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REVIEW ARTICLE

THE INTERNATIONAL LIABILITY FOR ENVIRONMENTAL DAMAGE

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ABSTRACT

The international law represents a radiation of the states of the international society, states that are situated in a permanent interdependence, just because of the relationships which are created between them. The existence of a distinct branch of law- the environmental law-is also imposed by the relatively unitary nature of the social action regarding the protection of the natural factors or those created through human activities of the environment. Given the characteristics of the object which is subject to the regulation being represented by the relationships between man, by the society and his environment respectively, the environmental law has a "horizontal" nature, within the meaning that it covers different classical legal branches: the private, public and international law represents a law of interactions, tending to enter all the sectors of the legal system in order to introduce eco-friendly dimension. The legal approach and the solving of the environmental protection was made up not so long ago in the traditional forms of the international regulations. Usually, the path to regulating was and still remains the state "of conflict" between states in the form of the state's right to use exclusively its territory and to authorise the activities which could cause damage to the environment of other states, especially those neighbouring, in the accordance with the law of each state to respect its territory and the environment, being protected from any external damage. Cetainly, more than in any other area, regarding the environment there is a viable principle, according to which " to prevent is more effective than to repair". There were recorded notable advancements, in this regard, especially at the level of the customary principles, in the form of the prenotification of the state exposed to possible damages of its environmental, the consultation, the application of the national, international and communitary legislation without discrimination in all the activities, which might be detrimental, irrespective of the place where the consequences are produced, the equal access of the residents and nonresidets to the procedures for such activities, the quick notification of the foreign state of any sudden event, which can affect the basic environment.

INTRODUCTION

We assess that, in its first stage of development, the environmental international law was characterized by a "segmented" regulation according to the great areas of the environment: continental waters, seas and oceans, air, savage fauna or flora. Gradually during the activities of interstatal regulation and international cooperation, we find out that the environmental law has reinforced the idea of the common resources and the necessity of their use in the interest of the present and future generations, has intensified the regional co-operation, outlining itself as a genuine law of cooperation and solidarity. It is obvious that the features of the environmental international law represents a new field of the international cooperation and interstatal regulation, in the full process of development and affirmation. We appreciate that one should not ignore none of the series of "inconveniences", some inherent in the present stage of its development, given the fact that the process of drafting the rules was sometimes too long, the hesitatations of the ratificating states and, in particular, their impact on the internal rules, the delayed application because of the respecting control which is more difficult and more complex and requiring wider research, sometimes determines moments of disbelief in the international legal rules and those regarded as ineffective sometimes in order to achieve the aim pursued. The the improvement of the framework of the bilateral relationships by the international regulation in the matter led to the adoption of documents of far-reaching regional and world-wide dimension.

We emphasize that the protection, the conservation and enhancement of the environment constitute the objectives of the national policy of each state and implicitely issues that fall under the incidence of their national law. On the other hand, the phenomenon of pollution and environmental damage have most often reached the highest levels so that it is possible to stop them only through a wide international cooperation given the following reasons:

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a) the affection of the quality of the environment in each state is due not only to the action of some factors within its territory, but also to some sources of pollution that are themselves outside its borders and which are related to different activities held out within the territory of other states;
b) the existence of a common heritage of all mankind, to which all the world's states have access and whose misuse represent the basic cause of damaging the ecological balance existing at the planetary level. Therefore, it is necessary to adopt regulatory measures of the way in which this heritage must be used, with the establishment of the rights and obligations that each state has, as well as the initiation of some international programs in order to eliminate the laps and to restore subscales the initial ecological balance;
c) the fact that a series of activities within the national borders create negative effects in relation to the environment which transcend these boundaries makes more obvious the need for regulation, through international conventions regarding the obligations that the states have in respect to preventing the enlargement of the negative consequences of the reckless activities in the territories of the neighboring states;
d) if the ecosphere constitutes a global system in which there are embedded in a uniform manner the environmental components on the entire planet, then it's poignantly highlighted the fact that the imbalances occurring in the structure of the environment of each state will unavoidably affect equilibrium of the global system. Therefore, we conclude that, if an effective protection of the ecosphere is desired, as an indispensable condition of the conservation and protection of life on Earth, then a corresponding protection of the existing environment is really required.

