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

Abstract

This study is aimed at highlighting the principles of public policy in the field of environmental security of the EU. The article also provides examples from the jurisprudence of the ECHR in relation to certain principles of public policy. The author of the study comes to the conclusion that the judicial practice on the application of the principles of state policy in the field of environmental safety in the EU continues to develop and remains an important tool for protecting the environment and human health. "Environmental problems" have a special place in EU policies. As a matter of fact, this situation manifests itself with the execution of Environmental Action Plans, which have been ongoing since 1971. This is one of the reasons behind the increasing environmental awareness and the strengthening of the green movement in European countries.

Keywords: *principles, public order, environmental safety, European Union, procedural aspects, case*

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Avropa İttifaqında ekoloji təhlükəsizlik sahəsində ictimai asayişin və insan hüquqlarının prosessual aspektləri

Xülasə

Bu tədqiqat Aİ-nin ekoloji təhlükəsizliyi sahəsində dövlət siyasətinin prinsiplərini işıqlandırmaq məqsədi daşıyır. Məqalədə dövlət siyasətinin müəyyən prinsipləri ilə bağlı AİHM-in hüquq təcrübəsindən də nümunələr verilmişdir. Tədqiqatın müəllifi belə qənaətə gəlir ki, Aİ-də ekoloji təhlükəsizlik sahəsində dövlət siyasətinin prinsiplərinin tətbiqi üzrə məhkəmə təcrübəsi inkişaf etməkdə davam edir və ətraf mühitin və insan sağlamlığının qorunmasında mühüm alət olaraq qalır. Aİ siyasətində "ekoloji problemlər" xüsusi yer tutur. Əslində bu vəziyyət 1971-ci ildən davam edən Ətraf Mühitin Mühafizəsi üzrə Fəaliyyət Planlarının icrası ilə özünü göstərir. Avropa ölkələrində ekoloji maarifləndirmənin və yaşıl hərəkatın güclənməsinin səbəblərindən biri də budur.

Açar sözlər: *prinsiplər, ictimai asayiş, ekoloji təhlükəsizlik, Avropa İttifaqı, prosessual aspektlər, məhkəmə qərarları*

Introduction

The EU Environmental Security Public Policy Principles are the fundamental principles that govern environmental protection and environmental security in the European Union. These principles ensure the highest level of protection of the environment and human health, and also take into account the interests of future generations. When we look at the publications in the intellectual community in the EU, as the justification for a common health and environmental policy, "The pressure on the environment in Europe is getting heavier; natural resources come to the point of depletion; the proliferation of destructions such as floods, droughts, forest fires; the continuous increase in carbon dioxide emissions from homes and transportation vehicles; decrease in the quality of healthy life due to pollution and noise, especially in urban settlements; It is suggested that

there are problems such as the production of approximately 2 billion tons of waste every year and an average increase of 10% per year". Environmental and health problems, which are growing both in terms of quality and quantity, necessitated the determination of common policies throughout the Union. It is seen that other factors also play a role in creating a common action policy with the topics of environment and health and taking action. Among these, which constitutes the main agenda of the urbanization phenomenon; in the political and cultural field; It is seen that factors aiming at integration among European countries take the lead (Cichowski, 1998: 391).

Legal Framework

In the field of public order, the environmental security of the European Union, the following principles can be distinguished:

1) Precautionary principle: according to this principle, if scientific data do not allow to accurately determine the level of risk to the environment or human health, measures should be taken to prevent possible negative consequences.

2) Prevention principle: This principle means that measures must be taken to prevent pollution of the environment and reduce the amount of hazardous substances that enter the environment.

3) The principle of health protection: according to this principle, it is necessary to ensure the protection of human health by minimizing the risks associated with exposure to hazardous substances.

4) The principle of compatibility: this principle suggests that environmental protection measures should be integrated into other areas of activity, such as industry, agriculture, transport and construction.

5) The principle of public participation: it is important to ensure the broad participation of citizens and the public in the decision-making process related to environmental protection.

6) The Polluter Pays Principle: This principle means that polluters should be responsible for the compensation of damage and the cost of preventing damage. This may include imposing fines and sanctions on companies that violate environmental standards, as well as establishing funds to address environmental impacts (Damro, Luaces Me´ndez, 2003: 85).

