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Educating the consumer about his right to a healthy environment

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Abstract

The healthy environment is one of the most important problems of our century, because of the human activities impact on the fragile balance between man and environment in which they live. In all countries, including Romania, the problem is especially serious because millions of people suffer in one way or another, from environmental damage (chemical pollution, noise, ecosystems degradation...), because they don't know they have the right to live in a healthy environment. To be able to maintain and exercise their right, to respect and to enforce this requirement, individuals must be educated and have access to information, take part in decisions and to access to justice in environmental matters. This article, therefore, proposed to introduce the main ways of information and education the Romanian consumer on his right to a healthy environment.

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1. Introduction

Environmental protection is no longer regarded as an area that falls exclusively under the control of the government or community, but rather a responsibility shared by a number of interest groups: enterprises, financial institutions, managers, creditors, contractors, consumers as well as the public at large and the factors which have brought about the degradation of the environment include:

The lack of environmental education - the principles of environmental protection are almost entirely absent from children's and teenagers' learning environment. Environmental education should be taught particularly at economic universities, given that their graduates are likely to be among the decision-makers liable to influence the fate of the environment;

Overdevelopment and over-consumption - these are the main factors that lead to the destruction of the environment; the increasing consumption threatens to destroy natural resources and cause an unprecedented increase in pollution levels;

The lack of corporate social responsibility - by means of effective environmental management strategies businesses will become profitable without requiring an irresponsible administration of our planet's limited resources.

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2. The impact of education in the protection of environment

In the context of the current environmental crisis, the underlying contents associated with the right to learn, which provides each individual with a vocation for education, ought to be interpreted within the framework of raising the beneficiaries' awareness of environmental protection issues. Thus, environmental education ought to debut during pre-school and continue throughout the primary education cycle in order to train the young generation in the spirit of ecology, thus ensuring a safe existence for the generations to come. Moreover, voluntary environment protection initiatives such as the cleaning of national parks should also be encouraged in school.

The right to education and learning should purpose to educate the individual to take an active stance in society, including in what regards environmental protection, for the purpose of achieving the all-round development of the human personality and sense of dignity, thus strengthening the respect for human rights and basic human freedoms – given that education should allow understanding, tolerance and friendship.

It should be mentioned at this point, that education can be achieved as the end result of the right to learn, which comprises as the following constitutive contents elements:

- ✓ organizational structures by which the right to learn is exercised, including educational institutions (private or public) and their incorporation (under the law);
- ✓ university autonomy;
- ✓ the state's (mainly) material obligations that allow the exercising of such a right;
- ✓ religious education;
- ✓ the Romanian language in which the educational process is carried out, as well as certain minorities' chance to study in their languages or in an international language.

For this reason, despite all its complexity, the contents of the right to learn is unable to cover the need to also educate individuals on environment issues; within this context, the notion of “education” cannot represent one and the same thing as the notion of “learning” – therefore the desired results can only be obtained by regulating a right to education more comprehensive than the right to learning. This can be achieved by raising awareness among individuals with regard to protecting the environment, starting with small activities such as selective garbage collection and ending with concrete actions to clean and maintain city and national parks. Of course, let us not forget the civic actions that fight against industrial, chemical or nuclear pollution, the basis of which can only be set by educating the young generation in the spirit of ecology.

Regulations adopted in other states also outline the same opinion, attaching a much more comprehensive amount of contents to education than they do to the right to learning, which would result in educating the individual not only in school and similar organizational structures, but also in the family, the community and generally using a number of different alternative educational methods (the latter must definitely encompass the latest technologies which can render three-dimensionally the evolution of life on Earth, the way certain species have become extinct and what could happen to the Earth unless we resolutely step in to protect and preserve the environment and those resources which are vital to the preservation of human life on this planet and for ensuring the survival of the next generations).

Thus, the Constitution of Greece stipulates under Article 16, Paragraph 2 that “Instruction is a fundamental mission of the state. Its goals are to morally, culturally, professionally and physically educate Greek citizens, as well as develop their national and religious awareness and train them to become free, responsible citizens”.

Also, the Constitution of the Republic of Ireland established in Article 42 Paragraph 1 that “The state acknowledges that family is a child's first and natural educator, and this guarantees the observance of the parents' exclusive rights and duties to provide their children with the best moral, religious, intellectual, physical and social education possible”. Similarly, the Constitution of Spain also indicates in Article 27 Paragraph 2 that “The goal of education is to ensure the complete development of the human personality and individuals' respect for the democratic principles of life in a community as well as for the fundamental rights and freedoms”.

Only by providing this type of education can we achieve the desired changes, within the limits required for the existence of a healthy, ecologically balanced environment allowing life to continue to thrive; such limitations ultimately have to do with each individual member of the community. Providing such an education can awareness be raised with regard to the current ecological crisis and adequate measures can be taken, with education thus becoming an obligation as well as a subjective right *per se*.