MATERIALS AND METHODS

In order to steer the overall process of transition towards a new manner of environmental management there have been discussed and developed a number of national and international normative acts, as well as a developed plan for long term actions Agenda 21 (Convention from Rio de Janeiro, 1992). The study of this document and the cross-checking with other international documents in the field, as well as the practice of the International Court of Justice, in particular the Corfu Strait Cause as well as the analysis of European directives regarding the liabiliy for the environment led us to realize this material, of major importance, we believe. By signing the Declaration, the future ratification of the conventions- the Convention regarding the biological diversity from Rio de Janeiro on 5 June 1992; the framework Convention of the United Nations concerning the climatic changes, Rio de Janeiro in June 1992- and the adoption of the coordinates of Agenda 21, the states have commited themselves to develop strategies and action plans for their own, which ought to reflect the potential and the willingness to integrate into the overall process of transition to the new model of sustainable development in the advantage of the environment without causing it any damage. For the realization of this material there have been analysed other international documents, such as: the UN Declaration on the environment of 1972, the Convention on the sea right of the Montego Bay in 1982, the Stockholm Declaration from 1972, the preliminary Declaration on the programs of successive action of the European Community in the environment field from 1973, the final act of the Helsinki Conference from 1975, the World Chart of Nature from 1982, the EU Directive regarding the liability for the environment of 2004 and others.

RESULTS AND DISCUSSION

We consider that the research activities started on this subject are really up-to-date taking into account the fact that today's civilization is totally determined by the environment and its ecological foundation. We believe that this is a truth which can no longer be ignored. Terra and the natural resources are exploited without taking into account the negative consequences for the environment by the future generatations as well. Although the natural resources are appearantly unlimited and abundant, nevertheless they are more limited than we believe. The awareness of this fact was one of the most difficult but also one of the most prominent accomplishments of the 21st century. In recent centuries, the economic development of the world's countries was precisely achieved with the damage and the simplification of the natural capital, of the waste of natural resources, the environmental degradation and the state of health of the human population. It is absolutely certain that the odds of the long-term progress and implicitely of the economic development of all the countries of the world are endangered. The deepening of this understanding is crucial for the 21st century. There were already done many things in the field of the durable development, which actually means trying to achieve economic growth through ways that are in the advantage of the environment or at least not contributing to damaging it. Many states of the International community have already developed National Strategies for Durable Durable Development representing a complex document for the development of the socio-economic systems with due regard to the potential of the natural capital from each state. We underline the fact that, in practice this means finding new sollutions for solving the problems related to the environmental protection. Some of them involve the development of new technologies, and others just a return to some older and simpler methods. The concept of sustainable development involves economic the socio- economic development as well as the environmental protection in mutual completion. The judicious management of the natural resources can be profitable both for the current users as well as for the future ones. We also appreciate that the adoption of the measures relating to the conception of sustainable development in the developing countries can avoid the costly problems of the environment and the allocation of resources for the future development.

The Elements of liability

The rules of international law are created both by the subjects of international law, first of all by the states, as well as by the international organizations. These rules are developed by the agreement of free consent of the states and shall become binding to be respected by the recipients of those rules. However there are situations in which these rules or fundamental principles may be broken, moment in which there is international liability, that is those who do such things can be

penalized. Regardless of the damage that the states or their citizens may suffer directly, in the international environmental law there is the obvious tendency towards the international liability for damage to the common heritage. The UN Declaration on the environment from 1972 is interpreted in this respect, as it takes into account the international liability for damage caused not only to the environment of other states but also " to the areas beyond the limits of the national jurisdiction". We realize that, currently, the international law of the environment has few clear and precise rules in the matter of liability for international damage caused to the natural environment from the territory of other states. This is the reason for which we referred to the research of the contributions of other branches of the international public law (the river, the sea and the spatial law), as well as the support of the international private law, which led to the formation of the various categories or forms of liability in the field of the environmental protection and of the conservation of the natural resources. The material liability of the states is a form of the civil liability designed in the sphere of the international relationships.

The facts causing liability include either illicit behaviors in terms of the international law that can damage the environment or a series of infringing activities prohibited by the international law that can however represent the sources for damaging the environment. We emphasize that the illicit deed must meet, primarily an objective condition, consisting of the breaking by a state of an international obligation accruing in the field of the environmental protection. We state that it only involves the legal obligations assumed by the states, in accordance with the international law. One cannot take into consideration the obligations assumed by a state through national law contracts or through moral obligations. Secondly, for a deed to be illicit it is necessary that the broken international obligation to be into force at the time of its production.

