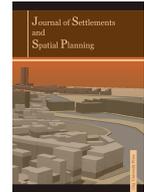




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The Optimization Mechanism of Administrative Sanctions for Violation of Environmental Laws in Rural Areas

Petru BACAL¹

¹ Academy of Economic Studies of Moldova, Chişinău, REPUBLIC OF MOLDOVA

E-mail: p_bacal@yahoo.com

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ABSTRACT

Optimization mechanism for sanctioning administrative for violations of environmental legislation is one of the basic guarantees of ensuring environmental sustainability and comfort in the rural space. Under the new provisions of the Offences Code has expanded the area of applying of penalties for contraventions on the soil, waste, water and wildlife. There are several new forms of punishment, such as work for the benefit of rural communities, meant to increase the economic, social and environmental effects of the mechanism of administrative sanctions, but they are rarely applied. There is a multiple increase of fines imposed for infringement of environmental legislation on soils, water resources, atmospheric air and the animal kingdom.

1. INTRODUCTION

At present, rural alarming of environmental situation in Moldova is due to irrational exploitation of agricultural land, the insalubrities of inside of localities, the predominance of damaged infrastructure and municipal manufacturing, to massive illegal logging of forest areas and green spaces. One of the main juridical and economic instruments of regulatory and reduction of environmental impact is the administrative sanction, applied by means of fines, prohibitions imposed on economic activities of offenders, labour service to community or administrative arrest.

2. MATERIAL AND METHOD

The main material that formed the basis of achievement of this study was: 1) Previous and current edition (dated 31 May 2009) of Offences Code (OC) of the Republic of Moldova [1], [2]; 2) Reports of the National Bureau of Statistics (NBS) on the application of administrative penalties [5]; 3) Yearbook of quality of environmental factors and activity of the State

Ecological Inspectorate [3]; 4) Annual reports of Ecological Agencies and Inspections. The study included, with priority, the 2003-2009 years [4].

The main methods used in this study are *statistical, analytical, historical, analogical and consulting* of ability authorities for the detection and examination of environmental offences. The statistical method has been widely used to process statistical information on administrative penalties for violations of use and protection of natural resources in all the administrative territorial units of Moldova (districts and municipalities) and for each natural component and type of offences. The analytical method was used for: a) identification of changes (based on comparative analysis of previous and current version of the Offences Code) and the directions of optimization of the mechanism of administrative sanctions for violation of environmental laws in rural areas of the republic; b) diagnosis (based on the statistical information processed and on consultations of ability authorities) of situation in this field; c) make recommendations to optimize that mechanism. To exclude the urban environment, in this study have not been analyzed

Chişinău and Bălţi municipalities, and the penalties imposed for violations of legislation of air protection.

3. RESULTS AND DISCUSSION

3.1. The significance and major changes in the mechanism of administrative sanctions for the violation of environmental laws in rural areas

Administrative penalties for violations of use and protection of natural resources were introduced at the border of 70's and 80's, with the implementation of normative impact on the environment factors and human body. The form and amount of sanctions depends on the status of the offender, the type and size of damages set by the court or other authority empowered to examine such violations [6]. Under the new Offences Code, most environmental offences are reviewed by ecological authorities, and violations of use of plant resources - together with the forest authorities. Have been excluded warnings and introduced new forms of punishment such as community work.

Significantly increased the number of violations, which follow to be sanctioned for failure of the ecological legislation on waste, use and protection of water, air and wildlife [2]. A substantial increase

(several tens of times) in the fines are found for contraventions on soil, waste, atmospheric and green spaces, an average (several times) - for water and other insignificant - for offences on subsoil, flora and fauna. As a result, has increased several times the amount of fines (excluding subsoil and vegetables resources), but significantly decreased the number of fines imposed.

3.2. Administrative penalties for violations of land legislation

Although soils are declared the main wealth of our nation, fines for unauthorized use of land and causing various forms of degradation, was very low compared to other natural components affected. According to NBS, in the years 2003-2009, the number and amount of fines imposed for contraventions in the soil show a fluctuating trend (Figure 1).

