

SECCIÓN INTERNACIONAL DE NOTAS, COMENTARIOS, NOTICIAS, ARTÍCULOS DE EXTENSIÓN REDUCIDA Y VALORACIONES DOCTRINALES DE CONTENIDO CRÍTICO Y METODOLÓGICO

LEGAL PROTECTION OF THE ENVIRONMENT IN THE REGION OF THE BLACK SEA COASTAL ZONE OF THE REPUBLIC OF BULGARIA: CURRENT PROBLEMS¹

George PENCHEV²

ABSTRACT: This scientific study is dedicated to the legal protection of the environment in the region of the Black Sea coastal zone in Bulgaria. Its actuality is related to increasing degradation of the environment in this region. The attention is paid to legal measures for the protection of the environment in this region according to some special and general domestic laws as well as to liability for infringement of the existing Bulgarian legislation in this field. Finally, some general conclusions and recommendations are given from the examined regulation.

KEY WORDS: Protection of the Environment, Black Sea Coastal Zone, Republic of Bulgaria.

РЕЗЮМЕ: Това научно изследване е посветено на правната защита на околната среда в региона на Черноморското крайбрежие на Република България. Неговата актуалност е свързана с нарастващата деградация на околната среда в този регион. Вниманието е насочено към правните мерки за опазване на околната среда в този регион съгласно специалното и общото национално законодателство, както и към юридическата отговорност за нарушаване на действащото българско законодателство в тази област. Накрая са направени някои по-общи изводи и препоръки, свързани с разгледаната правна уредба.

Ключови думи: Опазване на околната среда, Черноморско крайбрежие, Република България.

1. *Introduction*

The protection of the coast is one of the actual environmental problems in our nowadays because of the increasing degradation of this region on a world-wide

¹ This study is related to the implementation of the Project „Environmental Protection of Areas Surrounding Ports using Innovative Learning Tools for Legislation - ECOPORTIL” with code BMP1/2.3/2622/2017 under the Programme on Transnational Cooperation “Balkans-Mediterranean 2014-2020” of the European Union.

² DSc, Professor in Environmental Law to the Faculty of Law at the University of Plovdiv, Bulgaria.

scale. According to the data of the United Nations Environment Program (UNEP) from 1992, around 60% of the world's population, or nearly 3 billion people live on or within some 100 km of the shoreline³. The UNEP also emphasizes the importance of ports for the development of international trade and transport, as well as the fact that about 95% of world fisheries catch comes from the near-shore areas⁴.

The Black Sea coast of the Republic of Bulgaria is important for the development of the economy, tourism⁵ and the various types of nature use. A number of factors of natural and predominantly anthropogenic nature have a negative impact on the state of the environment of this region of the country, which some authors in Bulgarian specialized ecological literature outline as unfavorable⁶. Natural factors, co-caused in number of cases by anthropogenic activity, are mainly abrasion⁷, landslides⁸, floods of the coast from the sea and climate change. Some Bulgarian scientists show that the north part of the Black Sea coastal zone in Bulgaria, mainly near Varna district is endangered by often landslides processes⁹. As anthropogenic reasons for the abrasion and landslides are shown building activities, including illegal, flood the slopes because of functioning of derivation and sewer canals and the lack of enough drainage equipment in some sites¹⁰. The legal protection against abrasion and landslides has been a subject of scientific research from the author of this study¹¹. The climate change (in its aspect of increasing warming of the planet), caused by pollution of the ambient air with greenhouse gases leads inevitably to

³ See *Saving Our Planet. Challenges and Hopes*, Nairobi: UNEP, 1992, p. 25.

⁴ *Ibidem*.

⁵ On the impact of the tourism on the state of the environment in the coastal areas, see for example Shelton, D., A. Kiss, *Judicial Handbook on Environmental Law*, Nairobi: UNEP, 2005, p. 123.

⁶ See Стойков, Д., Възникване и развитие на геозащитната дейност по Черноморското крайбрежие, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, София: Проф. Марин Дринов, 1998, с. 11.