For an inaction through which a state violates the rules of the international law to lead to the commitment of liability there must be met the following conditions: the accomplishment of the illicit act deliberately or carelessly; the illegal act should be attributable to the state or its bodies; between the injury and the illegal action should exist a causal relationship. Such an obligation is formulated in principle 21, as well as in article 30 of the Chart of economic rights and duties of the states, as an instrument with "soft low" character as well as in the Convention on the sea right of the Montego Bay in 1982, as a possible tool with "hard law" character. The object of the broken obligation has incidence on the regime of the liability within the meaning that the international illicit fact has different consequences and therefore, the forms responsibility applicable to certain obligations of fundamental importance for the protection of some fundamental interests of the international community of the states, differs from those applicable for the violation of other obligation. Depending on the subject matter of the broken international obligation, the International Law Commission has classified these facts into international crimes and offences. The liability is different for crimes from that for offences. With regard to the causes that exclude the illicit character of the deed we can say that in the international law as well it was acknowledged the intervention of certain circumstances of designated to eliminate the illicit character of the deed, by which it is violated an international obligation. These circumstances are: the consent validly given by a state for willingly committing by another state of a deed which does not comply with the obligations functions towards the first state, the measures taken against the illicit deed of a state, the force majeure or the state of necessity.

Fundamental constitutive elements able to reclaim the responsibility of the state are considered to be the following:

- the damage caused to the environment must be the result of the breaking of an international law. The international environmental law is still in formation, and many treaties regarding the protection of the environment are heavily based on the general obligations about the cooperation. These obligations together with the specific provisions on banning, often cause difficult problems at the demonstration and confirmation of guilt.
- the state is responsible both for its own activities, as well as for the activities of the natural or legal persons which are in its own jurisdiction or under its own control. Thus, even if the state is not the direct polluter, it is responsible for its failure in stopping or controlling the polluting activities of others. Under this rule, the states can be responsible for: not having adopted the necessary laws or the ones imposed for the protection of the environment; not having ceased the dangerous activities; or having allowed go unpunished cases for breaking the law.
- you do not need justifiable circumstances, such as the agreement of the affected state is an intermediate cause, such as a divine action
- the damage must be "important", what can put serious problems for establishing the evidence and quantifying the damages. In practice, there are few legal actions based on the responsibility of the state, most cases of pollution not being solved at an international level, but through international rules for civil responsibility, that is directly between the people involved. Of great importance are also international committees of claim, which deliver the funds "donated" by the injurying state, directly to the complaining state. Such a procedure allows the states to solve the damages, without admitting the legal responsibility (Raluca Miga-Beşteliu, 2002).

The consequences of responsibility

The international responsability is governed through customary rules and qualifying attempts of the Commission of International Law in this area. The problem is complex because of the fact that it is addressed at the same time under the angle of fixing the injury as well as under the author's sanction of a deed causative of damages. Moreover, the implementation of the concepts that drive this matter is very hard given the nature of the international society, lowly ranked. Certainly, we discuss here about ilegality of the generating deed- a customary principle that manifests itself through a violating action section of an international obligation and which is applied by many legal decisions- and the imputability, which is the generating

deed in the responsibility system must be incurred to the responsible legal subject (Aurel Preda Mătăsaru, 2007).

We emphasize the fact that the international responsibility occurs only if a prejudice was brought to a right (and not just to an interest). This right should be subjective and individualized: the international law does not statute the right to the collective appeal which could be initiated by any subject of law, arguing that another subject of law had violated a legal rule, without causing it any injury. The injury is most often material, but it can also be moral, as the breach of honour of a state, for example. The victim of the injury can be a state or another subject of international law. The subjects of domestic law (natural or legal persons) do not have the means of action of international order against the states likely to prejudice them. The responsibility leads to the repair of the damage incurred and it may, in some cases, train up the pronunciation of a sanction against the unlawful author. Sometimes here are partially overlapped the damaging and repressive aspects about the law of responsibility. The consequences of the responsibility are the repair of damages and the international sanction as well. The repair can be achieved by way of negotiation or by an arbitration decision or a legal one or it may many forms. If the prejudiced is purely moral, the victim may be satisfied with a '' satisfaction": internal charges against the author of the unlawful deed, the expression of official and public regret. The most common repair takes the form of a refund. Its ways of calculation meet dificulties when it comes to indemnifying not only the achieved damage, but also the lack of income. Often the author of the damage can be sentenced to replacing the things in their original place (Nicolae Ecobescu 1993). With regard to the sanction, a state may commit a crime or an international offence by violating an international rule which is essential for the safety of the international communities. The states which are the victims of these offences can apply countermeasures tending not only to their compensation, but also to the sanctions of the guilty state. In this way there were analyzed, for example, the sanctions against Iraq, under the authority of the Security Council, after the success of the operation "Storm in the desert" which put an end to its invasion in Kuwait.