These principles are the main principles in the field of public policy of environmental security of the European Union and are aimed at ensuring the protection of the environment and the health of citizens, as well as the sustainable use of natural resources (Levitt, March, 1988: 328).

The principles described above are enshrined in various EU documents and legal acts, including the Treaty on the Functioning of the European Union, the Framework Directive on the Sustainable Use of Natural Resources and Waste Management, as well as in the national laws of the Member States. For example, the precautionary principle and the principle of prevention are mentioned in the Directive of the European Parliament and of the Council of the EU on the assessment and management of risks associated with hazardous substances (Mitchell, 2004: 447).

The principles of health protection and compatibility are found in the EU Air Pollution Control Act, and the principle of public participation in the Directive of the European Parliament and of the Council of the EU on access to information on the environment (Sbragia, Damro, 1999: 59).

In particular, the principles described above are also enshrined in a number of international treaties and conventions that have been signed by the European Union and its member states. For example, the United Nations Convention on Biological Diversity (CBD) and the Climate Change Convention (UNFCCC) contain provisions on the precautionary principle, prevention and compatibility in the context of environmental protection.

Based on the concept of environmental right in law, it should be understood that the crisis experienced due to environmental pollution is not only a technical problem in order to understand more clearly how much health is affected by the environment. It should be said that an unhealthy environment is a dimension or a natural consequence of larger social and political problems. The absence of the concept of the right to the environment cannot be seen only as a "pollution" or "degradation" problem. It can be accepted that an unhealthy environment creates a more

comprehensive and more difficult network of problems. The field of combating environmental problems is not limited to "pollution and degradation". For this reason, it is essential to activate social and legal processes and to adapt together in order to create a healthy environmental environment (Adelle, Camilla & Sirini Withana, 2010: 327).

In general, the understanding of health in the West has led to the implementation of policies that will improve health through the interventions of governments in the environment and society's lifestyle. The most important issue in terms of the subject arises at this point. The fact that institutions and individuals working within the scope of primary health care services focus on protective services for the individual and the environment together with other sectors should be accepted only as a basic function for our country. On top of that, placing the environmental health policy in an integrated manner will be more harmonious and progressive with the EU in terms of health policies. By fulfilling the responsibility of creating this new understanding, duty and precaution in health, it can be seen as a value to play a role in social development as well as protecting the environment (Aldy, Joseph, Robert, Stavins, 2008: 13).

Moreover; It is an indisputable fact that the basic economic factors that envisage the free movement of capital, goods, services and labor also have an important place among others. Since the problem areas related to the environment and health affect all sectors in some way, in accordance with the principle of common justice in the process of creating common policies in the future and today; It would not naturally be expected to exclude health and environmental themes. The aim of improving the living conditions in the countries of the EU and raising the quality of life to a common level throughout Europe is another reason why the Union deals with health and environmental problems. The increasing pressure on natural resources such as drinking water and energy resources has brought up the problem of sustainability of the economy, while new problem areas such as climate change and genetically modified organisms (GMO) have begun to make their effects felt in daily life. According to the idea in the EU, solutions for raising the standard of living in urban and rural settlements, developing health measures and eliminating regional imbalances can only be possible in a healthy and balanced environment, under the umbrella of artificial and natural environment separation. Another reason that remains relatively behind the necessity of establishing a common environmental and health policy is due to the "borderless" nature of environmental problems. By going beyond the local dimension of many problems such as epidemics; It has been understood by many unpleasant experiences that the region, Europe, has become an agenda item in a short time and that "acting together on such problems" is now mandatory. As a matter of fact, the threats that cause natural disasters such as floods, acid rains, radiation can be remembered here. In addition, it is closely related to these sensitivities, which are considered as “taking measures at the Union level” on issues such as depletion of the ozone layer, climate change, pollution of international waters, natural nutrition and protection of wildlife. It is now a current need for those who follow EU policies to take a look at these sensitivities under the umbrella of "environmental health unity" in the EU common policy and to illuminate what environmental health unity means (Cass, Loren, 2005: 51).