In 2009, there were imposed 687 fines or about three times less than in 2008, but the amount of fines imposed was 305 thousand or three times higher than in 2008. The maximum amount of fines imposed shall certify in ATU Găgăuzia (32 thousand lei) and in districts Edineţ (34 thousand lei), Făleşti (17 thousand lei), Hânceşti (14 thousand lei) and Ştefan-Vodă (9.7 thousand lei).

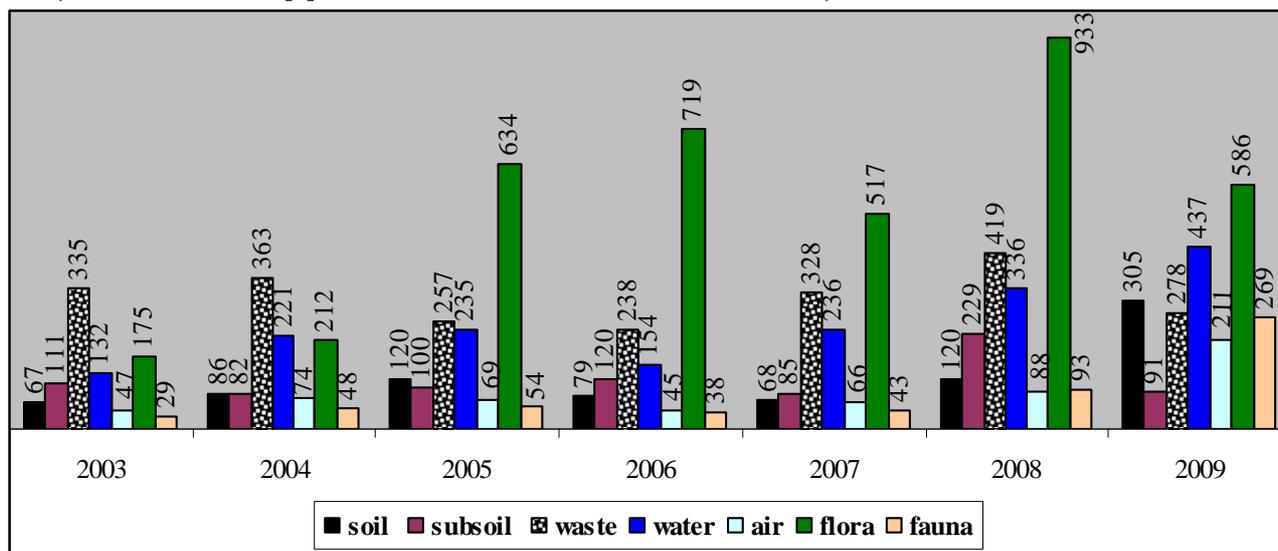


Fig. 1. The amount of fines applied for lows violations of use and protection of natural resources (thousand lei) [5].

Most fines were imposed for illegal occupation of land. In 2009, for such offences were imposed 284 fines in the sum of 153 thousand lei. For unauthorized use of forest land have been applied to only five penalties in sum of 10 thousand lei. Very rarely are applied administrative sanctions for the destruction of fertile soil layer, not taking measures to prevent soil erosion, raising the upper fertile soil layer of forest land, for forgery and concealing information about the status of land [6]. After the entry into force of the new Offences Code, substantially increased amounts of the fines for unauthorized land use, destruction of fertile

soil layer and for failure of lands to state, which to ensure their use by destination. Were introduced the penalty for burning stubble (article 115.3 of CO), for which were imposed 147 fines (54.6 thousand lei), including the districts Hânceşti – 25 (8800 lei) and ATU Găgăuzia – 8 (8600 lei). It is not found positive changes in penalties for causing erosion, for forgery and concealing information about the status of land.