By way of example, we bring into discussion Strait of Corfu Cause from 1947 tried by the International Court of Justice. In fact, the UK Government has submitted an application to the International Court of Justice in 1947 claiming that the Albanian Government has concealed or lied about the existence of some mines in its territorial waters from the Strait of Corfu, without notifying this as provided by art. 3 and 4 of the Hague Convention no. VIII of 1907 and in the General principles of the international law. Therefore, two destroyers of the Royal Navy of Great Britain were significantly damaged by these mines and 44 persons employed by the Royal Nav i have lost their lives. The British side considered the guilt for these losses belonged to the Government of Albania for not having fulfilled its international commitments. As a consequences, United Kingdom demanded the Court that the Albanian Government should take the international responsibility for the losses and damage caused and be required to repair or conduct compensational payments to the British Government. The amount of repair or compensations was determined by the Court. According to the article. 36 of the Statute of ICJ in the case of international dispute, subject to partitioning at the Court, the problem will be solved by decision of the Court in accordance with the international law. The amount of damages has been fixed at 700,000 pounds that Albania was obliged to pay to Great Britain (http://www.icj-cij.org/docket/files/1/1499.pdf). We notice from this case as the international responsibility attracts the repair of the prejudice determined by the jurisdictional decision well of the ICJ.

The general legal regime of the international responsibility for ecological damages

In the international law there is a rule in accordance to which, a state that does an illegal act, commits itself to international responsibility. The same principle is applicable? i? i in international environmental law. The responsibility for environmental damage by polluting actions (including those resulting from nuclear accidents), is laid down of the general principle, which prohibits any state "to use its territory for acts contrary to the rights of the states"(The decision of the International Court of Justice in the case of the Corfu Straits, from 1949). The customary law, which was ultimately created in the field of the environmental protection, has enshrined these principles. Principle 21 of the Declaration from Stockholm in 1972, gave them a definitive form: "The states have the duty to ensure that the activities exercised within the limits of their jurisdiction or under their control not to cause any damage to the environment of other states or in the areas which are under no national jurisdiction". Principle 21 of the Declaration was reaffirmed in numerous international instruments, both conventional and non-binding, and was undeniably a part of the international environmental law. In the manner it was included in the provisions of the Chart of economic rights and duties of the states; in the preliminary Declaration at the successive programs of action of the European Communities of the environmental area (1973); in the final Act of the Conference from Helsinki- Chapter V (1975), the World Chart of Nature (1982) etc. (Dumitru Mazilu, 2005).

All of these documents, as well as the support for the legal principles of the international environmental law (the principle of a good neighborhood, the principle of the protection of the common heritage, the principle of notification and consultation) require the state's responsibility with regard to the charge of breaking the environmental provisions. In fact, a violation of an obligation of an international character regarding the environmental protection (customary, conventional or the general principle of law) will determine, under certain conditions, the responsibility of the states. A first problem, which is coming up is to say who has the right to claim the international responsibility of the subject(s), which has violated, with intention, the rules of the international environmental law. Thus, in the case of cross-border pollution "the injured state will actually be entitled to claim reparation for the damage which it has suffered. In the situation in which the damage is caused to the environment of an area outside the national jurisdiction - the free sea, the marine deepening, the cosmic-space, the Antarctic- there is no state which could

claim, speaking on behalf of humanity, to be the true victim of the ecological damage.

Another important issue in this context is that of the measure in which the states are responsible for the acts of the agents under their jurisdiction or control (Daniela Marinescu, 2003). Certainly, the vast majority of activities, producing damage to the environment are held by private persons, especially private enterprises (economic enterprises). The general rule is that the state whose territory represents the support for the injurious environmental activities outside its borders, or under the control of which the injurious act occurs is the one who answer for the damages thus caused. Of course, the international law imposes the probation of an act or an issuance from the state's agents, arising mostly from the generalization of the obligation to get an authorization from the public authorities for the private activities, which present a risk to the environment. The commitment of the international responsibility supposes the existence, under certain conditions, difficult to achieve especially in the case of cross-border pollution, namely, the establishment of a causal link between the impugned act and the damage, the identification of the legal basis of liability etc.

