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CRIMINAL LAW AND THE ADEQUACY OF ENVIRONMENTAL PROTECTION – INTERNATIONAL LEGAL STANDARDS AND SERBIA'S SUBSTANTIVE CRIMINAL LEGISLATION – IN CONFORMITY OR NOT?[**]

ABSTRACT: This paper explains the importance of the protection of the environment through criminal law in a state of law (*Rechtsstaat*) characterized by the rule of law. In this context, special attention is paid to the influence of fundamental international legal standards regarding environmental protection on the specific normative concept of the protection of the environment through criminal law in Serbia. Emphasizing that the protection of the environment through criminal law has an *ultima ratio* character, the paper also focuses on defining the basic elements of environmental protection law, both within national legal frameworks and from the standpoint of the impact of relevant international legal sources, in connection with criminal law responses in this field.

International standards in the field of environmental protection, which are applied in the national legal system either through so-called implementation mechanisms or, in certain cases, directly,

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hold particular importance when assessing the adequacy of the protection of the environment through criminal law. The paper includes an analysis of the fundamental international standards regarding the environment that are contained in relevant international legal sources, such as certain international treaties/agreements/conventions. It also clarifies the dominant *ratio legis* of criminal offenses against the environment under the Criminal Code of the Republic of Serbia, with an explanation of the general *ratio legis* for such criminal offenses, combined with defining the *ratio legis* of individual criminal offenses classified, according to the statutory systematics, as criminal offenses against the environment. In the conclusion, the paper particularly emphasizes that the immense importance of the protection of the environment through criminal law stems from the crucial importance of a healthy environment for human health. This importance, based on relevant constitutional provisions, is manifested through the development of mechanisms for adequate protection of the environment through criminal law. An analysis of the relevant criminal law norms shows that, from a normative standpoint, the protection of the environment through criminal law in the Republic of Serbia is adequately conceived, whereas certain weaknesses in the application of these specific criminal law norms exist in practice, especially when it comes to detecting and proving criminal offenses against the environment.

Keywords: environment, Criminal Code, criminal law, protection through criminal law, Constitution, international legal standards

INTRODUCTORY CONSIDERATIONS

The problem of environmental offenses, i.e., the pollution of the environment, is becoming one of the greatest threats to humanity and civilization in general.[1] This problem has existed for a long time, since the first and second industrial revolutions in the 19th century, but it reached its culmination in the second half of the 20th century and has continued into the first decades of the current 21st century.[2] Therefore, modern states of law, grounded in the rule of law, elevate the right to a healthy environment to the status of a constitutional right, expressed as a constitutional guarantee. This gives rise not only to the rights of individuals to an environment that can be considered healthy and suitable under given circumstances, but also to obligations for both citizens in general and, in particular, the relevant state authorities to protect and improve the environment.

[1] Aleksić, Ž., Škulić, M. (1996). *Kriminalistika*. Belgrade. Faculty of Law, University of Belgrade, 357.

[2] Škulić, M. (2024). *Kriminalistika,* Second Revised and Updated Edition. Belgrade: Faculty of Law, University of Belgrade, 403.

The immense importance of preserving the environment is so great that the environment is also protected from the most serious forms of harm or endangerment through criminal law. As is generally the case, and especially regarding the protective function of criminal law, which is the fundamental and most important function of what is typically the most repressive branch of law in the legal system, the protection of the environment through criminal law likewise carries an *ultima ratio* character. Specifically, environmental protection at the national level may be achieved through various branches of law, including administrative law and different forms of penal law, such as misdemeanor law. In this regard, i.e., concerning the normative protection of the environment in certain national legal systems, as in general, because this is the highest level of protection, given that it involves a branch of law whose application clearly has an *ultima ratio* character, the protection of the environment through criminal law is of particular importance. Environmental pollution originating from the activities of powerful industrial corporations may be classified as a special form of crime perpetrated by members of the economically most powerful segment of society, referred to in part of the American criminological literature as "Crimes of Business People."[3] As for the etiological and phenomenological component of environmental crime, toward which a corresponding response through criminal law is directed, systematic criminological research devoted to this type of crime has emerged in more recent times,[4] metaphorically referred to as "green criminology."[5] In the literature, it is noted that

> "...since the last quarter of the previous century, scientists and the public, embodied, *inter alia,* by "environmental activism," first in the West and then in other parts of the world, have been preoccupied with questions that in essence boil down to several concepts," such as "environmental justice," "anthropocentrism," "sustainable development," as well as "ecocide,"[6] "animal rights," "corporate crime," and many others.[7]

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[3] Galliher, J. F. (1989). *Criminology – Human Rights, Criminal Law and Crime*. New Jersey: Englewood Criffs "Prentice Hall", 62.

[4] Sivadó, M. (2022). Zelena kriminologija. *Glasnik of the Bar Association of Vojvodina,* 94(3), 824 – 856.

[5] Lukić, N. (2023). *Zelena kriminologija.* Belgrade: Faculty of Law, University of Belgrade, 8–9.

[6] For more, see: Škundrić, A. (2023). Ekocid u međunarodnom krivičnom pravu. *Zbornik: Raskršća međunarodnog krivičnog prava i krivičnog prava – reforma pravosudnih zakona Republike Srbije,* (eds. Škulić, M., Miljuš, I., Škundrić, A.). Belgrade: Association for International Criminal Law and Faculty of Law, University of Belgrade, 443–458.

[7] Ignjatović, Đ. (2023). Zelena kriminologija i kontrola kriminaliteta. *Crimen,* Vol. 14, No. 1/2023, Belgrade, 24.

The protection of the environment through criminal law in Serbia derives both from certain international legal documents and from relevant constitutional provisions. In this respect, the United Nations has demonstrated its concern for global environmental protection by establishing a specialized organization dedicated to environmental issues at the international level (UNEP).[8] Furthermore, at the international legal level, environmental protection is increasingly perceived as a need to protect one of the vital human rights. In today's world, there is a clear (at least declarative) tendency to provide consistent protection of universal human rights.[9] In modern legal systems in recent decades, a particular *criminal-law segment* of the protection of the environment has been developing, achieving what could be termed a "terminological civil right," e.g., *Umweltstrafrecht* (in German), or *Environmental Criminal Law* (in English).[10]

The right to a healthy environment, which, in contemporary society, entwined with a certain level of technology, geographical circumstances, and global climate factors, should be rationally understood as the right not to be subjected to living in an unnecessarily and excessively polluted environment, is protected, *inter alia*, through numerous criminal offenses contained in the Criminal Code dedicated to environmental protection. The same holds true in modern comparative criminal law. Although the literature rightly stresses that the existence of many different models of protection of the environment through criminal law indicates a relatively new phenomenon,[11] today it is practically indisputable that all modern legal systems recognize certain forms of environmental offenses. In this regard, there are significant differences in comparative law, so it is typical for some criminal law systems to categorize environmental crimes as so-called regulatory offenses, which then implies the development of a concept of specific strict liability in relation to them.[12]

[8] Ipsen, K. (1990). *Völkerrecht*. München: "Verlag C. H. Beck", 839.

[9] Brownlie, I. (1999). *Principles of Public International Law.* Oxford – New York: "Oxford University Press", 568.

[10] Heine, G. (1997). (Hrsg.) *Umweltstrafrecht in mittel – und südeuropäschen Ländern.* Freiburg im Breisgau: "Max-Planck" – Institut für ausländisches und internationales Strafrecht, 7.

[11] Faure, M., Heine, G. (2000). *Environmental Criminal Law in the European Union.* Freiburg im Breisgau: "Max-Planck" – Institut für ausländisches und internationales Strafrecht, 1.

[12] Škulić, M. (2023). *Krivično pravo Sjedinjenih Američkih Država.* Belgrade: Official Gazette, 157.

FUNDAMENTAL CATEGORIES OF HUMAN RIGHTS AND THE POSITION OF THE RIGHT TO A HEALTHY ENVIRONMENT WITHIN THE HUMAN RIGHTS SYSTEM

Nowadays, it is common to speak of "two generations of human rights," with one comprising civil and political rights and the other encompassing economic, social, and cultural rights. Today, a concept of a "third generation of human rights" has already emerged, and this category often includes *the right to a healthy environment*. During the Cold War era, when two blocs and two worldviews stood in political and ideological opposition, human rights issues became extremely politicized and ideologized, boiling down to a kind of competition between the two extremes. According to one extreme, only political rights (such as the right to free multiparty elections, the right to freedom of speech, the right to free political organization, the right of assembly, etc.) were deemed significant; while on the other extreme, only certain socioeconomic rights mattered (such as the right to work, the right to healthcare, etc.). During the Cold War, these two groups of human rights were thus viewed from two extremely opposed positions.

According to one extreme position, economic and social rights are far more important, since, for instance, people who are extremely poor or literally "dying of hunger" gain no benefit from having freedom of speech, just as the right to participate in elections is irrelevant to those who lack "a roof over their head," and so forth. According to the other extreme viewpoint, only civil and political rights qualify as "true" human rights, and only they have the status of "universal human rights," whereas economic and social rights do not. According to that reasoning, if people were granted an absolute guarantee of certain economic and social conditions, it would completely contradict the idea of a free market and the concept of market competition, and would lead to harmful state interventionism, which would sooner or later result in narrowing down those civil and political rights that had already been achieved. Additionally, it is argued that because every universal human right requires the state to facilitate its observance (for example, if a citizen has the right to vote, the state is obliged to ensure free elections), it would be impossible, in conditions of a market economy, for the state to absolutely guarantee certain economic and social rights. That would amount to state management of the economy. Overall, this issue is largely intertwined with the global social value system, as well as questions of the dominant ideology in the modern world, and with matters of political and state organization. Over time, the gap between these two fundamental concepts regarding the importance of one type of human rights over the other has narrowed. Against this backdrop, the idea of the right to a healthy environment has evolved as an important human right that is, *inter*

alia, protected by criminal law in those instances involving the most severe forms of damage or threats to the environment and its key elements.