The state must take on a more significant role in the process of raising awareness among its citizens, given that even at present, in the Romanian society, education starts in the family, continues in school and is subsequently

taken over by society; if all these segments were to function appropriately, the quality of the environment were to increase significantly (at all levels, starting from throwing discarded food wrappers and cigarette butts in the streets to the piles of waste left behind on the mountain meadows by occasional tourists, the pollution caused by old, faulty means of transportation used with no regard for the environment, all the way to the enterprises which are mercilessly exploited to the point of being physically destroyed).

Moreover, raising awareness among individuals should literally start in their very front yards, with each wastewater or storm water discharge ditch, each abusively cut down tree, whether from individual properties or by the side of national highways (hundreds of acres of forest were abusively cleared over the past 20 years in Romania); the same holds true for the unprofitable manner of taking ballast out of river beds, thus endangering the safety of buildings, particularly that of bridges and also of individuals living in the areas in question.

Irrespective of how well-written and thought-out laws may be and how well their contents are interpreted, people's incapacity to understand the need to protect the environment will render the solution to the current ecologic crisis in Romania impossible to find.

Obviously, the Romanian case law holds a significant place in emphasising the contents of the basic human right to a healthy environment and its correlation to the other fundamental human rights; however, without the express support of all individuals – who are really involved in both the destruction and the protection of the environment, as well as the sole current beneficiaries of an environment favourable to the fostering of human existence and development – lawmakers will never achieve the desired results, which are also stipulated in the Constitution of Romania under Article 35, entitled “The right to a healthy environment”: “The state acknowledges each individual's right to a healthy and ecologically balanced environment”. Also, the international Draft Declaration of Principles on Human Rights and the Environment enacted in Geneva in 1994, which took account of the principles outlined in the Declaration of Stockholm of 1972, and the Declaration of Rio of 1992 and in the UN's Agenda 21, clearly establishes that the fundamental human right to a healthy environment involves in principle:

- ✓ the right to live in an environment which is unpolluted and has not been degraded by activities which can affect an individual's environment, health and well-being as well as sustainable development;
- ✓ the right to the highest possible level of health, unaffected by the degradation of the environment;
- ✓ access to appropriate food and water resources;
- ✓ the right to a healthy work environment;
- ✓ the right to living conditions, to the use of land and life in a healthy environment;
- ✓ the right to receive assistance in case of natural and man-made disasters;
- ✓ the right to benefit from sustainable use of nature and its natural resources;
- ✓ the right to the preservation of representative natural elements, etc. (Marinescu, 2008)

3. The role of the European Court of Human Rights in revealing and protecting the right to a healthy environment

We should not forget about the importance of international bodies which, in the absence of effective international regulations, can reveal the contents and implications of the fundamental right to a clean environment. Thus, the Human Rights Convention and the case law of the European Court of Human Rights (ECHR) in the field of revealing and protecting the right to a healthy environment are essential in establishing the extent to which such a right becomes a subjective right, protected by the European convention and to what end individuals can invoke their subjective right to a healthy environment, with states being correlatively liable to the Convention bodies.

This is particularly valid given that the European Court of Human Rights, which has later acknowledged the importance of the right to a healthy environment especially once ecological crises have been registered on an international scale, and has acted due to the need to make up for the absence of direct referrals to this phenomenon in the text of the convention, has resorted to the technique of so-called “indirect protection”; this allows the protection granted to some human rights acknowledged by the European convention to extend so as to cover such rights which are not actually provided for by the Convention. Thus, by means of this “attraction” and under the provisions of Article 8 paragraph (1) of the European convention which acknowledges that “everyone is entitled to respect for his private and family life, his home and his mail”, the right to a healthy environment is now covered by the provisions of the Convention.

Under the provisions of Article 6 paragraph (1) of the same Convention, which guarantees the right to fair trial, yet another ecological human right was introduced, namely the right to justice where environment issues are concerned, which is expressly stated in the Aarhus Convention. This is how the right to healthy environment and the chance to invoke Article 8 Paragraph (1) of the Convention when addressing the European Court. Whenever individuals feel their right to a healthy environment has been infringed is now “indirectly” protected.

Thus, starting in the 1970’s, the European Court of Human Rights has admitted – unwillingly at first and then with increasing conviction – that pollution constitutes an infringement to an individual’s right to private life and that “noise pollution can undoubtedly affect an individual’s physical well-being, and consequently affect his private life” and also that it “can also prevent the individual in question from enjoying the peace of his own home”.

After decades of human rights being regarded as an abstract concept and mostly as instruments for propaganda, the specific mechanism provided by the Convention came to prove that on the contrary, fundamental human values can be effectively and correctly defended and guaranteed. This was even more obvious with regard to environmental rights, for which the very label of “right to solidarity” appeared to be a drawback in the process of individualizing and concretizing its significance.