The establishment of a causal link between the reported act and the damage produced

From this point of view the pollutions involve a number of problems because of some elements such as: the distance that can separate the source from the place where the damage occurs, the time evolution of the effects, the combination of the various forms of pollution and the difficulty of distinction of the contributions of each of them, the role of the physical-climatic circumstances in the amplification or attenuation of the consequences etc. The assessment of the injury is another issue particularly difficult, because in this assessment there are a number of uncertainties, because frequently, the environmental elements are assessible in money and, in consequence, here results the inability of granting an appropriate return.

The legal basis of the responsibility consists, traditionally, in the guilty imputable to the state in question. Out of this rule there are few exceptions. The first one results from a conventional text, the Convention of 22 March 1972 respectively concerning the international responsibility for the damage produced by the spacial objects. According to article 2 of the document, the state which proceeded or proceeds at the launch of a spacial object, is absolutely responsible to repair the damage caused by its object at the surface of the Earth. Also, the objective responsibility for the risk is accepted in the case of damages resulting from the peaceful use of the nuclear energy and, in the end, in the field of the damage caused by the pollution of the sea by hydrocarbons.

The European Union has made several attempts to introduce the principle of the objective liability in the field of the responsibilities of the producers of wastes in the hypothesis of the cross-border pollution caused by the waste (Ioan Bari 2005). It is about the application of the theory of liability by risk which arises from the mere fact of the breaking of the international obligation by the states. The imputability and, in consequence, the obligation to grant damages results here from the simple causal relationship, regardless of any subjective basis. The international jurisprudence has avoided, with some rare exceptions, the acknowledge and apply the liability without guil of the states in the area, preferring to resort to other legal subterfuges (e.g. in the equity regulation) (Dumitru Mazilu, 1980). Thus, for example, it is often invoked the fact that the failure of the states affected by the negative consequences to claim the liability of the Soviet Government for the Chernobyl nuclear accident, or of the Switz one for the incident at the Sandoz plants (1986) constitute the proof, that the objective liability, even in serious accidents, it is not easily accepte. Incidentally, related to this, the International law Commity of the UN turned itself to a leaner solution, in the sense that the liability would require serious transboundary damage for all, but it is left to the concerned states concerned the will to decide on the repair, in each particular case, on the basis of equity and balance of interests. We remind here the EU Directive relating to liability for information the environment (Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on the liability for the environment about the prevention and remedying of the environmental damage (JO L 143, p. 56, Special edition, 15/vol. 11, p. 168). It provides, in respect of certain activities listed in annex II to this Directive, that the operator whose activity has caused an environmental damage or an imminent threat of producing such damage should answer for this. The operator must therefore take the necessary remedial measures and assume the costs.

This Directive has been invoked in a question from 2010, case C-378/08: The area of Port Augusta, located in Priolo Gargallo region (Sicily) was affected of the recurring phenomena of environmental pollution that started to manifest itself in the 1960s, when was created the Augusta-Priolo-Melilli as pol tanker. Since then, numerous active undertakings in the hydrocarbon sector and of chemistry, have been installed and have succeeded in this region. Through a series of successive decisions, the Italian administrative authorities have imposed to the bordering enterprises to the area of Port Augusta the obligations to eliminate the pollution found in the region of Priolo, declared " site of national interest with the purpose of reabilitation". The italian court wanted to find out in particular, whether the principle " the polluter pays" was opposing a national regulation allowing a competent authority to impose new operators, because of the proximity of their plants with a? polluted area, measures to repair the environmental damage, without an investigation being carried out concerning the event which was at the origin of the pollution and without the establishment of the existence of a culpable act of the operators, nor of the existence of a relationship of causation between them and the pollution found. In the decision given, the Court came to the conclusion that the directive on the liability for the environment did not oppose a national regulation allowing the competent authority to assume the existence of a connection between certain operators and a pollution found, and this on the basis of the proximity of their plants with the area of pollution.

