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PROCEDURAL ASPECTS OF PUBLIC ORDER AND HUMAN RIGHTS IN THE FIELD OF ENVIRONMENTAL SAFETY IN THE EUROPEAN UNION

Abstract

The tension between protecting public order and safeguarding human rights is a central issue in the European Union's (EU) management of environmental safety. In this context, the procedural aspects of balancing the two values have assumed great importance. This paper focuses on the procedural aspects of public order and human rights in the field of environmental safety in the EU. It examines the relevant legal frameworks, including international and EU law. The paper then considers specific examples of environmental safety measures, such as the use of drones for monitoring and the regulation of protests, to understand the impact of these measures on human rights. The paper concludes by exploring some of the challenges the EU faces in balancing public order and human rights in the field of environmental safety, such as the need for transparency and accountability in decision-making.

Keywords: *environmental safety, public order, human rights, accountability, EU, legal instruments*

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Avropa İttifaqında ekoloji təhlükəsizlik sferasında publik qayda ve insan hüquqları: prosesual aspektler

Xülasə

İctimai asayişin qorunması və insan haqlarının təmin edilməsinin uzlaşdırılması Avropa İttifaqının (Aİ) ətraf mühitin təhlükəsizliyinin idarə olunması sahəsində əsas məsələlərdən biridir. Bu məzmun ətrafında iki dəyəri balanslaşdırma prosesinin prosedural aspektləri böyük önəm daşıyır. Bu məqalə Aİ-nın ətraf mühitin təhlükəsizliyi sahəsində İctimai Asayiş və İnsan Hüquqları üzrə prosedural aspektləri əhatə edir. Həmçinin, məqalədə beynəlxalq və Aİ qanunlarına daxil olan əlaqəli hüquqi çərçivələr təhlil olunur. Daha sonra nəzarət üçün olan dronların istifadəsi və etirazların tənzimlənməsi kimi təhlükəsizlik tədbirlərinin müəyyən nümunələrinin insan haqları üzərindəki təsirlərini anlamaq üçün mülahizələr yürüdülür. Məqalə, Aİ-nın ətraf mühitin təhlükəsizliyi sahəsində ictimai asayiş və insan haqları arasındakı balansı təmin etməkdə üzləşdiyi bəzi mübahisəli məsələləri araşdıraraq, qərar vermə prosesində şəffaflığa və hesabatlılığa zərurətlə əlaqədar Aİ-nın qarşılaşdığı bəzi çətinliklərə diqqət çəkir.

Açar sözlər: *ətraf mühitin təhlükəsizliyi, ictimai asayiş, insan haqları, hesabatlılıq, Avropa İttifaqı (Aİ), hüquqi vasitələr*

Introduction

The protection of public order and human rights are two of the fundamental values of the EU (2000). The EU recognizes the importance of ensuring public safety and security but also acknowledges that measures to achieve these goals must be consistent with its obligations to protect human rights. This is particularly relevant in the context of environmental safety where the measures taken to ensure public order may interfere with human rights.

Legal framework

Human rights are protected by several international and EU legal instruments. The European Convention on Human Rights (ECHR) guarantees fundamental human rights, such as the right to life, freedom of expression, and a fair trial. The EU has also adopted legal instruments to protect human rights, such as the Charter of Fundamental Rights of the European Union. Moreover, there are some specific legal instruments governing human rights in the context of environmental safety. The Aarhus Convention is a multilateral agreement adopted in 1998 that aims to promote public access to information, public participation in decision-making, and access to justice in environmental matters (Council of Europe, 2021: 247). The Convention recognizes the importance of public participation in ensuring that environmental decisions are made in a transparent and accountable manner. The Aarhus Convention is closely related to public order and human rights in the field of environmental safety in the European Union (EU); therefore, it is a key element of the EU's legal framework for environmental safety. The Convention has been implemented in the EU through a number of legal instruments, including the Environmental Impact Assessment (EIA) Directive and the Industrial Emissions Directive. The EIA Directive requires public participation in decision-making in certain environmental matters, while the Industrial Emissions Directive provides for public participation in the permitting process for industrial installations (*Revision*) (The European Investment Bank, 2022: 155).

The Aarhus Convention also has important implications for human rights in the field of environmental safety. The Convention recognizes the right of every person to live in an environment that is adequate for his or her health and well-being. This includes the right to access information about the environment and to participate in decision-making processes that may have an impact on the environment; the Convention also recognizes the right of every person to access justice in environmental matters (The Aarhus). The EU's General Data Protection Regulation (GDPR) is a legal instrument that sets out the rules for the processing of personal data in the EU (Wolford, 2022: 29). The GDPR seeks to protect the privacy of individuals and to ensure that personal data is processed in an equitable and trustworthy manner. The GDPR is also closely related to public order and human rights in the field of environmental safety in the EU. The GDPR has important implications for environmental safety in the EU; the environmental monitoring often involves the processing of personal data, such as data about the health of individuals or data about the use of natural resources. In that regard, the GDPR provides a framework for the processing of these data and ensures that individuals have control over their personal data (Castagna, 2021: 97).

