# Problems In Implementing Environmetal Law And Discussion On Basis Of Provision Of Environmental Crimines In Criminal Law

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#### ABSTRACT

Our paper aims to present PROBLEMS IN IMPLEMENTING ENVIRONMETAL LAW AND DISCUSSION ON BASIS OF PROVISION OF ENVIRONMENTAL CRIMINES IN Criminal Law. By using qualitative and analytical methods, descriptive method for primary model, synthesis and discussion methods, This study find out that: In the process of developing international cooperation, the trend of globalization in the field of environmental protection, the number of regulations regulating environmental products is increasing. Therefore, the principled development embodied in the drafting and application of regional and international conventions and codes becomes the model for the application of criminal liability measures to the behavior that is dangerous to society and infringes on the environment.

## Key words: problems, Environmental law, regulations, ENVIRONMENTAL CRIMINES

#### 1. Introduction

Currently, The Law on Environmental Protection in 2020 takes effect from January 1, 2022, replacing the Law on Environmental Protection 2014. The Law has promoted the role of people, businesses and the whole political system in participating in environmental protection activities, from policy making to the organization, monitoring the implementation, in which businesses and

people play a central role; The State plays the role of creating laws, mechanisms and policies on environmental protection.

Although there are many new points such as, the residential community is regulated as a subject in environmental protection; strengthen the publicity of information, consult, promote the role of supervision and criticism, and at the same time ensure the rights and interests of the population community when participating in environmental protection activities; change the environmental management method for investment projects according to environmental criteria; strictly control projects with high risk of adverse impacts on the environment, carry out post-checks for projects with advanced and environmentally friendly technologies; reduce administrative procedures. Regulation on state management competence is based on the principle of general and unified management, one task is assigned to only one agency in charge of implementation; thoroughly decentralized to the locality. (source: diendandoanhnghiep.vn).

## **Research questions:**

# Question 1: What are **PROBLEMS IN IMPLEMENTING ENVIRONMETAL LAW AND DISCUSSION ON BASIS OF PROVISION OF ENVIRONMENTAL CRIMINES IN Criminal** Law?

# 2. Methodology

Authors have used qualitative and analytical methods, descriptive method for primary model, synthesis and discussion methods in this paper.

We also used historical materialism method.

## 3. Main findings

## 3.1 Relevant regulations – Environmental Law

Then, THE LAW on ENVIRONMENTAL PROTECTION Law No: 72/2020/QH14 Hanoi, November 17, 2020 Pointed:

Article 6. Prohibited acts in environmental protection activities

1. Transporting, burying, burying, dumping, discharging and burning solid waste and hazardous waste in contravention of technical processes and regulations of law on environmental protection.

2. Discharge of wastewater, discharge of untreated exhaust gas up to environmental technical regulations into the environment.

3. Dispersing and discharging into the environment noxious substances, toxic viruses capable of infecting humans, animals, microorganisms that have not been tested, animal carcasses dead due to epidemics and other toxic agents for human, biological and natural health.

4. Causing noise and vibration in excess of the permitted levels according to environmental technical regulations; discharge smoke, dust, toxic gas into the air.

5. Executing investment projects or discharging wastes when the conditions are not satisfied according to the provisions of the law on environmental protection.

6. Import, temporarily import, re-export and transit waste from abroad in any form.

7. Illegally importing used vehicles, machinery and equipment for demolition and recycling.

8. Failing to carry out works, measures and activities to prevent, respond to and remedy environmental incidents in accordance with the law on environmental protection and other relevant laws.

9. Concealing acts of causing environmental pollution, obstructing or falsifying information, or deceiving in environmental protection activities, leading to bad consequences for the environment.

10. Producing and trading in products that are harmful to human health, organisms and nature; production and use of raw materials and construction materials containing toxic elements in excess of the permitted levels according to environmental technical regulations.

11. Producing, importing, temporarily importing, re-exporting and consuming ozone-depleting substances in accordance with the provisions of the international treaty on substances that deplete the ozone layer, which the Socialist Republic of Vietnam Vietnam is a member.

12. Illegally destroying or encroaching on natural heritage.

13. Destroying or invading works, equipment and means in service of environmental protection activities.

14. Abusing positions and powers to violate the law on environmental protection.

chapter II

PROTECTION OF ENVIRONMENTAL COMPONENTS, NATURAL HERITAGE

Section 1. WATER ENVIRONMENT PROTECTION

Article 7. General regulations on protection of surface water environment 2596 http://www.webology.org 1. The quality of water, sediment and aquatic environment of surface water sources must be monitored and evaluated; The load capacity of the surface water environment must be calculated, determined and published.