The willingness of national communities (i.e., sovereign states) and of the international community as such to meet human needs rises rapidly with the overall progress of society, leading to the recognition of relatively new rights, such as the right to a healthy environment and the right to development, or the emergence of demands for the acknowledgment of new rights such as the right to food or the right to water. Hence, there is discussion of a new, third generation of human rights.[13] The right to a healthy environment could be considered a hybrid right with respect to the division into "two generations of human rights." On the one hand, it is associated with certain fundamental civil rights, such as the right to life and the related right to bodily integrity, while on the other hand, by its very nature, it is also linked to economic and social rights, because environmental pollution is often connected with economic activities, and its negative consequences primarily affect human health. Thus, there is a connection between that right and certain social rights.[14]

The right to a healthy environment is increasingly classified among the so-called third generation of human rights, although numerous significant uncertainties remain in that regard. For instance, it has been noted,

> "The process of equating the two generations of human rights in terms of judicial protection, which began at the global and regional levels, is not universally accepted."

Through the Protocol added to the Treaty of Lisbon, Poland and the United Kingdom expressed reservations about Title IV of the Charter of Fundamental Rights of the European Union. Article 1 of the Protocol denies the Court of Justice of the European Union, as well as the courts in Poland and the United Kingdom, jurisdiction to oversee whether the laws, by-laws, administrative regulations, or practices of Poland or the United Kingdom comply with the fundamental rights affirmed in this Title. In addition, it was specified that Title IV would not provide judicial protection to economic and social rights beyond what was already provided by the laws of Poland and the United Kingdom. Interestingly, the Venice Commission has adhered to an older viewpoint concerning the unsuitability of economic, social, and cultural rights for judicial protection. In its 2007 Opinion on the new 2006 Constitution of Serbia, the Venice Commission notes that the content of the human rights set forth in the second part of the Constitution is consistent with European standards and,

[13] Etinski, R. (2010). *Međunarodno javno pravo*. Belgrade: Official Gazette, 222.

[14] For more, see: Škulić, M. (2011). Međunarodnopravna zaštita životne sredine – prava i obaveze države. *Zbornik: Priručnik za zaštitu životne sredine.* Belgrade: Prosecutors Association of Serbia, 105–140.

in certain aspects, goes even beyond them. The Venice Commission observes that the "classical" rights are accompanied by a series of fundamental rights from the so-called second and third generation of human rights, ranging from healthcare, social protection, pension insurance, and the right to education, to the right to a healthy environment and consumer protection. It further points out that the Constitution makes the implementation of these rights dependent on financial resources as determined by legislation, and that respect for these rights would be subject to judicial review. The Venice Commission then states:

> "There is little experience in this respect at European level. The Venice Commission has on other occasions expressed the concern that positive social and economic rights might create unrealistic expectations and advocated drafting them as aspirations rather than rights that can be directly implemented through court decisions."

In the Venice Commission's opinion, their direct implementation through the courts carries the risk of involving the judiciary in decisions over the allocation of scarce resources and would consequently deprive other fundamental rights of their nature as enforceable rights, reducing them to new aspirations.[15]

However, it remains somewhat uncertain in a primarily *de facto* sense whether there even is any "right to a healthy environment" as a distinct human right. Even if a corresponding right regarding the environment does exist, it is difficult to argue that it entails having a strictly "healthy" environment or an absolutely "unpolluted" environment, given the complexity of this issue and its pronounced interrelation with a broad set of other economic and social problems, as well as with ordinary natural phenomena, such as volcanic activity, earthquakes, cyclical global cooling and global warming, etc. In reality, that right occasionally, and typically, exists only on a declarative level, even in our own Constitution, yet in practice, unfortunately, its realization is highly questionable.

If there is indeed a "right to a healthy environment," and if this right is increasingly cited as a current human right from the so-called third generation of human rights, it is still debatable whether it can be considered a universal human right. On the one hand, it is not formally prescribed in the most important international legal sources on fundamental human rights; its existence can only be inferred indirectly from some of their provisions. On the other hand, in the modern world, it is beyond dispute that industrial development, an array of new technologies, transportation, and similar factors significantly contribute to environmental pollution, and they cannot possibly be eliminated in full or to any substantial degree (especially not quickly). Consequently, it might easily be

[15] Etinski, R. (2010). *Međunarodno javno pravo*. Belgrade: Official Gazette, 221–222.

concluded that if claiming that every individual has the right to a healthy environment, that right is routinely violated in practice, and other rights may come into conflict with it. For example, if, in the wake of the severe environmental pollution in Japan and worldwide caused by the disaster at the Fukushima nuclear power plant, a ban was imposed on the use of nuclear energy, a dramatic energy deficit would swiftly envelop the globe. As a result, problems would quickly emerge in areas such as food supply, production, and heating, which would then endanger, for instance, the right to work and social security, and even the right to life. The same applies to the excessive use of fossil fuels,[16] certain means of transportation, the use of pesticides in agriculture, etc.

Moreover, it is indisputable that major environmental pollution may also occur due to *force majeure*, i.e., certain natural phenomena such as earthquakes, floods, etc. Thus, how can the state guarantee citizens the right to a healthy environment when environmental degradation can arise entirely independent of the state? Even the most developed countries cannot prevent large-scale natural disasters. Accordingly, it is perfectly clear that there is no absolute right to a healthy environment (which in the modern world, not only because of industrial pollution but also due to objective climatic factors, is most often illusory). The existence of any given right implies that a particular subject bears the obligation to preserve that right, protect it, or further it; in the context of human rights, that subject is necessarily the state. Not to mention that such a right would logically assume that a genuinely "healthy environment" in the countries recognizing it actually exists, but nowadays, in every modern state, a healthy environment is viable only in certain regions and is more of an exception than a rule.

Furthermore, as in many situations, environmental pollution can occur completely independently of state activities in a way that the state cannot prevent, for instance, large-scale natural disasters; it is unrealistic and impossible to impose such an obligation on the state *a priori*. In addition, regardless of any activity by the state or by people in general, every country has areas or regions that are more or less healthy, favorable for life, etc. For example, the air on a mountain is almost always far cleaner than that in lowlands or marshy areas. Nevertheless, this does not mean that states do not have certain obligations with respect to the environment or their citizens' natural surroundings. In principle, states must be obligated to prevent further environmental pollution and to preserve whatever unpolluted parts of the environment remain, as well as to establish an appropriate balance between the need for development and the necessity to prevent such development from causing environmental

[16] At the level of the European Union, efforts to solve, or at least plan and attempt to solve this problem involve the introduction of so-called carbon taxes as a special kind of "parafiscal levy," which will undoubtedly lead to a host of issues not only in the legal sphere, but primarily in the economic sphere as well.

destruction. States must also be responsible for creating conditions favorable to the expansion of environmentally suitable technologies that minimally pollute the environment, and so forth.

What could be considered is a human right to an "appropriate/adequate environment," i.e., an environment that is as little polluted as possible, but it is in no way possible, except at a purely declarative level, to consider that people have an unconditional right to an absolutely "healthy," perfectly "intact," wholly "unpolluted" environment, as that would simply be unrealistic. On the other hand, a series of international legal instruments as well as national regulations are aimed at protecting the environment, and in the modern world, this is being done in a way that seeks an appropriate "balance" between the need for certain necessary activities, albeit those that come with lesser or greater environmental pollution (for example, the production of energy through the combustion of fossil fuels or the use of nuclear power plants,[17] transportation, etc.), and the imperative of preserving the environment. This is primarily achieved today by developing the concept of *sustainable development*, which boils down to giving precedence to so-called clean technologies so that, on the one hand, current environmental pollution is reduced to the bare minimum and, on the other, a variety of measures and procedures are introduced to diminish existing pollution, which is often the result not just of years but, considering the onset of industrial revolutions, even centuries of environmental damage,[18] often on a dramatic scale.

[17] There are some very striking paradoxes in this regard. Proponents and supporters of the widespread use of nuclear energy argue that, on the one hand, it is currently much safer than it used to be, and on the other, that in practice it is significantly less destructive to the environment than the use of fossil fuels. They illustrate this by comparing the degree of ordinary pollution (the amount of carbon monoxide, the rise in global temperatures, etc.) caused by coal- or oil-fueled thermal power plants with that which ordinarily arises from nuclear power plants, something they deem negligible. However, the issue with nuclear power plants in this respect resembles the story of "a cow that gives plenty of milk but ultimately kicks over the pail, spilling everything," because even a single major incident at a nuclear facility (such as the one in Chernobyl or, more recently, the one in Fukushima, not to mention even bleaker possible scenarios) can inflict dramatic environmental consequences that cannot be remedied even after tens of thousands of years, a prospect that seems more than frightening, at least from the standpoint of our average human lifespan.

On the other hand, it is evident that technology has advanced significantly, and that this applies as well to nuclear energy and its use in electricity production. If all the regulations pertaining to the construction and supervision of nuclear plants are consistently observed, and if great caution is exercised when selecting the specific technological processes and sites for such plants, coupled with the potential *ultima ratio* role of criminal law, nuclear energy can indeed be a very important source of relatively inexpensive energy (albeit with very high initial investment) and serve as a successful substitute for other technologies that seriously harm the environment.

