

Elements of law compared forest research and specific procedural rules forest crime

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Abstract In developing this paper, considered approach in all its valences of the problems on "forest crimes". Essentially sought to analyze the degree to which realities and political requirements, existing social economic and at some point find their legal expression in active fund legislation, pot cheese trends manifested in the relationship between the old law some still in action and new principles and rules states with increasing vigor. It was intended to set up a new legal system, particularly the one existing in the past. He can not only able to express political, economic and social new organized and of a state that is operating on new principles fundamentally different from those existing before. Currently timber thefts have increased both in Romania and other European Union States, as in the contemporary world, facts which causes immense damage, both public and private ownership.

Key words

damage, legal system, ownership, legislation

Maintaining ecological balance in the terrestrial planets is presented as one of the priority issues of our days. Today, estimates of potential ecological disasters that may occur as a result of anthropogenic upward pressure on the natural environment, gives priority to natural environmental concerns in all the global problems of mankind. In this context, forests have a positive climate, atmosphere, and the hydrological regime of water, protect soil erosion, but serve as habitat for animal kingdom too. In the judicial context and reform law, criminal law has undergone substantial changes required by the new realities of social-economic, and tends to align Romanian legislation to the principles of international law applicable in the European Union.

Material and Methods

Emergence of forestry legislation is related to the functions they have forests. Increasing the level of civilization in some European countries (XII-XIV centuries) resulted in adoption of a forest management unit in Germany, France and Austria. The Romanian Principalities until towards the end of XII-XVIII centuries there is special tendency "forest conservation". Other features of the forest, the hydrological and recreational prompted new legislative measures about two centuries later (in 1635 prohibiting deforestation and logging in the forests of mountain races in France, due to flood waters caused by the Rhone and the establishment of forest entertainment around Paris). Also in France, Louis XIV, in 1669 there was a real forest code, known in the history of

forest legislation under the name "Colbert's Ordinance."

Subsequently, these forest management rules were expanded and intensified in parallel with the emergence of others, determined by the value of the new groups of properties, a process that in the nineteenth century corresponds in all civilized states to adopt forestry laws, some of them and currently in force. We illustrate in this forest laws 1811și appeared in Prussia during 1845, 1852 Bavaria, Württemberg, 1879. The 1852 Forest Code was enacted that applied in Austria-Hungary. Ordered Colbert in France was replaced in 1827 by a new Forest Code. With that model these statutes but especially under the influence of the forestry regime established in France, later in the nineteenth century forest laws have been adopted in many countries. In this example we appeared Belgian forest code in 1889 (as amended) as that of France and Austria.

Dominant feature of the period of the nineteenth century is the triumph of autonomy therefore forest, an area in which national laws and to reserve a multitude of rules and legal institutions. In the twentieth century forest laws (forestry laws contemporary) are multiplied by their appearance in the socialist countries of Asia and Europe. Of these new statutes forest stands in Czech Republic and Slovakia, Bulgaria, Yugoslavia, Poland, Hungary and China. In the former German Democratic Republic, from October 7, 1949 Constitution which abolished monopolies arise also new statutes which commanded forest - state property. Forest Law no. 166 of 1969 published in the former Czechoslovak Socialist

Republic, at that time not only regulate forest economy itself but also social relations with other branches of national economy and thus the whole society.

Action for legislative reforms has taken place in other countries such as France, Italy, Austria, Belgium, Greece and Turkey each developing country specific regulations in relation to those terms. Thus, in the French literature shows that currently, the Criminal Code (just) was renewed to be effective; no longer is a matter of law in a forest largely Criminal inspiration. Forest legislation also all criminal legislation must be interpreted strictly. Alongside the legal acts, the forest codes such as that adopted in Sweden (1958), Netherlands (1965).

We can say that we are in a period of forest law human interest, the being and protection of historic importance for scientific forest all over the earth. Defending the environment, soil water, air and hence the forest vegetation was always the attention of the Government in Chisinau, indicative of the amendments to the legislation in this area over the past four years. The Criminal Code of the Republic of Moldova [5, Article 231-232] in the chapter IX where offenses punishable ecological crimes are regulated illegal cutting of forest vegetation and massive forest destruction or damage. Including the two offenses in section reserved exclusively environmental crimes, demonstrates the great attention of the Moldovan State attaches to human and natural environment as the supreme entity in which he lives. Illegal cutting of forest trees and shrubs in protected natural areas of state [5, Article 231] committed by persons responsible for the protection and security in large-scale forest vegetation and shall be punished with a fine or community service work prison.

