions within a reasonable timeframe. As in the previously analyzed cases, the Court found the violation of the same Art. 8 of the Convention.

An environmentally friendly business is one that uses resources efficiently, trying to minimize the impact of environmental risks. Adapting companies to have more sustainable businesses starts by raising awareness of the issues and un-

derstanding the importance of these changes. Not only will it turn out to be a useful change for the business itself, but for the planet as well. Starting from this real awareness, any entrepreneur can take a series of measures to support this decision. From compliance with environmental legislation and the interest it will give to these permanent changes, to the way it operates, a planet-friendly business will develop a true organizational culture for sustainability and ecology. When it comes to the impact of your business on the environment, it is very important to have a clear strategy in this regard. There are many ways you can help protect the environment while reducing your costs. It is also important to stay up-to-date on environmental legislative news. These can change very quickly and you need to be informed to implement these changes. Reducing the environmental impact of business will improve sustainability.

A relevant point when it comes to the environmental impact of business is the waste problem. The record of waste management is mandatory for any type of company and therefore, special attention should be paid to this aspect. Depending on the profile of the company, there are a lot of measures that the entrepreneur needs to take to reduce the impact they have on the environment. It is important to take into account the legal framework that the activity implies in relation to the environment and to understand the importance of such measures [9, p.57].

Beyond the measures that fit into a legislative framework, there are countless things entrepreneurs can do with their teams to create a planet-friendly environment. Such eco-friendly actions can change employees' mindsets about the environment and have a positive impact beyond companies. Moreover, business management following a series of principles of respect for the environment will matter enormously to customers. Thus, responsible entrepreneurs will have an advantage over their competitors in the market that do not attach similar importance to environmental issues.

We will try to outline some measures to prevent environmental pollution by entrepreneurs. Among them, the following can be mentioned:

- *Reducing energy consumption and use of natural sources.* For example, using solar panels or even wind power, if any.
- *Recycling and reuse.* Providing employees with separate collection containers and encouraging the reuse of resources.

- *Supporting a hybrid work system (office-remote).* If the company profile allows, the implementation of a system that will support the work from home. This will reduce office space and lower consumption will be possible.
- *Encouraging alternative transport.* Give your employees all sorts of advantages to opt out of using your personal car when they come to the office. Whether it means the settlement of subscriptions to public transport, whether it means various vouchers for the purchase of a bicycle or scooter, this decision will turn out to be very good for the environment.

In **conclusion**, I would like to mention that if entrepreneurs do not take into account the obligation to protect the environment, legal liability will occur in environmental law, as well as, what can be considered a component element of the protection of the fundamental human right to a healthy environment. The human right to an environmentally unprimed environment is declared in art. 37 of the Constitution of the Republic of Moldova is characteristic to any individual located on the territory of the Republic of Moldova, regardless of its belonging to a certain state, being the proper „every human”, offering the possibility of the holder to go to court to defend his right, even if the polluting act does not produce the effect in the locality where this person lives.

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