[18] That "historical component" remains relevant today. For example, China is undoubtedly still one of the largest global polluters, which is frequently accompanied by

Fundamental Characteristics of the Protection of the Environment Through Criminal Law in Serbia

Chapter XXIV of the Criminal Code of Serbia comprises a whole series of criminal offenses dedicated to the protection of the environment. These crimes are quite heterogeneous in terms of their basic *ratio legis*, and sometimes also with respect to their protected object/object of protection through criminal law. Moreover, these "environmental" crimes exhibit various other important differences. Thus, some crimes of this kind can be committed by any individual, whereas other crimes from this chapter fall under the category of so-called status offenses, that is, they are *delicta propria* in nature,[19] meaning that only a person with a particular status, such as an official, can commit them.

Many of the criminal offenses classified as criminal offenses against the environment are "blanket" offenses, which means that the *actus reus* is defined in terms of the violation of certain regulations outside of criminal law, such as the rules contained in the Law on Environmental Protection, as well as numerous other environmental regulations, including by-laws. Many of these criminal offenses also draw on relevant international legal documents. A significant number of regulations concern the protection of the environment and may be relevant to these criminal offenses against the environment with a blanket character. Of particular importance is the Law on Environmental Protection.[20]

In a general sense, the overall protection of the environment through criminal law also derives from the relevant constitutional provisions. Article 74, paragraph 1 of the Constitution of Serbia stipulates that everyone has the

sharp criticism from the international community. Yet China itself emphasizes its right to industrial development, pointing out that development inevitably carries a cost and that at one time other industrial powers of the day were also major polluters. For instance, the famous "London smog" was one of the consequences of England's accelerated industrialization. Furthermore, in the era of globalization, the world's richest countries, above all the United States, but also many Western European countries, have transferred many of their industrial plants (often big polluters) to China as well as other so-called "developing countries," because labor there is far cheaper, and China has by now become a vast market (particularly, for example, for automobiles). This explains in part why China, now something like the planet's "factory workshop," today not only sits near the top in terms of production but also in terms of contributing to global pollution. Moreover, this is an excellent example of the fact that in our age of globalization, questions of responsibility must be evaluated both for individual states and for globally significant corporations operating industrial facilities worldwide. They rationally choose locations characterized by cheap labor, minimal demands for workers' social rights, and "liberal" environmental regulations.

[19] Stojanović, Z. (2024). *Krivično pravo – opšti deo,* 28th Revised and Updated Edition. Novi Sad: Faculty of Law, University of Novi Sad, 133.

[20] *Official Gazette of the RS, No. 134/2004, 36/2009, 72/2009 – other law, 43/2011 – decision of the Constitutional Court, 14/2016, 96/2018 – other law, 94/2024 – other law.*

right to a healthy environment, as well as the right to timely information on its condition. Furthermore, under the Constitution, everyone ("every person"), and the Republic of Serbia in particular, is held *responsible* for the protection of the environment (Article 74, paragraph 2, of the Constitution of Serbia), and everyone is obliged to preserve and improve the environment (Article 74, paragraph 3, of the Constitution of Serbia). While these provisions are of great importance and represent the legislator's general and fundamental intentions, they are to a large extent distinctly declarative in character.[21]

The primary function of criminal law is its *protective function*, safeguarding the most important goods and values that would be violated or endangered by certain criminal offenses. This means that "criminal law ensures protection for all major societal values."[22] The same applies to the protection of the environment through criminal law because preserving the environment/preserving it to the extent objectively possible, is among the most important social goals, related to the human right to a "healthy" environment. Accordingly, modern criminal law achieves its protective function both by stipulating certain criminal offenses and by laying down general norms related to both the objective and subjective elements of criminal offenses, grounds for excluding unlawfulness, etc., all conditional upon the existence of the perpetrator's *culpability*, with the degree of culpability also affecting sentencing.[23] It should be emphasized here that modern criminal law is grounded in the "principle of culpability."[24] This principle generally applies to the protection of the environment through criminal law as well.

As elsewhere, this form of protection through criminal law, that is, protecting the environment via mechanisms of criminal law, implies the involvement of both substantive and procedural criminal law, reflecting the direct link between these two domains. Ultimately, this also relates to how criminal procedural law is defined in a functional sense and is directly associated with its purpose of existence, in close connection with the aim of substantive criminal law.[25] Thus, in theory (Roxin, C.), it is highlighted,

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[21] Škulić, M. (2023). *Ustavnopravna zaštita životne sredine.* Novi Sad: *Glasnik of the Bar Association of Vojvodina,* No. 4/2023, 1205.

[22] Babić, M., Marković, I. (2013). *Krivično pravo – opšti deo.* Banja Luka: Faculty of Law, University of Banja Luka, 23.

[23] Roxin, C., Greco, L. (2020). *Strafrecht Allgemeiner Teil Band I Grundlage. Der Aufbau der Verbrechenslehre,* 5. Auflage. München: Verlag C. H. Beck, 1–2.

[24] Jescheck, H. H., Weigend, T. (1996). *Lehrbuch des Strafrechts – Allgemeiner Teil*, Fünfte vollständig neuberarbeitete und erweiterte Auflage. Berlin: Duncker & Humblot, 24.

[25] Škulić, M. (2024). *Krivično procesno pravo,* 14th ed. Belgrade: Faculty of Law, University of Belgrade, 5.

> "Substantive criminal law, whose fundamental rules are contained in the Criminal / Penal Code, defines the characteristics of punishable acts[26] and prescribes the legal consequences (penalties and security measures) connected with perpetrating a crime. In order for these norms to fulfill their function of creating the basic conditions for peaceful coexistence, they must not remain mere words on paper when a crime is committed. A legally regulated procedure is therefore necessary, through which it can be established that a punishable act has been perpetrated and that the legally prescribed sanction can be imposed. By a "legally regulated" procedure, three aspects are to be understood – its provisions must be formulated so as to properly support the enforcement of substantive criminal law; they must simultaneously define the boundaries of how the criminal justice authorities may encroach on the protected freedoms of individuals; and finally, they must make it possible for a final decision to reestablish legal peace once it has been disturbed."[27]

Hence, an organic connection exists between substantive and procedural criminal law, as well as between procedural and substantive criminal law on the one hand and criminalistics on the other, the principles of which enable, in practice, effective detection, clarification, and proof of crimes in general, including those related to the environment, i.e., those serving the purpose of the protection of the environment through criminal law.

In our theory of criminal law, it is also rightly noted that "the protection of the environment through criminal law provided by the numerous criminal offenses under Chapter XXIV of the Criminal Code is nonetheless incomplete," so that, for example, "they do not offer protection against noise,"[28] meaning that

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[26] Naturally, in the positive Serbian penal law system, "punishable acts" should be understood to include any acts (whether commission or omission, i.e., punishable failure to act) constituting the perpetration or participation in a crime, as well as acts representing essential elements of a misdemeanor or an economic offense, both of which can be relevant to the protection of the environment. In a broader sense (particularly in light of the *ne bis in idem* principle under the European Court of Human Rights' case law, which the Constitutional Court of Serbia also accepts), this might sometimes encompass other types of offenses in cases where relatively severe sanctions are threatened or imposed, for example, disciplinary measures against prisoners or in some other disciplinary proceedings, and occasionally certain measures that objectively have a punitive character, even if not formally defined as punishments or sanctions.

[27] Roxin, C. (1998). *Strafverfahrensrecht, 25*. Auflage. München: Verlag C. H. Beck, 1–2.

[28] The situation differs in some European criminal (penal) laws. For example, the German Criminal Code (*Strafgesetzbuch, StGB*), in Section 325a, provides, *inter alia*, protection against noise as a distinct form of endangering or disturbing the environment. In the basic form of the offense of causing noise, vibrations, and non-ionizing radiation (Sec.

"...this important form of environmental endangerment is not criminalized under any other provision of subsidiary criminal legislation and therefore remains subject only to misdemeanor protection."[29]

The Theoretical Systematization of Environmental Crimes in the Criminal Code of Serbia and Their Dominant *Ratio Legis*

Criminal offenses against the environment contained in Chapter XXIV of the Criminal Code of Serbia may be categorized and systematized in theoretical terms into several groups, based on the dominant criterion pertaining to their key characteristics. These groups are:

1. *Criminal offenses against the environmental in a narrow sense*, which include a) Environmental Pollution, b) Failure to Undertake Environmental Protection Measures, c) Unlawful Construction and Commissioning of Facilities and Plants That Pollute the Environment, d) Damage to Facilities and Devices for Environmental Protection, and e) Damage to the Environment;

2. *Criminal offenses of an "adhesive" nature* relative to criminal offenses against the environment in a narrow sense, which include a) Destruction, Damage, Export from Serbia, or Import into Serbia of Protected Natural Resources, b) Import of Dangerous Substances into Serbia and Unlawful Processing, Disposal, or Storage of Dangerous Substances, c) Unlawful Construction of Nuclear Facilities, and d) Violation of the Right to Information on the State of the Environment;

3. *Criminal offenses concerning animals,* which include a) Killing and Abuse of Animals, b) Veterinary Malpractice, c) Production of Harmful Veterinary Medicines, d) Pollution of Food or Water Intended for Animals, e) Illegal Hunting, and f) Illegal Fishing;

4. *A criminal offense relating to both animals and plants* – Transmission of Infectious Diseases to Animals and Plants.

5. *Criminal offenses concerning forests,* which include a) Deforestation and b) Timber Theft.

In general terms, the *ratio legis* of Chapter XXIV of the Criminal Code of Serbia (which is apparent even at the terminological level from its title) is directed toward protecting the environment from various forms of pollution

325a(1) StGB), it is prescribed that a perpetrator who, in operating a facility (especially a power-generating unit or machine), in violation of administrative obligations, causes noise capable of harming the health of another person outside the facility's premises shall be punished by either 1) imprisonment of up to five years or 2) a fine.