For legal persons who committed such an offense, the punishment is fine with deprivation of the right to exercise certain economic activity. Massive forest destruction or damage by fire or imprudent use of sources of increased risk [5, article 232] shall be punished, if individuals with fine, community service work or jail and legal persons, the punishment are fine with the deprivation of the right to perform certain activities. With the large-scale destruction or damage of forest massifs is done with intent, arson is more severe penalties for both individuals and legal entities. Legal person is guilty of the offense to which I referred, may be punished by deprivation of the right to perform certain activities or liquidation of the enterprise.

The current French forest code is covered in Chapter II forest offenses called "prevent measures and criminal sanctions." Here we provide a range of sanctions for those who commit antisocial acts that harm the forest. Code Title XII establishes Belgian forest called "punishment and conviction to protect forests," forest crime and misdemeanors. Article 154 of the Code provides inter alia that "cutting or uprooting trees with circumference of more than 2 decimeters be

punished." In the shown it can be seen that the current forestry code of said states, contain provisions regarding the forest itself, especially the regulations concerning criminal. Must be outlined initiatives to improve the legal forest of cooperation of States, exemplifying the collaboration existing line of specialized institutions in the United Nations. Process optimization of its legal framework of contemporary forestry, necessarily requires the efforts of civilized nations in the fight against destructive effects at a great distance they have irrational logging. Criminalities so special are a reflection of its economic structure of each country.

Specific means of criminal law protection in forestry are used in two ways: by means of criminal law and criminal procedural law means. The two means are in close touch with each other. Criminal liability can be done by trial and it must be conducted according to rules and safeguards of criminal procedure. A person who has committed a crime in forestry can not be sanctioned without involving the criminal prosecution and trial under the rules of the Criminal Code and forestry legislation. The Romanian legislature established by article 109 Forest Code, the rule that the provisions of this title (liability and penalties) shall be completed with the Criminal Code and Criminal Procedure Code. Research skills for all crimes forest law enforcement is criminal police. These can be determined by any known sensing modes: complaint, denunciation or office.

Results

In this respect article 207 of the Criminal Procedure Code provides that criminal investigation is carried out by police investigators, for any offense that is not necessarily given to other bodies of research competence. Also, according to article 209 of the Criminal Procedure Code - the prosecutor supervises the criminal acts: In exercising these powers prosecutors supervise and control the activities of the police investigation and other organs. The prosecutor may perform any act of criminal cases they supervise. The complaint must contain factual descriptions, indicating the author's presentation of evidence, to the parties and witnesses, specifying whether the injured person is a party where appropriate civil and indication civilly responsible person (article 283 Criminal Procedure Code).

According to article 284 of the Criminal Procedure Code, the offenses for which the law provides that the complaint, it must be lodged within two months from the day the injured party knew who the perpetrator. Report must contain the same data as the complaint. Written denouncement denouncer must be signed and, if oral denunciation, it recorded in the minutes by the body before which was done. Procedural point of view, however, the offenses are subject to prosecution ex officio forest, which

corresponds to the seriousness that usually presents these facts and the need to ensure effective forest protection.

Acts committed at the expense of national forest, regardless of ownership, are forest crimes are considered *ex officio* and not intended to be settled by reconciliation. He noted that the perpetrator, a relative of the person injured trees cut down and stolen property injured. The court ordered the termination of criminal proceedings under the rules of criminal procedure on the grounds that the parties were reconciled. Played on the present case might address whether the offenses covered by Article 32 of O.G. 96/1998, article Forest Code and Article 98. 31 of Law no. 141/1999 shall apply the provisions of article 210 Criminal Code if they committed these acts are the property of a natural forest by her husband, etc. close relative.