At the same time, the erosions are the most widespread and serious impacts on soil. Therefore, most sanctions do not reflect the actual impact on the sustainability and quality of soil cover. Illegal

occupation of land is not a direct form of impact on soils, and excessive chemical pollution of soil, under conditions of acute financial shortage in rural areas is much less common than their erosion. Therefore, the current mechanism of administrative sanctions for damages caused soil should not create incentives for prevention and mitigation, and the funds collected from fines are not enough to undertake measures to protect land for any villages.

3.3. Penalties for violations of legislation on waste

In the previous edition of the Offences Code, for breach of legislation on waste were provided only warnings and symbolic fines, the absolute majority of them have been imposed for breach for of planning regulations and clean settlements. Despite the big number of fines imposed, their amount was very small, only returning to a fine of up to 10 lei [1].

Therefore, the previous procedure for administrative sanctions in this area was rather a tool to stimulate insalubrities than environmental protection [6]. Number and amount of fines depends on settlement area, on number of residents and enterprises, and on the efficiency of police work, ability to detect and examine of these offences.

In the new Code of Administrative Offences, are added penalties for combustion, transportation, storage and marketing of production and consumer wastes, for breach of requests prevention and liquidation of unauthorized dumps [2]. However, the amount of fines is less compared to previous years because environmental authorities, which are ability with examination of these offences, have really insufficient personnel. In rare cases apply, as a form of sanction, community work [5].

3.4. Administrative penalties for the violation of laws regarding use and protection of subsoil resources

Despite the critical situation in the use and management of mineral resources, for most minor offences in the subsoil was established a small amount of fines, which do not directly reflect the size of the environmental damages. Thus, infringement of state ownership of the subsoil or to pay the payments to use it generates a much lower environmental damage from failure to ensure the objectives of the mining area, ecological security breach requirements extractive companies, violating the rules of storage in the subsoil of noxious waste.

After applied of the new Offences Code, there is not found an increase of number and sum of applied fines, but a reduction of them. Over 90% of the number and sum of fines relate to the unauthorized use of

subsoil and state property infringement on the subsoil, of which more than half do not receive. Most fines for unauthorized use of subsoil were applied and collected in the Florești, Fălești, Anenii-Noi and Criuleni districts. The following position is returns to fine for unlawful sale and transportation of minerals.

The number of fines imposed for these offences is significantly lower than actual cases. Very rarely are applied fines for breach of requests on environmental and technological safety at mining companies and municipal landfills. However, these breaches are frequently and cause great damage around that mining perimeter [6].

3.5. Administrative penalties for the breach of water use and protection legislation

Fines for pollution have been well known in Soviet times, especially for persons with responsibility functions, which harshly penalized for a dangerous spread of microbiological pollutants in water sources, massive infection of the population. At the present, once the pressure, under transparent information on really impact on the environment, polluters prefer to pay fines and compensation and to evade the full compensation for environmental damages caused. This situation reminds us more than Latin American, African or Asian states, haunted by corruption, poverty, unhealthy, disease and other serious negative social phenomena and not proximity to EU.

Unlike other natural resources, the majority of water offences have been examined by environmental authorities. As a result, differences in the reports indicated that fines specified in the reports of statistical and environmental authorities are much smaller [3], [5]. Also, for lows violations of use and protection of water resources were not provided warnings [1].

Under the new Offences Code, the number of penalties imposed for not complying with legislation of water use and protection has increased considerably and adjusted to the basic provisions of legislation in this field. Are applied fines for breach of activity regime within the water protection areas, in particular for washing vehicles, application of chemical pesticides and location of deposits in these areas, for breach of protection strips dimensions, for discharge of untreated waste water, deterioration of water supply and sewerage systems [2].

Most fines are applied for violation of state ownership of water, for breach of water protection normative, which resulted in water pollution, for failing provisions to environmental authorities and for failure to pay full fees for water pollution. It shows a significant increase of fines for water pollution, for breach of environmental and health requirements, for unauthorized water use. Relatively frequent, imposing fines for pesticide application and for washing vehicles

in water protection areas, and rarely, for deterioration of hydraulic engineering, water supply and sewerage systems [5].