[29] Stojanović, Z., Perić, O. (2009). *Krivično pravo – posebni deo*, XIII edition. Belgrade, 860.

and, more generally, from destructive activities affecting the environment itself and certain of its particularly significant elements, all of which carry criminal-law consequences. Hence, the focus of all criminal offenses under Chapter XXIV of the Criminal Code is not solely on "pollution" of the environment or its elements; rather, they may encompass very diverse forms of attacks on the environment or on its elements, and sometimes they involve particular ways of endangering the environment or its elements. This results in a considerable diversity among the criminal offenses generally considered criminal offenses against the environment, i.e., those found in Chapter XXIV of the Criminal Code. Accordingly, in the case of many individual offenses, specific and dominant reasons are noted for their criminalization, amounting to their distinct *ratio legis*.

Some criminal offenses in Chapter XXIV of the Criminal Code have a specific *ratio legis* but also exhibit other characteristics that render them not entirely standard or typical criminal offenses against the environment. For instance, the criminal offense of killing and abuse of animals has a clear, particular *ratio legis*, which is only partly aligned with the *ratio legis* pertaining to the protection of the environment through criminal law.[30] Namely, it is clear that animals are an important element of the environment in the broadest sense, especially in the case of wild animals, an integral part of certain ecosystems such as forests, rainforests, steppes, deserts, marshland, specific geographic regions, etc. However, in practice, the criminal offense of killing and abuse of animals primarily concerns domestic animals, most often pets; and if animals were to be considered solely elements of the environment, then so would humans, which would, by that logic, mean that criminal offenses against life and limb, against freedom, etc., might all be treated according to the same criterion as criminal offenses against the environment, something that, at first glance, would obviously be entirely nonsensical.[31] Furthermore, legal theory notes that

> "...by categorizing them as objects, the law effectively deprives animals of any rights, because it is clear that objects, by themselves, cannot possess any

[30] For more, see: Bajović,V. (2023). Pravni status životinja – pokretne stvari ili nešto više? *Zbornik: Kaznena reakcija u Srbiji,* Part XIII, *Crimen* edition. Belgrade: Faculty of Law, University of Belgrade, 231–255.

[31] In reality, the crime of killing and abuse of animals does not at all intrinsically belong to the group of environmental crimes. Together with some other animal-related crimes, it would logically be placed in a separate group of crimes. The legislator is unlikely to opt for this, as it would presumably appear unnecessary, perhaps even "bizarre," but that kind of legal systematization has a clear rationale.

rights or interests; rather, their owner exercises all rights over them and may treat them as he wishes."[32]

The essential *ratio legis* of the criminal offense of killing and abuse of animals is not easily discernible at first glance. From the statutory text of this crime (Article 269 of the Criminal Code), it may appear at first that this criminal offense's *ratio legis* is the protection of animals from being killed and abused, but that is only partly accurate, because the animals in question are protected from mistreatment and abuse only and exclusively if the act prohibited by law is carried out *in violation of legal provisions*.

From the blanket nature of the criminal offense of killing and abuse of animals, it follows that an animal can be killed or even abused without constituting an illegal act, nor the criminal offense under Article 269, paragraph 1, of the Criminal Code (the basic form of this offense), provided that one or more of the acts, usually considered as acts of commission for this offense, are performed *in accordance with the relevant regulations*. These are 1) killing, 2) injuring, 3) torturing, or 4) otherwise abusing an animal.

In a society in which vegetarians are a tiny minority or even practically nonexistent, where people regularly consume animal-based foods, it is entirely normal that certain types of animals must be killed for subsequent use as food, which, simply speaking, means that they are to be "eaten." Most often, this is preceded by systematic breeding of animals, followed by putting them to death in specific, legally regulated ways that do not involve unnecessary suffering,[33] after which their meat is processed into a final product intended for human consumption, and sometimes also for consumption by other animals.

All of this shows, *inter alia*, that the *ratio legis* of the criminal offense of killing and abuse of animals cannot be rooted solely in protecting animals as

[32] Bajović, V. (2024). Ubijanje, zlostavljanje i napuštanje životinja u Srbiji – (ne) primena zakonskih odredbi. Raskršća međunarodnog krivičnog prava i krivičnog prava – reforma pravosudnih zakona Republike Srbije. *Zbornik radova sa međunarodne naučne konferencije: „Odnos međunarodnog i nacionalnog krivičnog prava"*, (eds. Škulić, M., Etinski, R., Miljuš, I., Škundrić, A.), volume II. Belgrade: Association for International Criminal Law and Faculty of Law, University of Belgrade, 12.

[33] Killing animals "in accordance with regulations" means that domestic animals raised for food are put to death in a manner that is not excessively cruel and does not subject the animal to unnecessary suffering. Thus, for instance, in modern states with strict rules in this area, animals are anesthetized before being killed in a particular way, or methods and means are used to ensure the animal dies instantly. Occasionally, this conflicts with certain religious rules that require the meat of food animals to be free from blood, thus the animal must be killed by being completely or largely bled out before death, i.e., effectively slaughtered. Overall, this issue generates a collision between such religious rules and the rules of modern states, which conversely mandate that the animal's death be instantaneous and not involve prolonged suffering.

such, because in practice, they can in fact be killed or even abused in accordance with legal regulations. As for abuse carried out "in accordance with regulations," this primarily refers to certain forms of breeding that are permitted despite causing the animals a degree of suffering. This is explained in legal theory by the argument that the criminal offense of killing and abuse of animals does not actually protect animals in and of themselves, but rather safeguards *human feelings toward animals* and a certain "responsibility that people should have toward them," since even though "humans are compelled to kill animals in order to survive, they can and should do so only in a manner befitting human dignity," thus "in this instance as well, criminal law protects humans and their feelings."[34] It is emphasized further that the way people treat and assume responsibility for animals ultimately serves human interests rather than those of the animals, so

> "...the abuse of animals, and even killing them where it is not necessary for human sustenance, provokes compassion in most people."[35]

In reality, the criminal offense of killing and abuse of animals does protect humanity in its fundamental sense, not merely the feelings of the average individual, who regrets that animals are killed or abused even when this is not required for consumption or for other legitimate purposes such as medical experiments, which, while they also provoke pity in most people, are usually truly needed for the protection of humans themselves. Nonetheless, it is evident that the criminal offense of killing and abuse of animals also protects animals in their own right because, regardless of the legislator's motive for criminalizing this behavior, and regardless of the fact that most people are not vegetarians and wear leather footwear and clothing, etc., the mere existence of such a criminal offense (despite the undoubtedly high "dark figure" in practice) must lead to a reduction in unnecessary or unlawfully committed acts of killing or abuse of animals.

Hence, the fundamental *ratio legis* of the criminal offense of killing and abuse of animals is primarily the protection of humanity or basic humaneness, which includes, *inter alia*, that even when animals are intended for human consumption (or sometimes for feeding other animals), or when certain legitimate medical experiments are conducted on them,[36] they may not be killed

[34] Stojanović, Z. (2024). *Komentar Krivičnog zakonika*, 13th Revised and Updated Edition. Belgrade: Official Gazette, 882.

[35] Stojanović, Z., Perić, O. (2009). *Krivično pravo – posebni deo*, XIII edition. Belgrade, 215.

[36] Unfortunately, and this often means giving "priority to higher interests", most medical experiments in practice are exactly the reverse: they involve inflicting pain and suffering on animals or killing them in ways that cause pain and great suffering.

in a way that subjects them to excessive suffering, and that in breeding them, behavior amounting to abuse is avoided. However, this criminal offense does protect the animals themselves as well. Beyond that, in doing so, it safeguards people, i.e., a certain dimension of general humaneness. From a broader perspective, this aligns with practical experiences showing that individuals who are prone to killing or abusing animals unnecessarily often exhibit psychopathic personality structures.[37] Based on such a profile, those offenders would not hesitate, in certain situations (such as war and armed conflict, in the commission of certain criminal offenses, under situational factors, etc.), to kill or abuse humans in the same or similar manner.[38]

The *ratio legis* of several other environmental criminal offenses is often, similarly to the criminal offense of killing and abuse of animals, substantially different from the classic *ratio legis* of most criminal offenses against the environment, especially the primary criminal offense of that type, environmental pollution. This includes all criminal offenses in this category relating to animals, and sometimes plants as well. These are the Transmission of Infectious Diseases to Animals and Plants, Veterinary Malpractice, Production of Harmful Veterinary Medicines, Pollution of Food or Water Intended for Animals, and Illegal Hunting, as well as Illegal Fishing.

Nor is the fundamental *ratio legis* of the criminal offense of timber theft entirely clear, as it essentially represents a property offense. Solely because of the great overall importance of forests as a critical element of the land in its role as an "eco-medium," this offense is classified among criminal offenses against the environment, perhaps not entirely justifiably. Statistically, this criminal offense is dominant in case law concerning criminal offenses against the environment. It is somewhat absurd and serves as a sort of "mirror" reflecting the actual scope of protection of the environment through criminal law. In essence, despite the fact that it is extremely important to safeguard forests from devastation, including through criminal law in an *ultima ratio* sense, it is, in most instances, a so-called "crime of poverty," except in cases where timber theft is carried out on a large scale or in an organized manner, etc. In those scenarios, this would be a truly "serious," far more severe criminal offense against the environment of that type, namely the criminal offense of forest devastation.

[37] This belongs, *inter alia*, to the elements of so-called criminal profiling and inference from clues. Besides typical sources of such indications, a person's mental traits are also very important when that individual is considered a potential or likely perpetrator/suspect. For more, see: Škulić, M. (2024). *Kriminalistika*, Second Revised and Updated Edition. Belgrade: Faculty of Law, University of Belgrade, 72–72.

[38] *Ibid*.

