

**Improving the Legal System Regime Specific to Biosphere
Reservation of Danube Delta achieved by the Law no. 136 of July 5,
2011**

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Abstract: In order to establish a regime of protection and conservation of the Danube Delta, but also to achieve international commitments of Romania, it was developed and adopted by the Parliament a special law, Law no. 82/1993, establishing the Biosphere Reservation of Danube Delta. The established rules had in mind mainly the preservation and protection of the existing natural heritage, promoting the sustainable use of resources resulting from natural ecosystems of the reserve and reconstruction of areas damaged by the impact of human activities. Although repeatedly amended and supplemented, this regulatory framework has always been overwhelmed by economic and social development of the area, requiring practically a major reform that was carried out by Law no 136 of July 5, 2011.

Keywords: ecosystem; reservation; environment protection; ecology; administration

1. Introduction

In Romania, the waters are part of the public domain, being defined as a renewable, vulnerable and limited natural source, an indispensable element for life and society, raw material for productive activities, energy source and transportation means, determinant factor in maintaining the ecological balance. This natural heritage must be protected, defended and treated as such, including through legal means.

The Danube Delta is a unique ecosystem in Europe, an inestimable ecological value: an area of about 600,000 ha., of which 550,000 ha. are in Romania, a hydrological network which consists of main branches, secondary branches, channels, lakes, with a variety of species of animals, plants, fish, migratory birds that most - almost all nature monuments.

Danube Delta, the second largest wetland in Europe, a unique ecosystem of international importance, is declared cultural heritage of humanity by UNESCO in 1991.

Biosphere Reservation is that "geographic area with land and water areas, including land permanently covered by water, where there are elements and physical-geographic formations, flora and fauna species which gives it a biogeographically, ecological importance and a peculiar aesthetics, having natural national and universal value of patrimony; it is submitted to a special

administration regime for its protection and preservation, by the development of human settlements and organizing economic activities in collecting with the capacity of supporting the Delta environment and its natural resources.”

The Biosphere Reservation of "Danube Delta" (RBDD) is an area of national and international ecological importance; it includes the following the physical and geographical units: Delta Danube, Murighiol-Plopu Saltings, Razim Sinoe lagoon complex, maritime Danube until Cotul Pisicii, Isaccea -Tulcea floodplain sector, the Black Sea Beach from Bratul Chilia to Capul Midia, internal maritime waters and territorial sea, up to the isobath of 20 m. The continental limit of the reserve is represented by the contact with Dobrogea Plateau with wetlands and swamps.

In 1991, *Danube Delta* was declared a Ramsar Reservation and in December 1991 over 50% of its surface was included in the list of world reservations.

The Reservation which is subject to special programs for ecological rehabilitation, funded by the World Bank and the Romanian Government based on a strategy and specific management programs.

The legal framework established by Law no. 82/1993 on the establishment of Biosphere Reservation of "Danube Delta"¹ which rules the specific legal regime of *this area*, although amended several times, has always been overwhelmed by the economic and social development of the area, requiring practically a major reform that was achieved by Law no. 136 of 5 July 2011 amending and supplementing Law no. 82/1993 on the establishment of Biosphere Reservation of "Danube Delta".²

2. News Introduced by Law No. 136 of July 5, 2011

The first important change brought by **Law no. 136 of 5 July 2011** on the legal status of Biosphere Reservation of "Danube Delta" consisted in placing the reservation under the *protected natural area* according to Government Emergency Ordinance no. 57/2007 on the regime of protected natural areas, preserving natural habitats, wild flora and fauna, approved by Law no. 49/2011.

Starting on the need for ensuring protection and preservation of natural habitat areas and the multitude of specific creatures, as well as the enhancement of the existing natural resources, according to the consumption needs of the residents and within the natural biological potential for regenerating specific resources, it was proceeded in establishing the status of protected natural area for Biosphere Reservation of "Danube Delta" and framing it in special categories of management, namely: a biosphere reservation, the wetland of international importance and the

¹ Published in the Official Monitor, Part I, no. 283 of December 7, 1993, as amended.

² Published in the Official Monitor, Part I, no 538 of 28 July 2011.

site of natural and universal patrimony and a site of Natura 2000/Nature 2000 Network.¹

Thus, the law stated the creation in Danube Delta of:

- a) strictly protected areas, with the preservation regime of scientific reservations;
- b) buffer areas, with the protective role of strictly protected areas and where there are permitted limited activities of using the available resources, in accordance with approved management plans;
- c) areas of sustainable development, economically recoverable by traditional practices and new technologies, ecologically accepted;
- d) areas of ecological reconstruction, which is achieved only by possible means of environment rehabilitation, previously becoming areas of sustainable development or strictly protected areas.

The new law provides that in addition to the Administration of Biosphere Reservation of "Danube Delta" (DDBRA) it would be create new bodies, namely the *Scientific Board of the Reservation* and the *Advisory Board of Administration*, both with important advisory role in taking action and in making resource management decisions of habitat area and they can provide a greater degree of transparency to these decisions.

Thus, in accordance with the changes brought to the new Law, the DDBRA activity must be guided and supervised by the Scientific Board of the reservation. The Nominal composition of the Scientific Board is proposed by the Administration of the Reservation, with the acceptance of the highest scientific forum of the Romanian Academy, and it must be approved by the minister responsible for environment and forests' protection, in his capacity as head of the central public authority.

Under the law, the Scientific Board shall be composed of scientists and specialists with experience in complex problems of the Delta and also the ecological, economic, sociological and cultural ones and other wetlands and of protected natural areas.