In connection with those shown should be noted that Article 109 Forest Code which provide that the provisions of Title VI (liability and penalties) shall be completed with the Code of Criminal Procedure. Conclude that in this case the provisions of article 210 Criminal Code, in that criminal proceedings shall be initiated only by the injured party complaint (which is addressed to the court), and reconciliation removes the criminal responsibility. In expressing this opinion to not subscribe, you probably had in mind that when the same person will commit more acts of the offending by the Forest Code will apply the provisions of Articles 33 or 41 para. 2 of the Penal Code, relating to offenses and the offense continued competition, in this sense our supreme court has decided and a decision remains valid today. Although some forest crimes like theft are provided by article Code 210 criminal, yet they are not identical and there can be no equal sign between them.

On the case in question (if applicable or not article 210 of the code criminal) we conclude that cutting and theft of trees from national forest, even if trees are the property of individuals, meets the elements of forest crimes under Article 32 of O.G. 96/1998 and article 98 of the Forestry Code, and not theft under the Criminal Code. Being the national forest, regardless of ownership where forest offenses were committed, criminal action can trigger office and reconciliation does not go through. So application of Article 210 Criminal Code, in that criminal proceeding shall be initiated only complaint of the injured party, not find reasons for forest offenses. Exemptions or additions will be provided in the Forest Code prominence to the Code of Criminal Procedure, the former being considered more appropriate for the purposes of criminal proceedings in the case of forest crime. Opinion rendered to the subscription, and is based on applying the general principle that in cases where a choice is the usual rules and special rules, the latter prevail whenever there is a text that otherwise have.

This regulation involves the implementation plan of the procedural rule in the provisions of the Criminal Code in that the provisions of this code from general application, are punishable criminal acts by special laws unless otherwise provided by law. Regarding the procedure for finding, however, prosecution and jury must find that all these are made according to normal rules set out in the Code of Criminal Procedure. But the finding is made forest crime and forestry bodies specialized in this field (rangers, volunteer, heads of districts, forest, forest engineers and technicians from forest districts and forest units. By derogation from the rules of criminal procedure, however, finding minutes Forestry offense is sent on the jurisdiction of where the offense was committed for calculating damages. A place primarily in the management of evidence in the case of forest crime is the on-site investigation report prepared by the prosecuting authority, which records the facts resulting from the offense.

Forestry bodies (forester and volunteer) Accompanied by a police officer is authorized to identify and inventory of the places where the wood materials from offenses compliance with the Code of Criminal Procedure on search. Authorized bodies (police, prosecution, courts) must establish the person injured the amount of injury and repair damage caused by the offense can.

Conclusions

In developing his thesis considered approach in all its valences of the problems on "forest crimes". Essentially sought to analyze the degree to which political realities and requirements, existing economic and social at some point find their legal expression in active fund legislation, and trends that manifest in the relationship between the old law - which is still part in action and new principles and rules stated with more vigor. We considered the fact that the Forest Law was established a new legal system, particularly the existence in the past. He can not only able to express political, economic and social new to a state that is organized and operating on new principles fundamentally different from those existing before. Currently timber thefts have increased both in Romania and Republic of Moldova, as in the contemporary world, facts which causes huge damage both the public and private property.

The analysis of forest crime in the last two decades demonstrates irresponsible behavior that environmental factors have been treated. Extensive exploitation of forests, intensive exploitation of land slope was accompanied by long-term damaging effects: landslides, erosion, salting, etc. over wet portions. Creating ecological imbalances is true. Development work has also taken because the Forest Code adopted under scientifically superior to the previous forest

legislation, however, given rise to the expression of different opinions in the literature and solutions delivery questionable legal practice, and regulations relating to the Romanian forest, acts that can be all together in a real forest code, so that we can speak of uniform legislation in this area. Competent state bodies are required to protect and defend private property and public, using all models and means at their disposal, including criminal offenses, to those who oppose these values.

As mentioned in the legislative plan - in the evolution of social life - sometimes unpredictable in some dimensions - social contexts that determine remodeling appear incriminating texts, dissolution or replacement or to attach new provisions as is the case also in the forest. It becomes increasingly clear that the legal rules governing criminal law offenses of previous forest and even some of the existing one can not face facts that had to punish them and would require the conduct of reviews.

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