ENVIRONMENTAL POLLUTION

Environmental pollution stands as the central criminal offense against the environment within the Serbian Criminal Code (Article 260). It concerns the environment as such, which means it rests upon a definition of the environment for which two principal interpretations exist. According to the extensive definition formulated by the UNEP Expert Group (*United Nations Environmental Program*), the environment

> "...encompasses biotic and abiotic components, including air, water, soil, flora, and the ecosystem created by their interaction, and may also include cultural heritage, landscape features, and a comfortable environment."

Meanwhile, according to the restrictive definition contained in the 1972 Stockholm Declaration, the environment "gives man physical sustenance and affords him the opportunity for intellectual, moral, social, and spiritual growth."[39] Within the meaning of Article 260 of the Criminal Code, "environment" is to be understood as the unity of the basic "eco-media" as such, namely water, air, and soil, together with the plant and animal worlds inhabiting these eco-media (i.e., plants and animals in water, air, and soil). Environmental pollution involves any human activity that destructively impacts the environment, diminishing its intactness or quality, for instance, by discharging certain substances, materials, or energy into the surroundings (such as liquids, gases, chemical vapors, combustion byproducts, radioactive or ionizing radiation, etc.) or by particular destructive mechanical actions on the environment (e.g., large-scale deforestation, creation of dumping sites, accumulation of waste, etc.). As a result, a danger is posed or concrete harmful consequences arise for human life and health, damage is caused to other living creatures and ecosystems, or the lawful and legitimate use of natural resources is hindered, i.e., the existing natural conditions and habitat for life and production in a particular area are disrupted.

Although environmental pollution is the first criminal offense in Chapter XXIV of the Criminal Code of Serbia and, by virtue of its title and content, can be considered a sort of "central criminal offense against the environment" dedicated to the general protection of the environment, it is formulated in very broad terms. As such, it reflects the legislator's principal intention, based on the relevant constitutional provisions (Article 74 of the Constitution of Serbia), to protect the environment in its "totality," rather than merely any

[39] Kreća, M. (2010). *Međunarodno javno pravo,* Fourth Revised and Updated Edition. Belgrade: Faculty of Law in Belgrade, 639.

of its individual elements/segments (which is typical of most other criminal offenses against the environment under Serbia's criminal legislation).

Namely,

> "...although, for the crime under Article 260, it is clear that the primary object of protection is the environment, that does not resolve all issues related to defining the object of protection, because there remains the question of whether the protected legal good should be interpreted as referring to the eco-media themselves (water, air, soil) and their special forms of manifestation (plant and animal life), or whether the environment itself is the legal asset being protected." Nor is it clear "...whether the environment is protected for its own sake, i.e., whether environmental protection in itself is the goal."[40]

It appears that the environment, including under criminal law, the most repressive branch of the legal system, typically aimed at effectively protecting the most important values from the gravest forms of harm or endangerment, cannot be protected purely as an isolated concept. Since the environment represents a set of certain physical, material elements that form humanity's natural surroundings (or, more broadly, a natural setting for diverse forms of life), it cannot, on its own, be a good protected through criminal law. In fact, criminal law safeguards the considerable public importance for human life that a maximally preserved environment holds. In this context, the key factor is people's relationship with the environment as a whole and all its constituent parts. Accordingly, the environment's fundamental function regarding humans (as well as other living creatures, considered part of the environment, whose well-being criminal law is generally concerned with preserving) is of crucial importance. Furthermore,

> "...it is debatable whether the object of protection includes the right of future generations, linked to the currently, at least declaratively, dominant concept of so-called sustainable development," since "...when it comes to criminal law, no difference should be made between whether it is a right of present or future generations, given that this amounts to one indivisible, abstract, and universal right."[41]

Thus, the object of protection for the criminal offense of environmental pollution effectively becomes the fundamental human right to as healthy and relatively preserved an environment as is realistically attainable. This right, as explained earlier, has its foundation in constitutional law and also stems from

[40] Stojanović, Z. (2024). *Komentar Krivičnog zakonika,* 13th Revised and Updated Edition. Belgrade: Official Gazette, 860.

[41] Stojanović, Z. (2024). *Komentar Krivičnog zakonika,* 13th Revised and Updated Edition. Belgrade: Official Gazette, 861.

various international legal sources, as it is stipulated in numerous significant international legal documents. This perspective on the object of protection of the criminal offense of environmental pollution also follows from the principle of humanity, which is among the fundamental principles of modern criminal law at both the national and international levels.[42]

Therefore, criminal law should, in principle, be humane, encompassing a legitimate character, i.e., a legitimate framework for the protection of certain values and goods through criminal law.[43] This manifests itself in the fact that contemporary criminal law rests upon the legitimate aspiration to provide primary protection for fundamental human rights. Declaring the right to a healthy environment as an object of protection springs, formally, from the fact that this right is of constitutional rank and guaranteed by the Constitution (Article 74 of the Constitution of the Republic of Serbia). Hence,

> "...in the context of a person's right to reasonably unhindered enjoyment of nature and its environmental media, and the right to an environment of a particular quality, the existing provisions of Article 260 of the Criminal Code could be said to cover relatively autonomous environmental goods,"

while, at the same time,

> "...the ultimate goal in directly protecting those environmental goods should be the protection of the fundamental human right to an environment of a certain quality."[44]

The criminal offense of environmental pollution has one basic form, two aggravated forms, and one lesser form. In addition, the statutory framework of this criminal offense includes a special protective mechanism concerning a perpetrator's obligation to undertake mandated protection measures, in conjunction with the imposition of a suspended sentence as a cautionary measure, which has a corresponding preventive effect.

The basic form of environmental pollution arises when the perpetrator, in violation of regulations on the protection, preservation, and improvement of the environment, pollutes air, water, or soil, doing so either 1) to a greater extent or 2) over a greater area. For the basic form of this criminal offense, the

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[42] Škulić, M. (2022). *Međunarodno krivično pravo,* Second Edition. Belgrade: Faculty of Law, University of Belgrade, 55.

[43] Škulić, M. (2022). *Međunarodno krivično pravo – prostorno važenje krivičnog prava, krivično pravo međunarodnog porekla, međunarodna krivičnopravna pomoć, začeci krivičnog prava EU.* Belgrade: Official Gazette, 68.

[44] Stojanović, Z. (2024). *Komentar Krivičnog zakonika,* 13th Revised and Updated Edition. Belgrade: Official Gazette, 861.

perpetrator is punished cumulatively by 1) imprisonment from six months to five years and 2) a fine.

Unfortunately, environmental pollution is common in modern times; however, although it is always unlawful, not every act of pollution necessarily constitutes a criminal offense. The scope of criminal liability is narrowed by the requirement that the pollution be carried out to a "greater extent" or "over a greater area," which is a question of fact. This criterion differentiates the criminal offense under Article 260 of the Criminal Code from the numerous misdemeanors existing within the environmental sphere, sanctioned under the broader sphere of punitive law and generally less serious than criminal offenses, regarded as "the most severe" punishable acts. This distinction is justified not only on criminological and political grounds but also by the protective function of criminal law and its *ultima ratio* character.

Environmental pollution is a "blanket" offense, meaning that the perpetrator's act consists in violating relevant environmental regulations, whether these are laws or by-laws, concerning any or all of 1) the protection, 2) preservation, and 3) improvement of the environment.

According to Article 3, paragraph 11, of the Law on Environmental Protection,[45] "environmental pollution" is defined as the introduction of polluting substances or energy into the environment, caused by human activity or natural processes, that either creates or may create harmful consequences for the quality of the environment and human health. This definition bears significance for the crime under Article 260 of the Criminal Code, although criminal-law theory rightly points out that the notion of "pollution/polluting the environment" as stipulated in the Law on Environmental Protection "is too broad to be directly applicable for the purposes of a criminal offense."[46] Indeed, it is important to keep in mind that environmental pollution can amount to a criminal offense or a misdemeanor. The key difference between these two categories of environmental offenses lies in the severity of pollution. Thus, the crime under Article 260 exists only if the perpetrator, through breaching relevant environmental regulations, pollutes one of the eco-media in question (soil, water, or air) "to a greater extent" or "over a greater area."

The *actus reus* of environmental pollution is "result-based," meaning that any action breaching relevant environmental regulations and capable of causing pollution of the air, water, or soil, i.e., pollution "to a greater extent" or "over a greater area", may fall under its scope. The specific form of pollution is primarily determined by which particular eco-medium (air, water, soil,

[45] *Official Gazette of the RS, N*o. 135/04 and 14/16.

[46] Stojanović, Z. (2024). *Komentar Krivičnog zakonika,* 13th Revised and Updated Edition. Belgrade: Official Gazette, 863.

or some combination thereof) is affected. It must involve a material degradation or harmful modification of an eco-medium, such as introducing polluting substances into the water/air/soil, which then also impacts plant and animal life in those media.[47]

Regarding the requirement that pollution must be carried out "to a greater extent" or "over a greater area," it is "an imprecise and broad formulation," what criminal law terms "a general clause," such that, as usual, "the substance of that general clause depends on case law."[48] Consequently, it falls to case law to determine on a case-by-case basis whether pollution exists "to a greater extent" or "over a greater area," and there are cases where it may simultaneously be both. This finding could have significance as an aggravating circumstance during sentencing. It is naturally crucial for case law in this context to be uniform and consistent, something vital for legal certainty. Criminal-law theory justifiably emphasizes that, when courts assess whether pollution exists "to a greater extent" or "over a greater area," the essential "guideline criterion" lies in *the threshold values for permissible pollution* of certain eco-media, which are provided for in the relevant administrative regulations.[49]

From the standpoint of the causes of pollution and possible actions under international law regarding pollution sources and processes, two main forms of environmental pollution can be distinguished, 1) regular pollution and 2) accidental (*havaria*) pollution. Regular or ordinary pollution is a normal, repeated, and anticipated outcome of certain human activities. For example, nearly all production entails some level of pollution, and the same applies to the process of urbanizing an area, such as the banks of rivers, lakes, or seas, exhaust emissions from vehicles equipped with internal combustion engines, smoke emanating from heating systems, etc. Accidental pollution refers to harm to the environment resulting from unexpected events that cause the discharge of harmful substances or energy, such as chemical spillage when a tanker is damaged in a traffic accident, or oil leakage from a sunken tanker in a marine or river environment, and so on.