⁷ About the essence of the abrasion, see for example: Марински, Й., Проблеми с брегоукрепването на Черноморското крайбрежие, в *Булаква*, София, 2017, № 1, с. 75 и цитираната там литература; Марински, Й., Абразията, причини за активизиране и борбата с нея, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, с. 120, 126–127; Гергов, Г., Динамика и въздействие на наносите върху крайбрежната плажна ивица, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, с. 79; *Речник по екология и опазване на околната среда*, София: Партиздат, 1984, с. 16; Половинкин, А., *Физическая география*, Москва: Государственное учебно-педагогическое издательство Министерства просвещения РСФСР, 1959, с. 309.

⁸ About the essence of the landslides, see for example: *Речник по екология и опазване на околната среда*, с. 229.

⁹ See Франгов, Г., Р. Върбанов, Ж. Йорданова, М. Стакев, Съвременна активност на свлачищата по Варненското и Балчишкото крайбрежие, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, с. 20–27.

¹⁰ See for example, Франгов, Г., Р. Върбанов, Ж. Йорданова, М. Стакев, *Цит. съч.*, с. 23 и цитираната там литература; Гергов, Г., *Цит. съч.*, с. 78–79.

¹¹ See Пенчев, Г., Екологоправна защита на бреговата зона на Черноморското крайбрежие на Република България, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, с. 170–172; Пенчев, Г., Правна защита срещу свлачищата: превантивни мерки, в *Превантивни дейности за ограничаване и намаляване на последствията от земетресения и свлачища*, София: Сеп-Информа, 2003, с. 260–270; Пенчев, Г., Правна защита на околната среда срещу свлачищата, в *Търговско право*, София, 2013, № 4, с. 109–117.

rising of sea level and, consequently, to the risk of flooding in the coastal areas¹². According to the UNEP, the predicted sea level rise in global by 2030 is 20 cm, and by the end of the century - 65 cm¹³. However, the climate change (in terms of global warming) of the planet leads not only to the risk of flooding of parts of the coastline, but also to a number of other types of deterioration of the environment in this region, such as reducing of soil, loss of biodiversity, difficulties in drinking and domestic water supply, etc. Deterioration of the environment in the region of the Bulgarian Black Sea coast is caused by several anthropogenic factors, such as pollution of the air, water and soil over limit values, uncontrolled disposal of waste and illegal building¹⁴. In relation to it, one of important environmental problems is protection of the coastal beach strip, which is very vulnerable natural resource and its degradation endangers not only tourism but also other natural ecosystems linked with it¹⁵.

The legal protection of the Black Sea coastal zone in Bulgaria includes legal measures in this field according to the sectorial (“special”) and general environmental legislation, as well as to liability for infringement of the legislation. Besides, Republic of Bulgaria is a regular member of the European Union (EU) since 2007 that is why its legislation in the examined field is influenced from the EU law. Hereinafter, in general, will be examined the legal framework for protection of the Black Sea coast under the existing Bulgarian legislation, in force on August 14, 2018.

2. Normative acts on protection of the Black Sea coastal zone of the Republic of Bulgaria

The special law in the examined field is the Black Sea Coast Spatial Development Act, 2007 (BSCSDA – State Gazette (SG), No. 48 of 2007, into force since January 1, 2008, as amended). Subsidiary implementation will find some laws, such as: the Environmental Protection Act, 2002 (EPA - SG, No. 91 of 2002, as amended), the Marine Areas, Inland Waterways and Ports Act, 2000 (MAIWPA – SG, No. 12 of 2000, as amended), the Water Act, 1999 (WA - SG, No. 67 of 1999, as amended), the Spatial Development Act, 2000 (SDA - SG, No. 1 of 2001, as amended), the Regional Development Act, 2008 (SG, No. 50 of 2008, into force since August 31, 2008, as amended), the Waste Management Act, 2012 (WMA - SG, No. 53 of 2012, as amended), the Protected Areas Act, 1998 (PAA - SG, No. 133 of 1998, as amended), the Biological Diversity Act, 2002 (SG, No. 77 of 2002, as amended), the Public Health Act, 2004 (SG, No. 70 of 2004, as amended), the Tourism Act, 2013 (TA - SG, No. 30 of 2013, into force since March 26, 2013, as amended), Access to Public Information Act, 2000 (APIA - SG, No. 55 of 2000, as amended),

