

THE POLICY OF COMBATING ENVIRONMENTAL CRIMINALITY IN THE REPUBLIC OF NORTH MACEDONIA

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Abstract

Environmental crime is the perpetration of harms against the environment that violate current law. Environmental crime is a special type of crime, which is becoming more and more complicated in modern social circumstances. The way it is presented shows that it is constantly changing and developing. Environmental crime in the Republic of North Macedonia represents a very significant form of criminality. The opinion is not aware of its consequences leaving behind it and protecting environment is an especially complex process. In this paper the subject of scientific observation is the penal policy in relation to environmental protection in the Republic of North Macedonia. For this aim will be presented the data taken from the statistical Yearbooks of the Republic of North Macedonia State Statistical office for a period of five years. This data's refer to the number of reported, charged or convinced persons presented for a period of five years. The findings of the research in this work indicate that the detection of criminal offenses in the field of environmental security is at an extremely low level and that the crime rate is pronounced. The purpose of this paper is to raise questions about the most visible components of the penal policy related to the Environment in Republic of Macedonia. The focus of this work is to address the current and emerging threats posed by the environmental crime in the Republic of Macedonia.

Keywords: environment, crime, penal policy, threat.

Introduction

Environmental crime is an illegal act that directly harms both humans and the environment. It is a negligent, knowing or willful violation of an environmental law within jurisdiction (Environmental crime, 2019). Criminal exploitation of the world's natural resources affects our everyday lives, from the food we eat to the air we breathe (INTERPOL). The Intergovernmental Panel on Climate Change concluded in September 2015, that it is "extremely likely" that human activities have caused most of the warming of the Planet's surface since the 1950s. As noted by the World Economic Forum in its 2012 global risks assessment, environmental risks are of high concern, from natural disasters such as extreme weather and geomagnetic storms, to human-made disasters such as irremediable pollution and species over exploitation.

The definition of "environmental crime" is not universally agreed, it is often understood as a collective term to describe illegal activities harming the environment and aimed at benefiting individuals or groups or companies from the exploitation of, damage to, trade or theft of natural resources, including serious crimes and transnational organized crime (Nellemann, 2016).

According to the United Nations Interregional Crime Research Institute environmental crimes encompass a broad list of illicit activities, including illegal trade in wildlife, smuggling of ozone-depleting substances (ODS), illicit trade of hazardous waste, illegal, unregulated, and unreported fishing, and illegal logging and trade in timber. On one side, environmental crimes are

increasingly affecting the quality of air, water and soil, threatening the survival of species and causing uncontrollable disasters. On the other, environmental crimes also impose a security and safety threat to many people and have a significant negative impact on development and rule of law.

According to INTERPOL Environmental Crime is a serious and growing international problem, and one that takes many different forms. Environmental Crime is not restricted by borders, and can affect a nation's economy, security and even its existence. A significant proportion of both wildlife and pollution crime is carried out by organized criminal networks, drawn by the low risk and high profit nature of these types of crime (INTERPOL).

Criminal protection of the environment in the Republic of North Macedonia

The criminalization of environmental violations presents challenges conceptually in at least two ways. First, as with other forms of regulatory crime, the moral content of the proscribed conduct is not as well-established as it is for common law crime, which has prompted concerns about over criminalization. Second, the complexity of environmental law raises issues about whether it can be integrated effectively with traditional approaches to criminal liability (Uhlmann, 2009).

According to the legislation of the Republic of Macedonia, several forms of endangering the environment are sanctioned under the Criminal Code of the Republic of North Macedonia, as well as numerous offenses provided in many other laws, and all together make the environmental crime. In this paper are analyzed only the criminal offenses as serious criminal behavior in relation to all other offenses. The Criminal Code of the Republic of North Macedonia from article 218 to article 234 stipulates acts as Environmental Criminal offenses such as: Pollution of the environment, Pollution of drinking water, Production of hazardous substances for treating livestock or poultry, Unethical indication veterinary assistance, Transferring infectious diseases in animal and plant life, Contamination of feed or water, Destruction of crops by the use of harmful material, Usurpation of property, Illegal exploitation of mineral raw materials, Devastation of forests, Challenging wildfire, Illegal hunting, Illegal fishing, Endangering the environment with waste, Unauthorized obtain and dispose of nuclear material, Importing hazardous substances in the country, Animal Torture, Serious offenses against the environment. All these offenses are in separate chapter Environmental against environment and nature.