3.6. Administrative penalties for violations of use of biological resources legislation

The complex difficulties of building an independent state and the transition to market economy were reflected negatively on the biological resources.

Destructive effects were manifested, with greater scale, on the forest areas outside state forest fund, on biotic components of the lakes unmanaged of the State Fisheries Service. Are greatly affected forest areas near villages, where local authorities and even the forest and environmental authorities to show a negligence on adequate monitoring of forests areas and green spaces.

Moreover, multiple functions of forests, their deficit and alarming phenomenon of illegal logging request tougher penalties.

According to recent changes of Offences Code, fines for illegal felling of trees and shrubs injury were not significantly increased. Was significantly increased number of penalties for lows violations of use of the animal kingdom, particularly for damage caused to the fish and bee funds [2].

Despite these beneficial changes, these offences committed by or with the consent of the forestry staff are rarely examined. The level of provision to environmental authorities of information on examination of forestry infringements and use of the animal kingdom is insufficient and many cases are dismissed or attacked for some reason. This convinces us, yet again, about the inefficient management of forests, wildlife and fisheries state funds [6].

The absolute majority of fines are applied for cutting or damaging trees and shrubs of state forest funds, in the protective strips along the roads and green spaces perimeter, for illegal grazing and for violation of hunting and fishing rules. Maximum fines are recorded in districts with a higher degree of forestations or where are forest headquarters households: Glodeni, Sorooca, Călărași, Criuleni, Anenii-Noi, Ungheni and ATU Găgăuzia.

After applying the new Code Offences, it indicate a reduction of fines imposed for illegal cutting of trees from state forest area and for authorization to harvest timber with violation of normative acts. However, there is doubling the fines for cutting and damaging trees in the green areas [5].

Maximum fines for unauthorized grazing on forest land is registered in the districts with a greater forestation, while for breach of environmental planning norms in the road protection zones – in the Northern Region and near the capital, which is characterized by a

higher density of road network. Rarely are fines for destroying undergrowth and young stands, for destruction of plants included in the Red Book, for degradation of pastures and hayfields and for breach of the protection regime of natural objectives.

The maximum amount of fines are applied for violations of use of the animal kingdom legislation is registered in the administrative units with an increased area of fish ponds (Râșcani, Anenii Noi, Criuleni, Ștefan-Vodă, Cahul) and of forest land used for hunting purposes (Sorooca, Orhei, Hâncești).

Over 90% of the fines for contraventions in the animal kingdom are imposed for violating of hunting and fishing rules. In comparing with plant resources, after applying the new Offences Code, the amount of fines for violations of use and protection of wildlife has increased considerably, especially for damage caused to fisheries fund.

They also introduced new penalties for damage to beekeeping fund and increased the penalties for cruelty to animals, but that rarely applies.

4. CONCLUSION

According to the new Offences Code substantially increased fines and number of the penalties imposed for violation of environmental legislation on waste, protection zones, water resources and wildlife. Fines are applied for breach of regime activity within the waters protection zones damage and for deterioration of water supply and sewerage systems. Warnings have been excluded and introduced new forms of punishment, including community work, which applied in rare cases.

More frequently, the administrative sanctions are applied for failure to ensure cleanliness in villages, for illegal use of land, subsoil, water sources, for pollution of soil, water and air, for failure to pay full fees for environmental pollution, for illegal felling and damaging of trees in the state forest area and green spaces, for violation of hunting rules.

The amount of fines imposed does not reflect the frequency and intensity of legislation violations in the rational use of natural resources and environmental protection. Due to financial shortages in rural areas are applied the minimum rates of the fines.

Extremely small amount and superficial application of fines makes a weak influence on polluters and beneficiaries of environmental resources.

It is necessary to adequate apply of fees for offences that have a major and frequent impact on the natural and social environment in the rural space, in specially, for soil erosion, burning stubble, failure of environmental security requirements at municipal landfills and mining enterprises, for destruction of young trees, of rare species and for breach of the regime protection of natural objectives.

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