[47] Naturally, if environmental pollution spreads across the territories of multiple states or includes greater areas, then these are environmental incidents with an international component requiring a special framework under international law.

As early as the second half of the 19th century, boundary water treaties began incorporating rules on protecting fish from pollution, and the relatively rapid development of environmental protection from pollution at the international level has been especially evident since World War II, when a large number of very important sources of international law devoted to the protection of the environment emerged.

[48] Stojanović, Z. (2023). *Krivično pravo – posebni deo*, 22nd Edition. Novi Sad: Faculty of Law, University of Novi Sad, 257.

[49] *Ibid*.

Any individual can be the perpetrator of any form of criminal environmental pollution, which means that this criminal offense is not status-based and thus does not fall under the category of *delicta propria*.

The basic form of the criminal offense of environmental pollution occurs when the perpetrator's culpability is intentional, and as in most intentional crimes, both direct intent and indirect intent may apply.

If, by violating these regulations, the perpetrator acts negligently, again causing pollution of air, water, or soil to a greater extent or over a greater area, this constitutes a lesser form of the criminal offense for which the penalty is alternatively a fine or up to two years' imprisonment.

Both aggravated forms of environmental pollution depend on the occurrence of more serious consequences resulting from the perpetrator's act. A causal link must exist between these more serious consequences and the perpetrator's conduct, which, as mentioned, is "blanket" in nature.

The first aggravated form of this criminal offense, also the most severe form, occurs when, in its basic, intentional version, the pollution causes one of two possible outcomes, 1) large-scale destruction or damage to animal or plant life, or 2) environmental pollution to such an extent that its remediation requires either a) a long time or b) significant expenditures. For this most serious form of environmental pollution, the punishment is a cumulative sentence of imprisonment ranging from one to eight years plus a fine.

The second aggravated form applies where the same serious consequences arise (i.e., large-scale destruction or damage to animal or plant life, or environmental pollution so severe that it requires a long time or significant expenditures for remediation), but the perpetrator's conduct, in violating the regulations on environmental protection, preservation, and improvement, was negligent rather than intentional. In other words, the grave consequences are "attached" to the lesser form of the criminal offense, negligent pollution of air, water, or soil to a greater extent or over a greater area, now coupled with severe consequences. In such a situation, the punishment is imprisonment of six months to five years plus a fine.

When a court imposes a suspended sentence for any form of this criminal offense, it may, on a discretionary basis, also mandate that the perpetrator undertake, within a specified timeframe, certain legally prescribed measures for the protection, preservation, and improvement of the environment. The *ratio legis* of this protective provision (Article 260, paragraph 5, of the Criminal Code), which promotes a special additional measure alongside a suspended sentence for environmental pollution, directly correlates with the general *ratio legis* of the protection of the environment through criminal law. Essentially, it forces the perpetrator to take actions toward environmental protection by adopting prescribed environmental measures. Such obligations, which the

court may impose in combination with a suspended sentence, are particularly characteristic of the offenses found in Chapter XXIV of the Criminal Code.[50] This statutory possibility also reflects aspects of a broader notion of restorative justice.[51] In this manner, elements of the classic restorative approach are combined with the concept of preventive action, a synthesis aligned with the core postulates of restorative justice.[52]

INTERNATIONAL SOURCES OF ENVIRONMENTAL LAW AND THEIR IMPACT ON SPECIFIC CRIMINAL OFFENSES AGAINST THE ENVIRONMENT

International standards in the field of environmental protection, which are applied in the national legal system either through so-called implementation mechanisms or, in some cases, directly, hold particular importance when evaluating the adequacy of the protection of the environment through criminal law. International law cannot regulate in the same way all pollution processes arising in various ways. Thus, for *regular* environmental pollution, international legal norms can either 1) prohibit it; 2) allow it up to a certain extent (i.e., set a permissible threshold) and ban anything beyond that threshold; or 3) regulate it selectively, meaning they prohibit pollution involving especially dangerous substances while permitting pollution from less dangerous ones. Conversely, accidental (*havaria*) pollution cannot be prohibited outright, nor can it be required that such pollution be limited, because the very nature of accidental pollution defies such regulation. Consequently, with regard to that form of pollution, international law focuses on *prevention*, namely by creating conditions to minimize as much as possible the risk of accidental pollution and by mitigating harmful consequences if it nevertheless occurs.[53]

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[50] Vuković, I. (2021). *Krivično pravo – opšti deo.* Belgrade: Faculty of Law, University of Belgrade, 503.

[51] Škulić, M., Miljuš, I. (2024). The impact of Basic Victimological Conceptions and the idea of Restorative Justice on the position of the injured party in Criminal procedure: A Review of international Standards. *The Position of Victims in the Republic of Serbia* (eds. Kolaković Bojović, M., Stevanović, I.). International scientific thematic conference (Palic, 12–13 June 2024). Belgrade: Institute of Criminological and Sociological Research, 13–30.

[52] Škulić, M. (2015). *National Report – Serbia*, in: Dünkel, F., Grzywa-Holten, J., Horsfield, P. (Ed.) *Restorative Justice and Mediation in Penal Matters – A stock-taking of legal issues implementation strategies and outcomes in 36 European countries,* Vol. 2, Band 50/2. University of Greifswald: Forum Verlag Godesberg, Schriften zum Strafvollzug, Jugendstrafrecht und zur Kriminologie, 803–828.

[53] Etinski, R. (2010). *Međunarodno javno pravo*. Belgrade: Official Gazette, 559.

Depending on how international pollution processes are shaped and on the possibility of international responses, two primary types of pollution can be distinguished, *transboundary pollution* and *global pollution*. Transboundary pollution implies that it is possible to 1) identify the state from whose territory or facility the act of pollution originated; 2) identify the state whose territory is affected by the pollution; and 3) establish a causal link between pollution originating in the territory of the first state and the resulting harm on the territory of the second state.[54] In the case of global pollution, there is no dispute that harmful consequences to the environment emerge at the international level, but it is not possible to determine a direct causal link between the activities of a specific polluter on the territory of one state and the destructive environmental impact on the territory of another state (or other states).[55]

In reality, numerous instances of transboundary environmental pollution simultaneously contribute to global pollution because state borders typically do not coincide with the boundaries of certain ecosystems. For example, pollution of rivers that flow across multiple states (since all rivers ultimately discharge directly or indirectly into seas or lakes, or into oceans), and especially pollution of seas or oceans themselves, generally implies the corresponding global pollution. This point applies in particular to atmospheric pollution, where a typical example is the distinctly harmful global phenomenon known as the "greenhouse effect." The primary cause is excessive combustion of fossil fuels such as coal and oil, but the use of certain gases (including, for a time, substances commonly found in ordinary aerosol sprays) has also been linked to exacerbating the greenhouse effect. Also significant is the influence of particular natural events, such as volcanic eruptions that release large quantities of gas and ash into the atmosphere, as well as extremely large-scale forest fires, etc.

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[54] Etinski, R. (2010). *Međunarodno javno pravo*. Belgrade: Official Gazette, 559..

[55] International cooperation aimed at reducing global pollution has a very important ethical component because it is believed that the most serious effects of such pollution, especially those related to the "greenhouse effect," melting glaciers, rising ocean and sea levels, severe droughts, hurricane-force winds, and the definitive disappearance of certain plant and animal species, will fully manifest themselves only at some point in the future, possibly in the next few centuries in the most drastic forms. This means that today's generations must keep in mind the future of subsequent generations, as global environmental pollution could make that future extremely uncertain, dangerous, and potentially very distressing.

Interestingly, in October 2009, the Government of the Maldives, a country potentially endangered by the likely rise in sea levels, given its very low-lying island territory, held a cabinet meeting under the sea's surface in order to highlight the major looming threat that could easily become a harsh reality if urgent and effective measures are not taken to prevent global warming. Such warming is expected to cause sea and ocean levels to rise by several meters, which would lead to catastrophic consequences worldwide.

Whereas in cases of transboundary pollution, it is possible to identify two states, State "A" (on whose territory the source of pollution is located) and State "B" (on whose territory the harmful environmental effects arise), and to establish a causal link between a polluter's actions in one state and the resulting environmental harm in another state (or multiple other states, as multiple polluters and multiple injured parties can coexist at the international level), global pollution means a worldwide harmful effect can only be confirmed in the form of environmental harm spanning the territories of multiple states or even entire continents (and beyond). It is not possible, however, to determine which specific polluters from which states are responsible for that pollution.

Distinguishing between transboundary and global environmental pollution also matters because there are varying possibilities for responding at the international level to these types of pollution. The issue of transboundary pollution can be addressed via bilateral or multilateral international cooperation, whereas, by its very nature, global pollution can only be tackled by means of multilateral cooperation. Formally speaking, in cases of transboundary pollution, a conflict arises between two territorial sovereignties,[56] and the solution lies in the principle that a state must not allow activities within its territory that cause significant harm to the territories of other states.[57] Meanwhile, global pollution cannot be reduced to a conflict between two sovereigns; instead, it is characterized by a kind of general conflict, "everyone against everyone", and resolving it requires implementing the principle of equitable sharing in the use of common natural resources.[58]

Certainly, the most important international sources of environmental law or environmental protection law are treaties, which in general can be divided into two main types – *bilateral* (when two states mutually undertake obligations or enter into the relevant contractual relationship addressing environmental protection, compensation for environmental damage originating on the territory of one of the contracting parties, choice-of-law rules for environmental disputes with a foreign element, etc.) and *multilateral* (when several states undertake mutual obligations concerning relevant environmental issues with a foreign

[56] It is also possible for multiple national/state sovereignties to be involved if pollution originating from the territory of one state affects the territory/environment of two or more other states (or vice versa), provided this does not amount to global pollution, where neither the polluting territory nor the adversely affected state(s) can be clearly identified, nor can the causal link between the source of pollution and the resulting environmental damage be established.