According to Kambovski these criminal acts present the order of generally dangerous acts, acts which mean activation of sources of previously undetermined danger, which is difficult to control and accompany a broader reason-causal process (Kambovski, 1997). Characteristic of criminal acts of this chapter is that they have blanket dispositions whose object of protection are the environment, air, land, water etc. from generally dangerous acts which threaten the lives and health of humans and other living organisms on earth, which leads to the destruction of man and nature (Malis, 2007). Offenses against the environment are those against legal acts (by act and not) which jeopardizes the protection of the environment (air, water and land) pollution, committed with guilt and provided as criminal offenses under the penal legislation (Elezi, 2009). Richard Lazarus, who has written eloquently about environmental law for more than two decades and is an advocate for strong environmental enforcement, has questioned whether environmental law and criminal law are sufficiently integrated for effective criminal enforcement to occur (Uhlmann, 2009).

Without question, environmental law is complex. Environmental law raises conceptual and practical challenges even for respected scholars and experienced practitioners. Much of

environmental regulation involves sophisticated and technologically advanced industrial processes. As a result, at least from a theoretical perspective, environmental law and criminal law could be difficult to integrate effectively. The criminal law demands the violation of clear legal duties, environmental law offers dense regulatory requirements (Uhlmann, 2009).

From a practical perspective, however, whether the complexity of environmental law raises problems for criminal enforcement depends upon whether prosecutors pursue cases that involve issues of regulatory uncertainty.

According to EU Report for Macedonia for 2022 the country has some level of preparation in this area. Some progress was made in nature protection and in climate change. However, implementation remains a concern in all sectors. The country needs to considerably step up ambitions regarding the green transition, notably in the context of the Green Agenda for the Western Balkans (Commission Report, 2022). According to Macedonian Ecological Society the basic problem is the weak implementation of the existing laws. In the same line is also US Ambassador in RNM Kate M. Byrnes who says that environmental crime remain in the shadow.

According to the same Report on horizontal issues, administrative capacity at all levels remains weak, with insufficient human and financial resources to implement and enforce legislation. The inspections performed have little impact. There is no improvement in implementation of Environmental Impact Assessments, with shortcomings especially in the public consultation processes and in the quality of the reports. Lack of transparency and access to information continues to be an issue. The law on environmental inspection and some amendments on the law on environment were adopted. Activities continued in the area of environmental liability (Commission Report, 2022).

The Republic of North Macedonia support the programs that promote environmental law and foresee an increased use of criminal law to protect the environment. Addressing as a priority enforcement in respect of environmental offenses and developing a holistic approach to environmental offenses from prevention and detection to sanctions and remediation through developing and strengthening laws to provide administrative, civil and criminal sanctions for environmentally harmful activities (Castillo, 2026).

Environmental crime trends in the Republic of Macedonia for the period 2011-2021

The possible annual growth rate of environmental crimes is difficult to estimate. Based on some registered trade statistics, seizures and reported incidents including of iconic species and chemicals, the last decade has seen a rise in environmental crimes.

To see how is the situation in the Republic of North Macedonia with offenses that sanction or guarantee environmental protection will be analyzed the data from State Statistical Office of the Republic of Macedonia. Previous research of the same data for 2007-2015 (Etemi & Muaremoska, 2017) shows that the penal policy over the perpetrators of environmental crimes is inappropriate, very soft, and does not have preventive or repressive impact because only one third of reported persons were convicted. This shows the great weakness of the judicial system against these offenders and does not apply any criminal policy.

The Judicial statistics are based on data gathered by regular statistical surveys on perpetrators of criminal acts. Data presented in this publication are gathered by individual statistical questionnaires filled in by public prosecution offices and courts of the first instance, while data processing is realized at the State Statistical Office of the Republic of North Macedonia (Statistical Review 2011-2021). We will do an analysis in terms of the number of reported

persons, the number of accused persons, the number of convicted persons, type of sentences, and some other features that accompany this type of crime. The scope of ecological crime is determined during one year that is followed every phase of the criminal procedure that passes criminal offense and the offender: revealed crime determined by the number of criminal charges by public prosecutor and by number of convicted perpetrators.