¹² See *Нашето общо бъдеще*, София: Д-р Петър Берон, 1989, с. 133; Пенчев, Г., *Правна защита на Черноморското крайбрежие на Република България: екологоправни аспекти*, в *Юридически сборник*, Бургас, 2013, Т. XX, с. 5–6 и цитираната там литература; Shelton, D., A. Kiss, *Op. cit.*, p. 84.

¹³ See *Saving Our Planet. Challenges and Hopes*, p. 22.

¹⁴ See for example Пенчев, Г., *Правна защита на Черноморското крайбрежие на Република България: екологоправни аспекти*, с. 5 и цитираната там литература; *Нашето общо бъдеще*, с. 264–265.

¹⁵ Concerning legal protection of the coastal beach strip in Bulgaria, see for example Пенчев, Г., *Екологоправна защита на бреговата зона на Черноморското крайбрежие на Република България*, с. 163–164 и цитираната там литература.

Concessions Act, 2017 (CA - SG, No. 96 of 2017, into force since January 2, 2018) and Penal Code, 1968 (PC – SG, No. 26 of 1968, as amended), as well as secondary regulations on their implementation.

3. Legal measures for protection of the Black Sea coastal zone of the Republic of Bulgaria

3.1. Legal measures under the BSCSDA, 2007

Hereinafter below will be enumerated some more important legal measures under this act.

Establishment a definition of the legal notion “Black Sea coastal zone” in art. 3, by determination of its territorial scope. In this provision is stated that it shall cover the part of: “the territory of the country in the scope of the security zones under Art. 9 and the isles in the internal sea waters and the territorial sea” (item 1), and “aqua territory of the Black Sea, wide 200 m., measured from the coast line” (item 2).

Special rules on the individual right of the citizens to a free access to the Black Sea coastal zone (art. 4).

This right can be restricted by reasons of national security and national defence, conservancy and control of the national border, protection of natural protected areas and objects, and other reasons, specified by law (par. 3).

Special rules related to the information on the territorial development plans and investment activities in the area of the Black Sea coastal zone (art. 5).

There is relegation in this direction to the APIA, 2000 and Internet site of the respective municipality (par. 1).

Special rules on the use of a coastal beach strip (art. 6-8).

They are related to the definition of the legal notions “coastal beach strip” (art. 6, par. 1)¹⁶ and “sea beach” (art. 6, par. 2)¹⁷, objects of public state ownership among them – sea beaches (art. 6, par. 4), legal possibility for concession on the sea beaches (art. 7, par. 1 - 3)¹⁸ and for rent of sea beaches (art. 7, par. 4 and 5)¹⁹, ban for concession and rent of sea beaches, included in the territory of natural reserves under Annex 2 of the PAA, 1998, as well as “sea beaches for environmentally friendly tourism” included in the annex to BSCSDA, 2007 (art. 7, par. 9)²⁰.

Special rules related to zones for territorial structural protection (art. 9–17a).

¹⁶ In this provision is stated that: “The coastal beach strip is a separate territory, consisting of separate sea beaches, part of the sea shore to its belonging aquatory”.

¹⁷ In this provision is stated that: “The sea beach shall be a territory which is a separate part of the seacoast beach line, covered with sand, gravel and other sediments or rock forms as a result of natural or artificially caused processes by human activity of interaction of the sea and the land. To the territory of the sea beach shall also be included the sand dunes, situated behind the beach line or on the sea beach.”

¹⁸ Subsidiary implementation will play CA, 2017.

¹⁹ The competent body in this field is Minister of Tourism (MT).