[57] One frequently cited case of this nature is the famous arbitral award in the dispute between the United States and Canada concerning the operations of a lead and zinc smelter in Trail (the Trail Smelter Case). This is explained in more detail later in the text.

[58] Etinski, R. (2010). *Međunarodno javno pravo*. Belgrade: Official Gazette, 559–560.

element). Legally and technically, these typically take the form of conventions, entering into force in accordance with standard ratification procedures.

A number of international treaties address various aspects of environmental and nature protection in general. Listed here in chronological order, these treaties include[59] the Convention Concerning the Use of White Lead in Painting (1921), the International Convention on the Protection of Birds (1950), the International Plant Protection Convention (1951), the International Convention for the Prevention of Pollution of the Sea by Oil (1954), the Geneva Conventions on the Law of the Sea (1958), the International Convention on the Liability of Operators of Nuclear Ships (1962), the Vienna Convention on Civil Liability for Nuclear Damage (1963), the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water (1967), the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969), the International Convention on Civil Liability for Oil Pollution Damage (1969), the Convention on Wetlands of International Importance, Especially as Waterfowl Habitat (1971), the Convention Concerning the Protection Against Hazards of Poisoning Arising from Benzene (1971), the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof (1971), the Convention Concerning the Protection of the World Cultural and Natural Heritage (1972), etc. Finally, certain international conventions, such as the *Council of Europe Convention on the Protection of the Environment through Criminal Law* of November 4, 1998, impose an obligation on states that have ratified such sources of international law (of a contractual nature) to ensure within their domestic legislation and, more generally, their legal systems, an effective system of protection of the environment through criminal law. This means deploying the protective function of criminal legislation to defend the environment.

Of particular importance regarding the human right to a healthy environment is the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (adopted within the framework of the UN Economic Commission for Europe in Aarhus on June 25, 1998). By this convention, the signatory states recognize that every person has the right to live in an environment conducive to their health and well-being, along with the duty, individually and in association with others, to protect and improve the environment, for the benefit of present and future generations alike. States that have joined the Aarhus Convention take on several primary obligations, and citizens of those states have a corresponding right to

[59] For more, see: Krivokapić, B. (2010). *Leksikon međunarodnog javnog prava*. Belgrade: Official Gazette, 1171–1172.

demand fulfillment of those state obligations. These key obligations, which correspond to certain civil rights, include, 1) States must make relevant information on environmental conditions accessible to the public. Correlative to this duty, citizens have the right to access information or obtain requested information; 2) States must establish, in their legal systems, not only mechanisms to ensure transparency of information related to environmental conditions but also adequate legal means for challenging decisions that deny access to such information. Correlative to this duty, citizens have the right to legal remedies if their request for relevant information has been rejected. 3) States must set up a system for acquiring information on activities potentially harmful to the environment; correlative to this duty, citizens may, upon request, use that system to obtain details stored therein.

On the global level, where "mega-problems" of climate change are concerned,[60] a key multilateral agreement is the one concluded in Paris (*the Paris Agreement*), which emerged from the United Nations Conference held in Paris in November and December 2015, during the 21st regular annual session of *the United Nations Conference on Climate Change* (held periodically since 1995 to achieve the goals of the 1992 *UN Framework Convention on Climate Change*, adopted at the 1992 Rio de Janeiro Summit in Brazil).[61] The Paris Agreement became binding once ratified by 55 states that collectively produce at least 55 % of the global emissions of so-called greenhouse gases, a threshold reached on November 4, 2016.[62] The Paris Agreement sets out three main objectives, reflecting the core commitments of the states party to it,[63] 1) States must limit the average global temperature increase to well below two degrees Celsius compared to "pre-industrial levels;" 2) States must strengthen their capacity to adapt to climate change, enshrining this goal as equally important

[60] Prior to the Paris Agreement, the relevant instruments included the United Nations Framework Convention and the Kyoto Protocols. The main principle of the Kyoto Protocol essentially stated that responsibility for global environmental pollution and the "greenhouse effect" is shared, but it differs depending on how much individual states contributed to environmental pollution in the past, i.e., the extent to which, through their level of industrialization, they historically contributed to greenhouse-gas emissions, as well as how much they are currently contributing. Because the highest amounts of carbon monoxide and other combustion-related gases and technological-industrial processes originate in the most developed nations, those nations are assigned the greatest responsibility for reducing emissions in the future. This underlying principle of the Kyoto Protocol is also fundamentally relevant to the currently operative Paris Agreement.

[61] Source: https://www.consilium.europa.eu/de/policies/climate-change/paris-agreement/. Accessed on May 4, 2023.

[62] Source: https://www.bmwk.de/Redaktion/DE/Artikel/Industrie/klimaschutz-abkommen-von-paris.html. Accessed on May 4, 2023.

[63] *Ibid*.

to cutting greenhouse gas emissions; 3) It is necessary to align financial and economic objectives with the aim of reducing global warming.[64]

Within the European Union, it should be noted that the development of EU environmental law stems primarily from the Treaty establishing the European Community (which ultimately evolved into the EU). That Treaty addressed the environment only in a rudimentary way, so the adoption of environmental regulations was initially based on Articles 94 and 308 of the EC Treaty. Environmental law in the EC subsequently continued to develop via sources of law that over time led to the creation of the European Union. In the past few decades, the EU has displayed significant "legal efforts" aimed at forging close cooperation in environmental protection,[65] which has obvious legal implications in the field of substantive criminal law. Principle 21 of the Stockholm Declaration, adopted at the United Nations Conference on the Human Environment of June 16, 1972, states that, in accordance with the UN Charter and the general principles of international law, states have the sovereign right to exploit their own natural resources pursuant to their environmental protection policies, but they also bear the responsibility to ensure that activities under their jurisdiction or control do not cause harm to the environment of other states or to areas beyond the limits of national jurisdiction.[66] Primary sources of EU environmental law are the treaties, while regulations, directives, decisions, and recommendations constitute secondary sources of environmental law at the EU level. Also relevant are international agreements accepted by the EU, as well as decisions of the Court of Justice of the European Union in the area of environmental protection.

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[64] Admittedly, there are scientists who fairly persuasively argue that global warming is a completely normal phenomenon in the cyclical alternation of global climatic conditions on our planet, asserting that many such shifts have happened before and will happen again, entirely independent of human activity or with only minimal influence from it. For example, the renowned Serbian scientist Milutin Milanković is world-famous for his theory on regular climate changes (whose onset can be calculated very precisely), according to which humanity might enter a new ice age in some ten thousand years.

Some experts (admittedly a minority) claim that the total effect of human activity on climate change is negligible compared to natural cycles and the impact of normal natural events such as large-scale volcanic eruptions and, more broadly, massive tectonic changes. These theories have gained some traction in recent years after it emerged that a number of "leading" climatologists intentionally "doctored" data on global temperature increases, i.e., data related to global warming, in an essentially deceptive effort to dramatize Earth's climatic state and thereby justify increased funding for their expert activities, as well as to support or justify the financing of new projects dedicated to investigating the human impact on global warming.

[65] Ipsen, K. (1990). *Völkerrecht*. München: "Verlag C. H. Beck", 843.

[66] This principle was also confirmed by the 1992 United Nations Framework Convention on Climate Change.

Of particular note in terms of the so-called European legal/criminal-law normative "environment" is the new Environmental Crime Directive,[67] which entered into force in May 2024, replacing the previous 2008 Directive.[68] The main aims of the new Directive are to clarify definitions related to environmental crime, thereby leaving less room for overly extensive interpretation; to expand the list of criminal offenses against the environment and introduce some new criminal offenses against the environment and its elements; to better define and more appropriately grade criminal sanctions/penalties for criminal offenses against the environment; to improve information-gathering on environmental crime, including more effective collection and processing of relevant data; and, in general, to achieve a higher degree of effectiveness in the protection of the environment through criminal law.

In recent years, the literature has also discussed a distinct place for environmental protection within *international criminal law*. This tendency has become more visible after events during the war in the spring of 1991 between Iraq and the multinational forces led by the United States, in which Iraqi forces deliberately set fire to a number of Kuwaiti oil facilities, causing severe environmental damage.[69] Naturally, it is important to note that Iraqi armed forces at that time were notably technologically and technically inferior to their adversaries (the coalition troops led by the United States) and that setting fire to the oil facilities arguably reflected certain frustration at this military disadvantage, and possibly a tactical attempt to impede airstrikes by means of the resulting smoke. In any event, the environment is protected under international law even in the context of war/armed conflict, which, by definition, entails large-scale destruction and loss of human life, and often leads to environmental pollution. Under Article 55 of Additional Protocol I (1977) to the 1949 Geneva Conventions on the protection of victims of war, it is expressly established that during warfare, care must be taken to protect the natural environment against extensive, long-term, and severe damage, further specifying that this includes prohibiting methods or means of warfare intended or expected to cause such damage to the natural environment and thereby harm the health or survival of the population.

[67] Directive (Eu) 2024/1203 of the European Parliament and of the Council of 11 April 2024. Source: https://environment.ec.europa.eu/law-and-governance/environmental-compliance-assurance/environmental-crime-directive_en. Accessed on November 1, 2024.