Methodology of the Statistical Review (year-book) gives an overview on the situation of environmental crime, but does not give clear view of structure of environmental crime, actually does not give view of every crime that belong to environmental crime. The official statistics do not record data separately for criminal acts and separately for perpetrators of crimes, but only for the perpetrators. The data for period 2011-2021 presented reflect mainly the situation of only three offenses and all other criminal environmental crimes are presented as other offenses. For the period 2011-2015 the largest number of environmental crimes are listed in the left column other crimes or 77% of the total number of environmental crimes. From 2016 Statistical Review presents data for seven environmental crimes instead of three crimes in previous Reviews which is step forwarder for having better view for phenomenology of more environmental offenses. The number of criminal charges to the Public Prosecutor it allows us to approach closest to the actual (discovered and undiscovered) crime.

Table1. Reported, accused and convicted adult perpetrators for Crimes against the environment and nature for 2011-2021

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Reported	174	253	217	137	164	236	151	191	214	146	189
Accused	88	106	97	103	71	85	68	60	69	57	85
Convicted	70	92	64	90	47	77	62	52	59	52	73
% of reported convicted	40.2	36.3	29.4	65.7	28.6	32.6	41.1	27.2	27.5	35.6	38.6

Source: Perpetrators of Criminal offenses for period 2011-2021, State Statistical Office

On the table number 1 are shown the number of persons reported for committing criminal offenses against the environment and nature, where in general we have a continuous increase and decrease from year to year. In 2012, compared to 2011, there was a large increase in the number of persons reported for these criminal offenses and the number reached 253 persons. In the following two years, this number drops to 137 persons reported, which represents a reduction of 45% of the number of persons reported. In the following next two years, this number increases and in 2016 it reaches 236 people reported. In 2017 this number falls, then in the following two years this number increases, then we have a decline in 2020, while in 2021 we again have a lower growth.

Regarding the number of accused persons, the situation is similar. As for the number of convicted persons representing confirmed criminality, the situation is alarming. The number of convicted persons is very symbolic and the number goes down from year to year. We have the largest number of convicted persons in 2012 and 2014, reaching 92 and 90, respectively, while

the smallest number of convicted persons is in 2015, where that number is only 47 convicted persons. The data for the analyzed period show that the number of convicted persons compared to the number of persons reported from year to year goes down until 2018, while in the following two years this number stagnates, and in the next two years this percentage increases. These numbers show that institutions that fight this crime should be more consistent on their every day work. This situation is the result of low efforts that make law enforcement in detecting the perpetrators of these crimes and reducing the dark figure.

Table 2. Reported adult perpetrators by submitter of the complaint for crimes against the environment and nature for the period 2011-2021

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Damaged citizen	9	25	36	19	30	38	43	24	23	21	20
Other citizen	2	4	1	4	1	2	4	4	2	14	16
Damaged business entity	10	3	14	1	/	4	4	2	6	5	/
Inspection	5	7	3	2	3	4	9	2	1	4	1
Ministry of Interior	133	210	157	106	117	179	887	137	176	945	140
Other administrative organs	3	2	3	3	9	9	1	5	3	5	4
Other	12	2	3	2	4	9	2	9	1	1	4
Total	174	253	217	137	164	236	151	191	214	146	189

Source: Perpetrators of Criminal offenses for period 2011-2021, State Statistical Office

From the table above we can see who are the submitters of criminal charges for committing environmental crimes acts. Figures show that submitter of the criminal charges mostly are from the Ministry of Interior, from 60% to 84% of cases, then damaged citizen and damaged business subjects, the smallest numbers reporting environmental crimes are from administrative bodies and inspection bodies and citizens. These data are an important indicator why is such a large dark figure of this crime. The dark figure is huge because of many reasons, at the offenses of general criminality where the effects appear directly, to this crime criminal activities are undercover, environmental crimes do not always produce an immediate consequence, the harm may be diffused or go undetected for a lengthy period of time, the victim often is not aware of the damages occurred from these crimes. This greatly complicates the work of the authorities who should build effective mechanism for revealing and proving these crimes. According to these data the work of Inspection institutions who are competent for dealing with this type of crime are not in level that should be. Also big concern is not reporting these crimes by citizens. This shows that should be done something on changing the public opinion about environmental crime.