²⁰ Definition of the term “Sea Beach for Environmentally Friendly Tourism” is set in par. 1, point (new – SG, No. 20 of 2016, into force on March 15, 2016) of the Additional Provisions of BSCSDA where it is stated that: “Sea Beach for Environmentally Friendly Tourism” is a sea beach, included in the Annex to Art. 7, par. 9, which in view of the natural resources available needs to be saved through conservation of biodiversity and of ecosystems with wise use of natural resources, and on whose territory business activities shall be prohibited”. In the Annex to art. 7, par. 9 of BSCSDA are enumerated 3 sea beaches, named “Irakli”, “Bjala - Karadere” and “Coral”.

Some of them are: a) determination of 2 zones for territorial structural protection, as follows: zone “A” with regime of special territorial structural protection, and zone “B” with specific characteristics of the territory and special regime for protection of the territorial and aquatorial resources (art. 9); b) specific requirements for the use of natural resources in zone “A” (art. 10)²¹; c) permitting of camping in zone “A” outside the categorized campgrounds (art. 10a)²²; d) specific requirements for the use of natural resources in zone “B” (art. 11)²³; e) enumeration of permitted activities in zone “B” (art. 12); f) conditions about issuing of permits for building activities in zones “A” and “B” (art. 13); g) ban for building activities from May 15 to October 1, with exception of urgent breakdown repairing activities and geo-protective measures (art. 15).

Special rules on the spatial development of the Bulgarian Black Sea coastal zone (art. 18-22).

Special rules on the financing of activities related to concessions and rents of the sea beaches and the control over the rent contracts for sea beaches (art. 22a–22e).

Implementation of compulsory administrative measures (art. 22f)²⁴.

3.2. *Legal measures under some other laws*

Hereinafter below, some legal measures will be shown under some laws which have subsidiary implementation in this field.

3.2.1. *Legal measures under SDA, 2000*

Special rules related to the basics of the spatial development (art. 1-98).

Special rules on the spatial development planning, investment proposals and permitting for building activities (art. 99-179).

3.2.2. *Legal measures under MAIWPA, 2000*

Obligation for ships passing the Bulgarian territorial waters and during staying in the Bulgarian ports to observe environmental requirements under national legislation (art. 23, par. 1).

Special rules related to the maritime spatial planning (art. 51a–51g).

Special rules on protection of the marine environment (art. 53-59).

3.2.3. *Legal measures under WA, 1999*

This act plays important role for the protection of sea waters from land-based sources. Some legal measures in this field will be enumerated hereinafter below.

Permitting regime for discharge of pollutants into surface and underground waters (art. 52-87).

Permits are granted by the Minister of environment and waters (MEW).

Adopting of limit values for the quality of waters (art. 118, par. 4, and art. 120, 122, 135).

Monitoring on the state of the waters (art. 169-175).

3.2.4. *Legal measures under TA, 2013*

Indication of the sea beaches as one of the kinds of objects for tourism (art. 3, par. 2, item 6).

Special rules related to the touristic dividing into districts (art. 15-56).

²¹ They also include ban for some activities in the territory of zone “A” (par. 2).

²² In this field there is a relegation to the requirements of the TA, 2013.

²³ They also include ban for some activities in the territory of zone “B” (par. 2).

²⁴ The competent authority in this field is MT.

Special rules on the use and making save of sea beaches (art. 160-164).

3.2.5. *Legal measures under WMA, 2012*

Special rules related to the collection, transport and treatment of waste (art. 29-43).

Special rules on the information, planning and financing of the activities, related to waste (art. 44-66).

Permitting regime and control on activities, related to waste (art. 67-125).

Permits are granted by the Regional Inspectorate on the Environment and Waters to the MEW or the MEW.

3.2.6. *Legal measures under EPA, 2002*

Environmental assessment (art. 81-91).

Environmental impact assessment (art. 81–83 and art. 92-102).

Right to information of the environment (art. 17-31).

Monitoring of the environment (art. 143-147)²⁵.

Working out of environmental strategies and programmes (art. 75-80).