[68] Directives 2008/99/EC and 2009/123/EC.

[69] Reichart, M. (1999). *Umweltschutz durch völkerrechtliches Strafrecht.* Frankfurt am Main, Berlin, Bern, New York, Paris, Wien: Peter Lang – Europäischer Verlag der Wissenschaften, 1–3.

CONCLUSION

The immense importance of the protection of the environment through criminal law stems from the vital significance of a healthy environment for human health. In accordance with the relevant constitutional provisions, this is manifested through the development of normative mechanisms for adequate protection of the environment through criminal law. That is also the essence of the *ratio legis* of the protection of the environment through criminal law. Even with regard to environmental protection, criminal law retains its distinct *ultima ratio* character; in principle, it is always preferable for effective environmental protection to be achieved without resorting to repression through criminal law, meaning that robust and efficient preventive measures are of tremendous importance for protecting the environment effectively.

Within the group of criminal offenses against the environment (Chapter XXIV of the Criminal Code), in addition to the "classic criminal offenses against the environment," there are other offenses that substantially do not belong to criminal offenses against the environment, such as the criminal offense of killing and abuse of animals. Alongside it, there is a series of other offenses concerning animals (and in part, plants). It would be more logical for offenses relating to animals, where the striking example is the criminal offense of killing and abuse of animals (a specific offense against *life and limb*, though not of humans but of animals), to be grouped separately rather than classified as criminal offenses against the environment.

An analysis of the content of the relevant criminal-law norms and their harmonization with dominant international legal standards in the environmental sphere shows that, normatively speaking, the protection of the environment through criminal law in the Republic of Serbia is, on the whole, adequately conceived. Nonetheless, it is evident that a need exists for additional harmonization of certain provisions of Serbia's Criminal Code with some newer sources of international law. Since Serbia is a "candidate country," certain legal instruments of the European Union (most notably the new Environmental Crime Directive) are of particular importance in this regard, as are other "sources" of so-called soft law.

As in other domains, the realization of criminal law's protective function in the realm of criminal offenses against the environment is reflected in actual criminal proceedings involving criminal offenses against the environment. This follows from the logical link between substantive criminal law and criminal procedural law – if a concrete criminal offense from the sphere of environmental crime remains undetected, that is, if it remains within the so-called dark figure of crime, then the norms of substantive criminal law in this area will not be applied at all. Therefore, it is necessary to increase efficiency

in detecting such crime. In criminological terms, when considering so-called corporate crime that involves the most severe forms of destructive activity harming the environment, such offenses often belong to white-collar crime and may be linked to corruption offenses or even organized crime. Consequently, numerous practical issues arise in matters of criminal procedure and evidence. As is generally the case, certain weaknesses in applying specific criminal-law norms aimed at protecting the environment, i.e., norms intended to suppress environmental crime, do exist in practice. Typically, however, these shortcomings are not caused by the normative solutions in substantive criminal law itself but rather stem from problems in detecting and proving criminal offenses against the environment.

BIBLIOGRAPHY

Aleksić, Ž., Škulić, M. (1996). Kriminalistika. Belgrade. Faculty of Law, University of Belgrade.

Babić, M., Marković, I. (2013). *Krivično pravo – opšti deo.* Banja Luka: Faculty of Law, University of Banja Luka.

Bajović, V. (2023). Pravni status životinja – pokretne stvari ili nešto više? *Zbornik: Kaznena reakcija u Srbiji,* Part XIII, *Crimen* edition*.* Belgrade: Faculty of Law, University of Belgrade.

Bajović, V. (2024). Ubijanje, zlostavljanje i napuštanje životinja u Srbiji – (ne)primena zakonskih odredbi. Raskršća međunarodnog krivičnog prava i krivičnog prava – reforma pravosudnih zakona Republike Srbije. *Zbornik radova sa međunarodne naučne konferencije: „Odnos međunarodnog i nacionalnog krivičnog prava“*, (eds. Škulić, M., Etinski, R., Miljuš, I., Škundrić, A.), volume II. Belgrade: Association for International Criminal Law and Faculty of Law, University of Belgrade.

Brownlie, I. (1999). *Principles of Public International Law.* Oxford – New York: Oxford University Press.

Etinski, R. (2010). *Međunarodno javno pravo*. Belgrade: Official Gazette.

Galliher, J. F. (1989). *Criminology – Human Rights, Criminal Law and Crime*. New Jersey: Englewood Criffs “Prentice Hall”.

Ignjatović, Đ. (2023). Zelena kriminologija i kontrola kriminaliteta. *Crimen,* Vol. 14, No. 1/2023, Belgrade.

Ipsen, K. (1990). *Völkerrecht*. München: “Verlag C. H. Beck”.

Jescheck, H. H., Weigend, T. (1996). *Lehrbuch des Strafrechts – Allgemeiner Teil*, Fünfte vollständig neuberarbeitete und erweiterte Auflage. Berlin: Duncker & Humblot.

Kreća, M. (2010). *Međunarodno javno pravo,* Fourth Revised and Updated Edition. Belgrade: Faculty of Law in Belgrade.

Krivokapić, B. (2010). *Leksikon međunarodnog javnog prava*. Belgrade: Official Gazette.

Lukić, N. (2023). *Zelena kriminologija*. Belgrade: Faculty of Law, University of Belgrade.

Reichart, M. (1999). *Umweltschutz durch völkerrechtliches Strafrecht.* Frankfurt am Main, Berlin, Bern, New York, Paris, Wien: Peter Lang – Europäischer Verlag der Wissenschaften.

Roxin, C. (1998). *Strafverfahrensrecht, 25*. Auflage. München: Verlag C. H. Beck.

Roxin, C., Greco, L. (2020). *Strafrecht Allgemeiner Teil Band I Grundlage. Der Aufbau der Verbrechenslehre,* 5. Auflage. München: Verlag C. H. Beck.

Sivadó, M. (2022). Zelena kriminologija. *Glasnik of the Bar Association of Vojvodina*, 94 (3), 824 – 856

Stojanović, Z., Perić, O. (2009). *Krivično pravo – posebni deo*, XIII edition. Belgrade.

Stojanović, Z. (2023). *Krivično pravo – posebni deo*, 22nd Edition. Novi Sad: Faculty of Law, University of Novi Sad.

Stojanović, Z. (2024). *Komentar Krivičnog zakonika,*13th Revised and Updated Edition. Belgrade: Official Gazette.

Stojanović, Z. (2024). *Krivično pravo – opšti deo,* 28th Revised and Updated Edition. Novi Sad: Faculty of Law, University of Novi Sad.

Faure, M., Heine, G. (2000). *Environmental Criminal Law in the European Union.* Freiburg im Breisgau: Max-Planck-Institut für ausländisches und internationales Strafrecht.

Heine, G. (1997). (Hrsg.) *Umweltstrafrecht in mittel – und südeuropäschen Ländern.* Freiburg im Breisgau: Max-Planck-Institut für ausländisches und internationales Strafrecht.

Škulić, M. (2011). Međunarodnopravna zaštita životne sredine – prava i obaveze države. *Zbornik: Priručnik za zaštitu životne sredine.* Belgrade: Prosecutors Association of Serbia.

Škulić, M. (2015). *National Report – Serbia*, in: Dünkel, F., Grzywa-Holten, J., Horsfield, P. (Ed.) *Restorative Justice and Mediation in Penal Matters – A stock-taking of legal issues implementation strategies and outcomes in 36 European countries,* Vol. 2, Band 50/2. University of Greifswald: Forum Verlag Godesberg, Schriften zum Strafvollzug, Jugendstrafrecht und zur Kriminologie.

Škulić, M. (2022). *Međunarodno krivično pravo – prostorno važenje krivičnog prava, krivično pravo međunarodnog porekla, međunarodna krivičnopravna pomoć, začeci krivičnog prava EU.* Belgrade: Official Gazette.

Škulić, M. (2022). *Međunarodno krivično pravo,* Second Edition. Belgrade: Faculty of Law, University of Belgrade.

Škulić, M. (2023). *Krivično pravo Sjedinjenih Američkih Država.* Belgrade: Official Gazette.

Škulić, M. (2023). *Ustavnopravna zaštita životne sredine.* Novi Sad: *Glasnik of the Bar Association of Vojvodina,* No. 4/2023.

Škulić, M. (2024). *Krivično procesno pravo,* 14th ed. Belgrade: Faculty of Law, University of Belgrade.

Škulić, M. (2024). *Kriminalistika*, Second Revised and Updated Edition. Belgrade: Faculty of Law, University of Belgrade.

Škulić, M., Miljuš, I. (2024). The impact of Basic Victimological Conceptions and the idea of Restorative Justice on the position of the injured party in Criminal procedure: A Review of international Standards. *The Position of Victims in the Republic of Serbia* (eds. Kolaković Bojović, M., Stevanović, I.). International scientific thematic conference (Palic, 12–13 June 2024). Belgrade: Institute of Criminological and Sociological Research.

Škundrić, A. (2023). Ekocid u međunarodnom krivičnom pravu. *Zbornik: Raskršća međunarodnog krivičnog prava i krivičnog prava – reforma pravosudnih zakona Republike Srbije*, (eds. Škulić, M., Miljuš, I., Škundrić, A.). Belgrade: Association for International Criminal Law and Faculty of Law, University of Belgrade.

Vuković, I. (2021). *Krivično pravo – opšti deo.* Belgrade: Faculty of Law, University of Belgrade.

Laws and other regulations

Law on Environmental Protection, *Official Gazette of the RS,* No. 134/2004, 36/2009, 72/2009 – other law, 43/2011 – decision of the Constitutional Court, 14/2016, 96/2018 – other law, 94/2024 – other law.

Law on Environmental Protection, *Official Gazette of the RS,* No. 135/04 and 14/16.