Table 3. Convicted adult perpetrators by types of criminal offences, type of sentence, for 2011-2021

Year	Pollution of the environment and water ¹⁾	Unlawful hunting	Torturing animals	Usurpation of real property	Illegal exploitation of mineral resources	Devastation of forests	Unlawful fishing	Other persons	Total convicted persons	Imprisonments	Fine
2021	-	3	5	31	-	-	33	13	73	2	28
2020	-	6	7	25	1	2	11	-	52	-	10
2019	-	11	10	19	-	6	7	6	59	7	19
2018	-	10	2	25	-	2	12	1	52	1	9
2017	-	4	2	27	11	4	9	5	62	4	22
2016	-	3	6	33	3	9	18	5	77	1	25
2015	-	8	5	/	/	/	/	34	47	4	22
2014	-	16	32	/	/	/	/	40	90	10	46
2013	1	13	5	/	/	/	/	45	64	6	33
2012	-	8	-	/	/	/	/	84	92	9	53
2011	-	20	3	/	/	/	/	47	70	7	37
2010	-	30	4	/	/	/	/	88	82	2	23
2009	1	21	6	/	/	/	/	43	71	1	24
2008	4	8	2	/	/	/	/	35	49	-	20
2007	-	20	1	/	/	/	/	96	117	3	35

Source: Perpetrators of Criminal offenses for period 2011-2021, State Statistical Office

From the analysis of the above table, we see that in the last six years since we have data on more ecological crimes, the largest number of people convicted for ecological criminality are for usurpation of real property, unlawful hunting and unlawful fishing. These data are disturbing due to the fact that we are dealing with twenty-two ecological criminal offenses where only six are representative of over 95% of criminal offenses. This shows that many other ecological crimes are not detected while every citizen is witness to their presence.

Table 4. Convicted adult perpetrators by types of criminal offenses and applied main sentence - imprisonment and fine, by year

	1 201	2 201	3 201	4 201	5 201	6 201	7 201	8 201	9 201	10 201	11 202	12 202
Total imprisonment	7	9	6	0	4	1		4	1	7	-	2
life imprisonment	/	/	/	/	/	/	-	-	-	-	-	-
imprisonment over 20 years	/	/	/	/	/	/	-	-	-	-	-	-
imprisonment 10-15 years	/	/	/	/	/	1	-	-	-	-	-	-
imprisonment 5-10 years	/	/	/	/	/	/	-	-	-	-	-	-
imprisonment 3-5 years	/	/	/	/	/	/	-	1	-	-	-	-
imprisonment 2-3 years	/	/	/	/	/	/	-	-	-	-	-	-
imprisonment 1-2 years	1	/	/	1	/	/	-	-	1	-	-	-
imprisonment 6-12 months	/	2	1	/	/	/	1	-	5	-	-	1
imprisonment up to 6 months	6	7	5	9	4	/	3	-	1	-	-	1
Total fine	3	5	3	4	2	2	2	9	1	1	1	28
fine up to 5000 denars	7	3	3	6	2	5	2		9	0		
fine 5001-10000	/	/	/	/	/	/	-	-	-	-	-	-
fine 10001-30000		1					1	-	-	1	2	
fine 30001-50000	6	1	3	5	2	2						
fine over 50000 denars	1	3	2	1		1	1	4	1	6	19	
fine up to 10000 denars	7	6	3	6	6	6	1		3			
fine 10001-30000 denars	1			2	1		1	5	6	3	7	
fine over 30001 denars	4	6	7	5	4	7	0					

Source: Perpetrators of Criminal offenses for period 2011-2021, State Statistical Office