4. *Liability for infringement of the legislation on protection of the Black Sea coastal zone in the Republic of Bulgaria*

Hereinafter below will be shown in brief the separate kinds of liability in this field.

4.1. *Administrative liability*

It is regulated in art. 23–25 of BSCSDA, 2007. These provisions contain a lot of corpus delicti of administrative offences of the requirements of this act.

4.2. *Civil Liability*

This liability is in the kind of tort liability, regulated in art. 170–172 of the EPA, 2002 and art. 46–54 of the Obligations and Contracts Act, 1950 (SG, No. 175 of 1950, as amended).

4.3. *Penal Liability*

Subsidiary implementation will find PC, 1968, and especially its art. 352 (in cases of significant water pollution over limit values), art. 353, par. 1–3 (putting into operation of a plant or thermal power plant before putting into operation its purifying facilities), art. 353a (hiding or disclosing of false information on the state of the water).

5. *Conclusions*

Finally, some general conclusions and recommendations are given from the examined regulation.

The examined legal regulation includes many ecological aspects, that is why, there is a need of efficient collaboration between scientists and practical experts from different branches of sciences and social practice for the purposes of protection of the natural resources in this region.

The complex and complicated character of the environmental problems in the region of the Bulgarian Black Sea coastal zone requires the use of the legal principle of sustainable development, regulated in art. 3, item 1 of EPA.

²⁵ It is carried out through the National Environmental Monitoring System, managed by the MEW, with exception for its environmental noise monitoring component, which is managed by the Minister of Health.

The observance of the legislation on protection of the Bulgarian Black Sea coastal zone is related to considerable financial resources, that is why, there is a need to be used different possibilities on a national, EU and UN levels for financing of activities which cause impact on the state of this natural resource.

BIBLIOGRAPHY

Гергов, Георги, Динамика и въздействие на наносите върху крайбрежната плажна ивица, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, София: Проф. Марин Дринов, 1998, с. 78–84.

Марински, Йордан, Абразията, причини за активизиране и борбата с нея, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, София: Проф. Марин Дринов, 1998, с. 120–138.

Марински, Йордан, Проблеми с брегоукрепването на Черноморското крайбрежие, в *Булаква*, София, 2017, № 1, с. 74–80.

Нашето общо бъдеще, София: Д-р Петър Берон, 1989, 356 с.

Пенчев, Георги, Екологоправна защита на бреговата зона на Черноморското крайбрежие на Република България, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, София: Проф. Марин Дринов, 1998, с. 162–184.

Пенчев, Георги, Правна защита срещу свлачищата: превантивни мерки, в *Превантивни дейности за ограничаване и намаляване на последствията от земетресения и свлачища*, София: Сеп-Информа, 2003, с. 260–270.

Пенчев, Георги, Правна защита на околната среда срещу свлачищата, в *Търговско право*, София, 2013, № 4, с. 109–117.

Половинкин, Александр, *Физическая география*, Москва: Государственное учебно-педагогическое издательство Министерства просвещения РСФСР, 1959, 552 с.

Речник по екология и опазване на околната среда, София: Партиздат, 1984, 288 с.

Стойков, Добри, Възникване и развитие на геозащитната дейност по Черноморското крайбрежие, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, София: Проф. Марин Дринов, 1998, с. 11–19.

Франгов, Георги, Радослав Върбанов, Живка Йорданова, Милчо Стакев, Съвременна активност на свлачищата по Варненското и Балчишкото крайбрежие, в *Брегоукрепване и дълготрайно стабилизиране на склоновете на Черноморското крайбрежие*, София: Проф. Марин Дринов, 1998, с. 20–29.

Saving Our Planet. Challenges and Hopes, Nairobi: UNEP, 1992, 200 pp.

Shelton, Dinah, Alexandre Kiss, *Judicial Handbook on Environmental Law*, Nairobi: UNEP, 2005, 131 pp.

Recibido el 30 de agosto de 2018. Aceptado el 14 de octubre de 2019