The GDPR has implications for public participation in environmental decision-making as well. It provides the individuals with the right to access personal data, including data related to environmental safety. This includes the right to access information about the environmental impact of a proposed project and the right to participate in public consultations. The GDPR also bestows upon the individuals the right to rectify inaccurate data and the right to erasure (Castagna, 2021: 98). The EU's Environmental Liability Directive (ELD) is a legal instrument that establishes a framework for the prevention and remediation of environmental damage. The ELD aims to set out that those responsible for environmental damage pay for its remediation. The ELD has an essential impact for public order and safety in the EU. The directive provides for civil liability for environmental damage, which means that those responsible for environmental damage can be held financially responsible for its remediation. The ELD also provides for administrative and judicial remedies to enforce environmental law and protect human rights in the context of environmental safety. The ELD recognizes the importance of access to justice in environmental matters and provides individuals with the right to take legal action to protect their rights. The ELD also acknowledges the right of individuals to live in a healthy environment and to protect the environment for future generations. Despite the existence of legal instruments protecting human rights in the context of environmental safety, certain measures may still interfere with human rights. For example, the use of drones for environmental monitoring may raise concerns about privacy and data protection. The collection of data on individuals' movements or behavior through the use of

drones could infringe on the right to privacy, as protected by the ECHR and the General Data Protection Regulation (Karpowicz, 2019: 204). Similarly, the regulation of protests in the context of environmental safety measures may raise concerns about freedom of expression and the right to peaceful assembly. Protests can be a crucial means of expressing dissent and raising awareness of environmental issues. However, they may also disrupt public order and safety. The EU and its member states must balance these competing interests to ensure that both human rights and public safety are protected. The EU has adopted various measures to balance public order and human rights in the context of environmental safety. For example, the EU encourages the use of environmental monitoring technologies that do not infringe on privacy or data protection, such as the use of cameras with limited recording capabilities. Furthermore, the EU recognizes the importance of peaceful assembly and freedom of expression; the organization has emphasized the need to ensure that environmental safety measures do not inordinately limit these rights. It encourages the use of dialogue between protesters and authorities to resolve conflicts, and it has taken measures to ensure that peaceful protests are not met with unrestricted excessive force.

The EU's approach to balancing public order and human rights is also reflected in the EU's administrative procedures. The EU is committed to transparency in decision-making, and it encourages public participation in environmental decision-making processes. This is consistent with the Aarhus Convention's recognition of the importance of public participation in environmental matters (The Aarhus). The tension between the right to peaceful protest and the need for public safety. One of the most significant challenges in balancing public order and human rights in the field of environmental safety is the dichotomy between the right to peaceful protest and the need for public safety. Protests can be a steadfast method of expressing dissent and raising awareness of environmental issues. Nevertheless, they may also wreak havoc on the public order and safety. The EU and its member states must stabilize these interests to make sure that both human rights and public safety are duly considered and preserved. In recent years, protests in the context of environmental safety have become increasingly common in the EU. For example, the Extinction Rebellion movement, which advocates for urgent action on climate change, has staged protests in several EU countries; these protests have often led to clashes with law enforcement and disruption of public order (Nicolas, 2019: 285). The EU has taken measures to address this challenge. The EU has re-emphasized the need to ensure that environmental safety measures do not unreasonably limit the right to peaceful protest. The EU, once again, advocates for the use of dialogue between protesters and authorities to resolve conflicts at all stages of contact.

Another significant challenge in balancing public order and human rights in the field of environmental safety is the impact of environmental safety measures on marginalized communities. Environmental safety measures may have a disproportionate impact on marginalized communities, such as the low-income or minority groups. For example, the construction of a waste incinerator may have a more significant impact on the health of residents of a low-income neighborhood than on residents of a wealthier neighborhood (European Parliament, 2019: 421).

The EU recognizes the importance of protecting the human rights of marginalized communities in the context of environmental safety. The EU encourages the use of environmental impact assessments to identify and address potential adverse impacts on marginalized communities; what is more, the EU has taken recent steps to ensure that environmental safety measures are implemented in a manner that is consistent with its obligations to protect human rights (Publications Office of the European Union, 2013: 82).

The lack of accountability and transparency in decision-making has also presented its challenges in balancing public order and human rights with regards to environmental safety. The EU has a complex system of decision-making involving multiple institutions, including the European Parliament, the European Commission, and the Council of the EU. This complexity can make it arduous for individuals and communities to hold decision-makers accountable for decisions that may have an impact on their human rights. In addition, decision-making in the field of environmental safety can be influenced by powerful interests, such as the industry lobbies or

political parties. This can result in decisions that prioritize economic interests over human rights and environmental safety. The lack of transparency in decision-making can also contribute to a lack of public trust in the institutions responsible for environmental safety (Demertzis, 2018: 56).

Conclusion

Protecting public order and safeguarding human rights are two vitally important values for the European Union (EU), especially in the context of environmental safety. The EU has developed a legal framework, both at the international and EU level, to defend human rights in this area. The Aarhus Convention is one such agreement that has been implemented in the EU through several legal instruments, including the EIA Directive and the Industrial Emissions Directive, to ensure public participation in decision-making processes related to the environment.

The EU's General Data Protection Regulation (GDPR) is also crucial in the context of environmental safety. The GDPR provides a framework for the processing of personal data related to environmental monitoring, ensuring individuals' right to access this data for correction and erasure. The EU's Environmental Liability Directive (ELD) establishes a framework for the prevention and remediation of environmental damage, warranting those responsible for environmental damage to pay for its remediation. The ELD recognizes individuals' right to take legal action to protect their rights in environmental matters.

However, despite these legal frameworks, environmental safety measures may still hinder human rights. For instance, the use of drones for environmental monitoring could infringe on the right to privacy, and the regulation of protests could raise concerns about freedom of expression and the right to peaceful assembly. In that regard, the EU faces several challenges in balancing public order and human rights in the field of environmental safety, such as the need for transparency and accountability in decision-making. The EU must ensure that both public order and human rights are protected while balancing the disputing interests. In conclusion, the EU's approach to balancing public order and human rights in environmental safety should continue to be based on the existing legal frameworks, including the Aarhus Convention, GDPR, and the ELD. The EU must take a more proactive approach to environmental safety measures and ensure that they are consistent with its commitments to protect human rights in a sustainable manner.

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