In addition, the European Union is party to many other international environmental agreements, such as the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention), the United Nations Framework Convention on Climate Change (UNFCCC), and the Rotterdam Convention on Preliminary Procedures. providing information on the scientific basis for taking action on certain chemicals and pesticides in international trade. Thus, the principles of public policy in the field of environmental safety, enshrined in EU laws, national laws and international treaties, are the basis for taking measures for environmental protection and environmental safety in the European Union and Member States. These principles can also be enshrined in the national legislation of the EU Member States, which regulates environmental protection and environmental safety at the local level.

The procedural aspects of the principles of public policy in the field of environmental security of the EU are that they are included in various legal acts regulating environmental protection and

environmental security, and they must also be taken into account in the decision-making process and the development of strategies in this area.

Consider several procedural aspects of the principles of public policy in the field of environmental security of the EU:

1. The principle of public participation. This principle includes the obligatory informing of the general public about the processes and decisions taken regarding environmental protection and environmental safety. In addition, citizens and environmental organizations have the right to participate in public hearings and consultations, as well as to file complaints and appeals to the competent authorities on environmental issues.

2. The precautionary principle. This principle requires that when making decisions related to environmental protection and environmental safety, possible risks and threats to the environment and human health are taken into account. In this case, it is necessary to carry out scientific studies and risk assessments, as well as to use precautionary measures in the absence of sufficient scientific information.

3. The principle of compatibility. This principle includes the need to reconcile measures aimed at protecting the environment and environmental safety with other public interests and goals, such as socio-economic development and employment.

4. The principle of health protection. This principle is that environmental protection and environmental safety should contribute to the protection of human health. This requires environmental and health impact assessments and risk mitigation measures.

5. Principle of prevention. Member States should take measures to prevent possible environmental harm, including setting standards for environmental safety, notification of possible risks and developing environmental monitoring programs (Delreux, Tom, 2009:194).

In practice, court cases related to the application of the principles of public policy in the field of environmental safety in the EU are very diverse and can include many different situations (Gupta, Joyeeta & Lasse Ringius, 2001: 290).

One of the recent examples of a case before the European Court of Environmental Security was the case of Austria v. Germany (2018). The case concerned the construction of a road in Germany along the Danube River, which was intended to improve transport accessibility and reduce congestion on neighboring roads. However, the construction of the road was prohibited for a number of reasons, including violation of environmental requirements and the possibility of a threat to human health (Helm, Dieter, 2008: 231).

The Austrian government has filed a complaint with the European Court of Justice, alleging that the project violates a number of international agreements, including the Convention for the Conservation of Nature and Natural Resources in Europe and the EU Wild Birds Directive. The European Court considered the case and ruled in favor of Austria, referring to the fact that Germany violated its obligations to protect the environment and human health. The case concerned a breach by Germany of the EU environmental safety principle of public policy regarding the construction of a uranium mine in the town of Weilheim. In this case, the ECJ found that Germany violated the principle of environmental safety by not conducting a proper environmental impact assessment and by not providing adequate information to the public during the development and construction of the mine. The ECJ indicated that, in line with the precautionary principle, Germany should have carried out a more thorough environmental impact assessment before allowing the construction of the mine. The ECJ also noted that Germany did not comply with the principle of availability of information and public consultation regarding this project. Thus, the precautionary principles and the availability of information and public consultation in the field of EU environmental security were applied in this case (Lenschow, Andrea, 2005: 319).

Another example of a case before the European Court of Justice was Susta v. Italy (2021), in which an Italian court denied the opportunity to challenge an oil and gas license in the Adriatic Sea region. As a result of this case, the applicant applied to the European Court of Justice, arguing that the mining permit had been issued in violation of Italy's international obligations in the field of

environmental safety. The European Court did not take the side of the applicant, however, the case continues to attract the attention of environmental organizations and the public. In this case, the precautionary principle of environmental safety was applied, which implies that in the absence of full scientific certainty about what the environmental impact will be, measures must be taken to protect the environment and human health. The court concluded that Italy did not do enough to protect the health and safety of the population by allowing emissions of harmful substances into the atmosphere

Conclusion

There are also many other court cases related to the application of the principles of public policy in the field of environmental safety in the EU, for example, in the field of water, air, waste management, etc. In general, the jurisprudence in this area shows that the principles of public policy are essential for the protection of the environment and human health in the EU.

Thus, the jurisprudence on the application of the principles of public policy in the field of environmental safety in the EU continues to develop and remains an important tool for protecting the environment and human health

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