2. The source of discharge into the surface water environment must be managed in accordance with the purpose of use and the load-bearing capacity of the surface water environment. Failing to approve results of appraisal of environmental impact assessment reports or issue environmental permits for new investment projects that discharge wastewater directly into the surface water environment which is no longer capable of carrying loads as announced by the State Council. competent state agencies, unless the investment project owner has a wastewater treatment plan that meets environmental technical regulations on surface water quality before being discharged into the receiving environment or has a recirculation plan, reuse in order not to generate more wastewater or investment projects in pollution treatment, reclamation, restoration and improvement of environmental quality in polluted areas.

3. River water environment protection must be based on the approach to integrated management by basin, must be associated with biodiversity conservation, aquatic environment protection, management of water source protection corridor, exploitation of water resources. exploitation and rational use of water resources.

Article 8. Surface water environmental protection activities

1. Contents of surface water environmental protection include:

a) Statistics, assessment, reduction and treatment of wastewater discharged into the surface water environment;

b) Monitoring and evaluating the quality of water, sediment, aquatic environment of surface water sources and publicizing information for the management, exploitation and use of surface water;

c) Investigate and evaluate the load carrying capacity of the surface water environment; announce areas of surface water environment that are no longer capable of bearing loads; assess the quota for discharge of wastewater into the surface water environment;

d) Treat pollution, renovate, restore and improve the polluted surface water environment;

dd) Monitoring and assessing the quality of the inter-country surface water and river sediment environment and sharing information in accordance with the provisions of the law on environmental protection, international laws and practices.

2. The Ministry of Natural Resources and Environment has the following responsibilities:

a) Guidelines for assessing the load carrying capacity of the surface water environment for rivers and lakes; guidelines for assessment of surface water quality;

b) Organize the assessment of the quality of surface water, sediment, and load capacity of the surface water environment for inter-provincial rivers and lakes; organize inventory and assessment of waste sources, pollution levels and organize pollution treatment of inter-provincial rivers and lakes; formulate and submit to the Prime Minister for promulgation a plan on management of surface water quality for inter-provincial rivers and lakes, which plays an important role in socio-economic development and environmental protection;

c) Inspect the implementation of the plan for surface water environment quality management for inter-provincial rivers and lakes and solutions to prevent and minimize water pollution, improve water quality in inter-provincial rivers and lakes.

# 3.2 BASIS OF PROVISION OF ENVIRONMENTAL CRIMINES IN Criminal Law

Vietnam has included the concept of environmental security in the Law on Environmental Protection in 2020, according to which, environmental security is the assurance that there is no major impact of the environment on the political, social stability and economic development of the country. This is the first time that the concept of environmental security has been officially included in a legal document in Vietnam, which shows the importance and changes in the perception of the Party and State on the issue of environmental security. Environmental security in Vietnam today, considering environmental challenges as a threat to national security, it is necessary to be warned and have a reasonable response plan. Environmental security is an element of non-traditional security (ANPTT). Environmental security issues have an intertwined relationship between the environment, society, economy and politics, which are very complicated, unpredictable, spread quickly in a wide range and leave long-term consequences. However, not all environmental problems lead to security problems, and most security problems are created from complex situations involving environmental, political, and social issues. society and economy. (Nguyen Trong Diep et al, 2021)

Environmental protection activities are activities to preserve, prevent and limit adverse impacts on the environment; responding to environmental incidents; overcome pollution, degradation, improve and restore the environment; rational exploitation and use of natural resources in order to keep the environment clean.

Clause 2, Article 4 of the Law on Environmental Protection in 2014 is amended and supplemented with Clause 3, Article 4 of the Law on Environmental Protection in 2020, the principles of environmental protection are stipulated: "Environmental protection is in harmony with social security, children's rights, gender equality, ensuring everyone's right to live in a healthy environment".

## 4. Discussion and conclusion

In principle, The Law on Environmental Protection in 2020 has focused on drastic reforms,

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cutting 40% of administrative procedures, contributing to reducing costs for businesses. Although the Law on Environmental Protection in 2020 is assessed to have many new points, improving the effectiveness of environmental protection, but in the implementation process, many localities still face difficulties and obstacles. Next all entities have an obligation to protect the environment. However, it is necessary to clearly define the responsibilities of the actors in this process. Responsibility for environmental protection belongs to the State, waste source owners, organizations, individuals and communities.

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#### **Conflicts of interest**

There is no conflict of interest

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