The Scientific Board has as main responsibility the decision on the reservation management plan, assessing the way in which they are put into practice the measures stated in the plan and it must submit, annually or whenever necessary, to the Romanian Academy and the central public authority for environmental protection and Forests reports including findings, proposals and recommendations.

¹ Article I, section 3 of Law no. 136 of 5 July 2011 amending and supplementing Law no. 82/1993 on establishing the Biosphere Reservation of "Danube Delta"

Scientific Board is organized and runs on its own rules, approved by the order of the ministry for environment and forests.

In turn, the Advisory Board of Administration of Biosphere Reservation of "Danube Delta" is formed, under the new law, of representatives of institutions, economic organizations, NGOs, local authorities and communities who have any title of the areas, property or interests in the reservation boundaries and who are involved and interested in applying the protection measures, preservation and sustainable development of the area, with an advisory role in decision-making process which may affect the interests of its representatives, and in the elaboration and adoption process of management plan of the reservation.¹

The Advisory Board of Administration membership and duties are approved by order of the head of the central public authority for the protection of environment and forests, at the proposal of the DDBRA.

The Advisory Board of Administration meets at least once a year, at the initiative of the Reservation Administration.

Unlike the model of the companies, corporations and autonomous states in the economy domain, the Advisory Board of Administration members are not remunerated for their activity.

It should be noted that Governor of the Reservation participates in the management meetings of the Advisory Board of Administration and those of the Scientific Board.

Under the purpose of preserving habitats and different species on the Danube Delta's territory, conducting all activities in these areas is regulated by:

- Reservation's management plan;
- Reservation's rules;
- Lay out plan of the zonal territory of Danube Delta.

RBDD Management Plan is approved by Government Decision on the proposal of Ministry of Environment and Forests Protection, and to its design it contributes, along with DDBRA the Advisory Board of Administration as well and it is approved by the Scientific Board.

In terms of putting into good use the renewable natural, terrestrial and aquatic resources, from the exploitable areas from the economically point of view in the public domain of national interest, it will be achieved through direct custody of physical authorized persons or their associations whose domicile or headquarters is in the territory of the reservation, as provided by DDBRA.

¹ Article I, point 5 of Law no. 136 of July 5, 2011.

The law provides an exclusive right to exploit the renewable natural resources for the local population.

There are considered the traditional economic activities - grazing, cultivation of land temporarily under the water, beekeeping, harvesting natural flora and fauna of land or water - except when its exploitation was leased, under license to practice such activities, issued by DDBRA.

Also, physical and legal entities whose home or office is located within the reservation, owners of assets have right of first refusal to lease land on the reservation boundaries, a public domain of national interest under the administration of ARBDD where these assets are located.

As a special protection measure, the law prohibits entirely and without exception, the activities of agriculture, forestry and fisheries, the use on the reservation's territory of substances that may be harmful such as chemical fertilizers or plant protection products.

Also it is reinforced the perimeter access control of physical entities in the reserve's perimeter for tourist purpose and recreational sports. Thus, entering in the reservation, except the locals, is made after the payment of rates established for this purpose and only based on a permit issued by DDBRA.

For strengthen the discipline but also for increasing the degree of protection, the law provides a number of important facts which are considered as contraventions, punished with fine from 50.00 lei to 12,500 lei, targeting both physical and legal entities. The particular novelty represents the distribution¹ of an important part of the amounts collected as fines by DDBRA. Thus, 75% of these amounts are transferred to the state budget or local government, as appropriate, while 25% is transferred to the Reservation's Administration. This amount shall be retained fully as the income of the Reservation's Administration, permanently, and it is assigned to set up a special fund for projects, programs and actions for the preservation of biodiversity. Similarly it proceed with the owed amounts and collected as compensation, stating that such amounts shall be retained as income of the Reservation's Administration, permanently, and they are assigned to set up a special fund for projects, programs and actions for the preservation of the biodiversity.

For protective purpose the Law no. 136 of 5 July 2011 ban entirely sturgeon fishing in other purposes than restocking throughout the territory of the Biosphere Reservation of "Danube Delta". Committing such acts represents an offense and is

¹ Notwithstanding the provisions of article 8, line (3) and (4) of the Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with modifications by Law no. 180/2002 with subsequent amendments.

liable to a fine of 6,000 lei to 10,000 lei and a the prohibition of fishing for a period between one to three years.

3. Conclusions

The urgency and acuteness of environmental problems imposed by the negative consequences of the industrial society, consisting of environmental degradation, the irrational use of natural resources of the biotic and abiotic environment have generated the vehement ecological protest, which today it has been radicalized worldwide.

We believe that we are facing an ecological solidarity, having as main objective the survival of present and future generation in an environment adequate to health and welfare, according to Principle 1 of the Declaration of the United Nations Conference in Rio de Janeiro of 1992 and in this view, the law analyzed without solving all problems, represents progress.

In the new ecological world order, a principle gains more ground, "global thinking and local action."

In the environmental policy of Romania this principle has found its first application in the new guidance on the content of environmental legislation referring tie the protection of environment established still within the EU Association Agreement, ratified by Law no. 20/1993.

By the changes brought to the legal status of Biosphere Reservation of "Danube Delta" it has been considered mainly the improvement of the quality of life of area residents, including establishing a so-called "exclusive right" of the local population on the renewable natural resources exploitation.

Even if, apparently, this law has represented a step forward including in providing a higher level of protection for the geographical area of RBDD, those who see otherwise things have not weakened the attempt to liberalize some of the restricted activities. At not even a year since the adoption of Law no. 136/2011, there are the attempts to reintroduce sport hunting within the Danube Delta, through an Emergency Ordinance, being in the process of adoption in the Romanian Parliament, despite countless protests of the non-governmental organizations for environmental protection.

4. Bibliography

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