However, in accordance with the principle of "the polluter pays", in order to presume such a relationship of causality, this authority must have plausible hints that can substantiate this

presumtion, such as the proximity of the operator with the found pollution and the correspondence between the polluting substances found and the components used by the operator in his activitie. In addition, the competent authority is not required to prove the existence of a culpable acts of the operators whose activities are considered responsible for the environmental damage. Instead, this authority has the task of previously researching the origin of the found pollution, that authority having, in this purpose, a brething time to appreciate the procedures, the means which must be used and the lenght of such a research (http://curia.europa.eu/juris/liste.jsf?language=ro&num=C-378/08).

The causal link between the illicit deed and the injury most often is difficult to establish, as for example, in the case of the pollution of the atmosphere, where an important role lies also the conditions (weather or of other nature) that came with the action of the causes, influencing it favourably or unfavourably, accelerating or delaying the production of the effects. Likewise, in the case of the nuclear accidents where the relationship between an accident produced at thousands of miles and decades before and its consequences is hard to determine. By accompanying the causes in time and space, the conditions influence upon their action in the meaning of producing the effect or on the contrary receiving or worsening this action. The same cause can produce different effects, due to the varying conditions. Therefore, for acknowledging the causation relationship it is required the knowledge of all the real conditions of the process of the causal determination. Some damages to the environment or to its components may not be causal by the illicit deed of a single person, but to exist a causal link between the injury and the illicit behavior of several people (plurality of causes). In this case, in order to consider a product as being caused in common, it is not necessary for the people to act through simultaneous acts, of the same intensity nor that the acts to be connected by a common purpose and nor the person who has caused the result, together with others, to know the acts of others. It is only necessary as the illegal deeds of the persons to represent, on the whole, the cause of the injury.

The guilt

The illicit and the guilty character of the act causing injury are distinct conditions without which there is no civil liability (the fact that it should not be confused the guilt with the illicit, each of these notions being distinct from each other, was highlighted in the legal literature). If the illicit character of the deed is a condition of the faulty character, in return not every illicit deed is necessarily a faulty one. This can be noticed in many situations from the environmental law, where the environmental factors can be detrimental through facts that include in themselves the negative attitude of the author towards the general interests of the society. As it was showed in the legal literature, for the illegal deed to become faulty it is necessary to have been produced a certain psychological echo (in the intelectiv and especially, volitive aspect) that is to get a subjective outline". In the case of the objective liability, in an effort to establish the subjective element, the guilt of the author, does no longer subsist, the subjective element being indifferent for the existence of liability (in connection with the environment, only in the nuclear field there is, currently, an objective liability). If in civil law the fault represents the main basis of the common law of the tort of liability, it is not the only one. Thus, in the field of nuclear damage, about which there is a special regulation, a derogatory one, the criminal liability is no longer based on the idea of guit but on that of risk.

Conclusion

The international environmental law continues to make distinction between the international "liability" and "the international legal liability": the first one is a result of some illegal actions, and the last one is primarily focused on illegal actions. The imposition of legal liability for actions which are not prohibited by the international law, regardless of the guilt or the legality of the activity, *puts an emphasis on the injury and not on the behavior*. The traditional principles of the state's liability may merge with the concept of the legal liability of the state, particularly in cases involving extremely dangerous activities, situations in which the state must comply with the strict standards, whose violation generating damage attracts the liability of the state.

There is no international consensus yet on the details regarding the moment and the manner of payment, but only provisions of a general nature, such as the Declaration of Rio (Principle 13) which provides for the states to draw on national laws regarding the liability and the compensation of the victims of polltion and other environmental damage. The analysis of the data in question as well as the world practice allows us to conclude that the principle of liabilty is proclaimed in a general manner, but the states still have drawbacks in specifying and, especially, in its application.

Recommendation

We consider that the states should cooperate with greater readiness and determination in order to develop additional clear and precise international laws regarding the liability and the compensation for the negative effects caused by damage to the environment through activities which are under their own jurisdiction or under their own control, in areas outside the national jurisdiction. In many treaties it is generally addressed, in principle, the legal liability in the case of damage caused by pollution, as is the case of Basel Convention from 1989, for example, that contains such an obligation of the parties: the parties must cooperate in order to adopt, as soon as possible, a protocol that should establish rules and adequate procedures in the field of the material liability and of the compensation of the damage caused by the transboundary transport and the disposal of hazardous wastes and of other wastes". We notice the general recommendation made by this international document, but consider that, for the establishment of a concrete framework for the application of international legal norms in the field of liability in the environmental law, there should be established rules with a binding, clear and precise character, that should define the limits of the international liabilities and to apply sanctions to the guilty ones in accordance with the general principles of the environmental law.

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