The above table shows the data regarding the punishments imposed on the perpetrators of environmental crimes. From this table we see that the number of sentences pronounced is very small, symbolic. The main punishments have almost not been pronounced, and among the main punishments, the punishment in money prevails, as well as the punishments of 10,001-30,000 denars, then the punishments over 30,001 denars, while the less pronounced are the punishments of 5,001-10,000 denars. As for prison sentences, sentences of up to 6 months in prison predominate, then we have sentences of 6-12 months in prison, 3 people have been sentenced to 1-2 years in prison and only one person has been convicted of a criminal offense of 3-5 years in prison. In 2016 and 2018, we have by one person convicted, while in 2020 we have no person sentenced to prison. From this we can conclude that the criminal policy is not expressed at all, the perpetrators are motivated to commit this crime even more because the punishments are minimal, or only in money, while we do not forget that the majority of these crimes are committed for material reasons.

Conclusions

Fighting environmental crime is a challenge for all countries at the national and international level, because the impact of illegal activities that can be classified as acts from the domain of environmental crime exceeds the limit of endangering the environment itself and leads to implications of a wider social and economic character.

The root causes of environmental crimes vary greatly and subsequently the design, identification and implementation of appropriate responses must be carefully planned. Root causes are primarily the low risks and high profits in a permissive environment as a result of poor governance and widespread corruption, minimal budgets to police, prosecution and courts, inadequate institutional support, political interference and low employee morale, minimal benefits to local communities and rising demand (Nellemann, 2016). This means that the issue requires a full range of responses, also beyond enforcement.

According to the above analysis punishment policy is very weak, which should be changed as soon as possible. All statistical data unequivocally confirm that the essential problems in the process of successfully proceedings environmental crimes are first of all of late prevention, that is, reacting only when the problem is in the courtroom. In addition, the frequent lack of evidence, expensive and complicated expert examinations, which are rarely carried out on the crime scene, corruption and lack of objectivity, insufficient expertise of the persons who carry out these procedures, as well as the need for radical institutional reforms, are the reasons for the small number of reports of crimes against environment, as well as a small number of cases that have been completed and where a conviction was pronounced. Institutions should work more on rise the awareness of this crime to the citizens to report this crime.

References

- [1]. Арнаудовски Љ. 2007. Криминологија. Скопје.
- [2]. Communication on EU Enlargement Policy. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022SC0337>
- [3]. Castillo T. Fajardo, European Union Action to Fight Environmental Crime. 2016. EFFACE www.efface.eu
- [4]. Commission Staff working Document. 2022. North Macedonia 2022 Report, Communication on EU Enlargement Policy. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022SC0337>
- [5]. Elezi Ismet. 2009. E drejta penale, pjesa e posaçme, Tiranë,
- [6]. Etemi Naser, Sevil Muaremoska. 2017. Environmental Crime trends in the Republic of Macedonia 2007-2015, Third International Climate Change Conference, f. 60-70, Conference Proceedings, Institute for Sustainable Development and Climate Change Management, MKM Institute, Skopje 2017, ISBN 978-608-4832-00-3.
- [7]. Environmental Crime Investigations and Financial Intelligence. 2019. <https://www.acamstoday.org>
- [8]. INTERPOL <https://www.interpol.int/Crimes/Environmental-crime>
- [9]. Камбовски Владо. 1997. Казнено право, Посебен дел, просветно дело, Скопје.
- [10]. Малиш Саздовска, М. 2007. Еколошка криминалистика, График МакПринт, Скопје.^[1]_{SEP}
- [11]. Nellemann, C. (Editor in Chief); Henriksen, R., Kreilhuber, A., Stewart, D., Kotsoyova, M., Raxter, P., Mrema, E., and Barrat, S. (Eds). 2016. The Rise of Environmental Crime – A Growing Threat To Natural Resources Peace, Development And Security. A UNEP- INTERPOL Rapid Response Assessment. United Nations Environment Programme and RHIPTO Rapid Response–Norwegian Center for Global Analyses, www.rhipto.org
- [12]. Uhlmann, David M. 2009. "Environmental Crime Comes of Age: e Evolution of Criminal Enforcement in the Environmental Regulatory Scheme." Utah L. Rev., no. 4 (2009): 1223-52.