

Sanctions for wildlife crimes. A thorny problem.

Life Natura Themis

“International Perspectives on
Preventing Wild Life Crime”

Athens conference 23/24-11-2018

**THE ARSENAL OF LEGAL INSTRUMENTS
IN THE STRUGGLE AGAINST WILDLIFE
CRIME. A HOPEFUL ASPECT.**

Dual system

- Criminal penalties apply only to natural persons.
- Administrative penalties may apply both to natural and legal persons

Criminal law provides for imprisonment or/and fines

- General law (L 1650/1986)
- Forest damage (L 998/1979, L 1892/1990),
- Clean sea law (L 743/1977),
- Forest code (L Decree 86/1969),
- Seashore law (L 2971/2001),
- Urban planning (L 1337/1983),
- Forest arson (265 PC),
- Source and pasture poisoning (282 PC),
- Illegal sand extraction and mining (L 1219/1938).
- Clean air (MD 14122/549/E103).

It seems that the greek law is complete and the punishment of the violators is just a matter of enforcement.

This conclusion unfortunately is misleading.

The repression of legal instruments by substantial provisions

- Mitigating circumstances (84 PC)
- Release of conditional prisoners (105 PC)
- Legalization of illegal constructions (L 3843/2010),
- A posteriori licensing of illegal activities (L 4014/2011)
- Deregulation simplifies investments in protected areas (L 4467/2017)
- Some environmental crimes are punished with very light sanctions (268 Forest Code, L 3585/2007).

Lawlessness is rewarded.

- Extensive *multiplicity of administrative and criminal provisions to which is added the problem of the technicality of certain charges.*

It is not uncommon to prosecute crimes with lighter general regulations when heavier ones should be applied.

- Legal obligation for destroying the so called harmful animals (259 Forest Code, such as crows).

Some species are chased to extinction under the guise that this way social benefits are produced.

**The deactivation of legal tools
by governmental
and administrative inactivity**

- *Lack of political will* to prosecute environmental crime in the interests of major industrial and commercial interests
- - *Ignorance of environmental law*

Corruption of governmental and administrative services leads often to their inactivation

- *Understaffing of control administrations*
(private rangers, environmental licensing).

Giannis is buying drinks and giannis is drinking

**Undermining
the criminal enforcement
by judicial malfunction**

Courts consider environmental crimes as of no great importance

- *A traditional perception*
- *Lack of specific training*
- *Severity of environmental damage*
- *Civil claim*
- *Error forgiveness*
- *The light object*
- *Restoration of environmental damage*

The criminal court is eventually ineffective in the fight
against environmental crime

**The distortion
in the implementation
of the penal law
by procedural provisions**

- The *mandatory suspension of custodial sanctions* (99 PC)

The court is obliged to suspend the sanction without discretion of substantial estimation.

- *The conversion of custodial sanctions up to five years in financial penalties* (82 PC)

The infringer is sufficient to pay
or the offender pays

- *The mandatory conversion of penal custodial sanctions up to five years in social work (82 PC)*

There is no imprisonment for misdemeanors except for those who want to be imprisoned because they are lazy and poor at the same time.

Specific Laws of temporary duration

(e.g. L 3346/2005, 4043/2012, 4198/2013)

- a) Temporary cessation of prosecution,
- b) Mandatory conversion of issued custodial sanctions in financial penalties,
- c) Compulsory cessation of enforcement of convictions,
- d) Direct proscription of misdemeanors.
- A mentality of lawlessness is settled in society.

- Excessive and abusive legal remedies

Proscription (termination) of offences.

**The lack
of environmental sensitivity
as an element of social ethics**

- Criminal provisions not enforced create a sense of lawlessness and selfish perception of life.
- Administrative audits, are often very badly accepted.

The *lack of social awareness of the environment* leads to a rapid degradation of all environmental parameters, a direct victim of whom is wildlife.

Conclusion and proposal

- Criminal provisions must be both dissuasive and proportionate
- Doubtful whether the current legal framework can ensure the high level of environmental protection
- *Formal report to the European Commission*
(Case C-383/92 Commission of the EC v UK & N. Ireland (1994))

Thank you

Dr George Almpouras

Judge

Member of ENPE wild life working group

georgealmpouras@gmail.com