Whereas the ecological issues were not globally significant upon the enactment of the European Convention (Rome, November 4th 1950) and subsequently, due to the complex consequences of acknowledging and guaranteeing such a fundamental right, some states have hesitated to expressly assume responsibility for such a right, the European Court of Human Rights has resorted to the praetorian tactic of “ricochet protection”, which has allowed the extension of certain rights guaranteed by the Convention to cover rights which are expressly mentioned by the latter. Thus, by “attraction” and under the provisions of Article 8 paragraph (1), which acknowledges everyone’s entitlement to private and family life and home, and pursuant to Article 6 paragraph (1), which guarantees an individual’s entitlement to a fair trial, the case law of the European Court of Human Rights guarantees environmental protection as an individual right with three main aspects: its belonging to the contents of the right guaranteed by Article 8 paragraph (1) of the Convention, the existence of a right to information on the quality and dangers to the environment and the right to a fair trial in this respect (with all arising implications) (Sudré, 1997).

In what regards the existence of a right to information on the quality and dangers to the environment, the case of *L.C.B. vs. United Kingdom* (1998) is particularly important, where the Court has enforced the provisions of Article 2 (the right to life) but has commented on the possibility of applying Article 8 of the Convention. The case was brought to the attention of the Court by the daughter of a member of the British army who had taken part in the British nuclear testing undertaken on the Pacific island of Christmas between 1957 and 1958.

Having been diagnosed with leukaemia at the age of four, the plaintiff complained about the possible infringement of Article 2 (the right to life), Article 3 (prohibition of inhumane treatment), Article 13 (the right to effective appeal) and Article 8 (the right to respect for his private and family life), claiming that authorities had failed to inform her parents that her father had been exposed to radiation caused by nuclear testing and particularly of the fact that their daughter could be exposed to certain genetic risks.

The plaintiff argued that her illness was a direct consequence of the radiation to which her father had been exposed and also that had her parents been informed of the situation in due time, this would have led her illness being more easily diagnosed in a manner which would have relieved her medical treatment and to that end, the Court examined the extensive information provided by both parties on whether the exposure to radiation undergone by the plaintiff’s father was excessive or not. In what regards the issue of knowing whether or not authorities could have reasonably been expected to provide recommendations to the plaintiff’s family during the period in question and oversee the state of health of the couple’s child, if they had had information indicating that the plaintiff’s father had been exposed to radiation, the Court stated that “the state could have been required to adopt such measures in what regards the plaintiff of its own initiative, in case it was possible that her father’s exposure to radiation was susceptible to cause real risks to the plaintiff’s health”.

However, while examining the expert reports available, the Court failed to declare itself convinced of the existence of a causality connection between the father’s exposure to radiation and his daughter’s leukaemia. As a result, the Court was unable to reasonably decide that at the end of the 1960’s, British authorities could have or should have – based on this unproven connection – taken preventive measures to inform the plaintiff.

At the same time, it was decided that Article 10 of the Convention makes it necessary for states to not only provide environmental information accessible to the public, but also assume the positive obligation to collect, develop and release information which by its nature is not accessible and could not otherwise be accessible to the

public unless provided by public authorities (case of Guerra and other vs. Italy). (ECHR, decision of 09.06.1998, accessible on www.echr.coe.int).

Thus, the existence of a right to information in matters pertaining to the environment was acknowledged by widening the interpretation of the right to quality of life, based on a new „droit de savoir” (right to know) (Ghezali, 2003), especially given that the environment protection issues currently hold special significance not only in technical, but also in moral terms.

4. Educating consumer, a goal of Green Marketing

Efforts of enterprises to develop ecological marketing strategies are also impossible to put to practice in the absence of an effective system of communication with the environment to generate a favourable influence on both consumers and other categories of the public involved in the process.

Communication with and education of the consumer – which need to be undertaken by companies – should not consist exclusively in the provision of clear and correct information from credible sources, but should also involve “a dialogue in which all interested parties take part”. (Pettie, 1992)

Generally, ecologic communication refers to the creation and maintenance of an image of environmental responsibility triggering the purchase of environmentally-friendly products. For an enterprise, this involves on the one hand educating the various consumer categories in order to improve ecosystems, and on the other hand creating and maintaining their products’ environmental credibility.

Enterprises’ main tool is to create messages to send information on environmentally-friendly products. These messages must highlight the quality of the products in question and their role in improving consumers’ quality of life. Also, eco-labelling can be made use of; eco-labels use a series of symbols which set “green” products aside from conventional products. By using such labels and developing eco-labelling programs, an enterprise intends to reach a number of objectives, which include:

- providing objective information on the ecological characteristics of a product and on the company’s permanent concern for environmental protection;
- creation of a consumer protection tool, allowing consumers to make informed decisions;
- reaching all the objectives of an environmental policy (selling a higher volume of ecological products, as a result of improving the company’s image among its target audience).

5. Conclusions

Given the growing concerns with the environment and ecology, reflected in the steps taken by enterprises to create an adequate institutional framework and environmentally-oriented organizations, it is also important to emphasize the consumer attitudes.

The need for such an initiative is all the more obvious if we consider that society is made up of individuals who take on the role of consumers of both products and services, and that the most important change underlying the protection and preservation of the environment must take place at the level of individual consciousness; it is the individual who must act to protect the environment, with three basic principles and action paths: reduction, reuse, recycling. This is the only way to achieve environmental protection (one of the most important issues which humanity must currently address) in a socially responsible manner and with the greatest odds for success in an eco-friendly world.

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