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*Originalni naučni rad*  
*UDK: 349.6*  
*Primljeno: 15. septembra 2011. god.*

## **RELATIONS BETWEEN ECOLOGY LAW AND OTHER BRANCHES OF LAW AND CRIMINAL LAW GUARANTEES**

*This paper deals with the issue of mutual relations and boundaries of Ecology Law and other branches of law. The author treats some questions about those mutual relations and attempts to establish precise boundaries between Environmental Law and other branches of law such as: Constitutional Law, International Public Law, Administrative Law, Civil Law and Penal Law.*

**Key words: logical relations and boundaries, Environmental Law, Constitutional Law, International Public Law, Administrative Law, Civil Law, Penal Law.**

### **1. Principle Remarks**

By coming into study of the Ecology Law, which is, by no doubt, a very complex and evidently multi-disciplinary law branch in development<sup>1</sup>, we think that it is necessary, on the very start of our scientific efforts, to answer the question of mutual relations between Ecology Law and other branches of law, in order to be able to understand the logic, fundamentals, processes and possible results of Environmental Law.

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<sup>1</sup> Topics on Environmental Law development see at: Joldzic, Vladan: Ecology Law - General part - Or on the Elements Necessary for the establishing and existing of the Independent Law Discipline (Personal Observations); Revista Mestrado em Direito. Direitos Humanos Fundamentais, Vol. 9, No 1 Osasco, (Brasil), Editor (Publisher): UNIFIEO – Centro Universitario FIEO, Year 2009, p. 127-169.

In the picture of any legal system – Brazilian, Serbian, French or any other, its elements and their mutual relations, the determining factor is the subject of arrangement of a particular branch of law, espied through current legal rules. In accordance with a long time present opinion of a certain number of lawyers, the entire positive law can be divided into four groups:

The first group would be comprised of regulations, which establish the bases of the society – state, as well as human rights: Constitutional Law regulations<sup>2</sup>, The second one, elements of legislations, which regulate the relation toward the material values on the socio-economic settlement of the state<sup>3</sup>, The third group includes the regulations that establish human rights in reproduction<sup>4</sup>, whereas the fourth group of regulations consists of the norms that deal with the issues of rights, duties and procedures from the aspect of administrative law or similar branches of law<sup>5</sup>.

Within each of the abovementioned groups, there are rules that directly, or indirectly, contribute to the arrangement of the total law-ecological relation. Due to that reason, our interest is to perceive, as accurately as possible, the relation between Ecology Law and the abovementioned groups.

In answering the question of mutual relation and bounding of ecological and other branches of law, it is advisable, before all, to start from the verification of the abovementioned multidisciplinary logic of Ecology Law. Professor Popovic spoke about it in 1975, in his book assigned for air and water protection, and again in 1980<sup>6</sup>. Today this fact is widely and longtime accepted in the world's law science<sup>7</sup>.

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<sup>2</sup> On the Constitutional Law fundaments, especially for Environmental law, see more at: Joldzic, Vladan: *Constitutional - Legal Fundaments of the Environmental Protection in the Federal Republic of Yugoslavia*; Belgrade (Serbia), Edition: Environment, No.: 1; Editor (Publisher): Federal Ministry for Development, Science and Environment, Year 1995, p. 1-35.

<sup>3</sup> Or, to put it in another way: To establish substantial-legal fundaments for environmental law norms formulating, including the so - called environmental incriminations. For formal substantial-legal fundaments see: Joldzic, Vladan: *Environmental Law – General and Separate Part*, Belgrade (Serbia), Editor (Publisher): Institute for Criminological and Sociological Researches, Year 2009, pages: 69, 110 and 512.

<sup>4</sup> Reflections on human rights in reproduction see, for example, in: *On the Horizon - A practical bulletin on what is ahead in the field of business & human rights*, Issue 8, London (United Kingdom), Editor (Publisher): Business & Human Rights Resource Centre, Monday 8 Dec 2008, p. 1-7, at: <http://www.crsdd.uqam.ca/Pages/docs/pdfMedias/On%20the%20Horizon%20-%20Issue%208%20-%20Dec%202008%5B1%5D.pdf>, and Rendtorff, Jacob Dahl: *Responsibility, Ethics and Legitimacy of Corporations*, Copenhagen (Denmark), Editor (Publisher): Copenhagen Business School Press, Year 2009, p. 416.

<sup>5</sup> See more at: *Discussions (Rasprave)*, Vol. XII, Ljubljana (Slovenia), Editor (Publisher): SAZU, Year 1981, p. 103, and Della Cananea, Giacinto: *Administrative Procedures and Rights in Italy: A Comparative Approach*, Italian Journal of Public Law, Volume 2n 1, Milano (Italy), Editor (Publisher): Bocconi University, Year 2010, p. 207.-215.

<sup>6</sup> See: Popovic, Slavoljub: *Water and Air Protection of the Soiling (Zaštita vazduha i voda od zagađivanja)*, Collection of the Law Faculty, Novi Sad (Serbia), Editor (Publisher): Law Faculty of Novi Sad, Year 1980, p. 13-14.

<sup>7</sup> See closer at book: Tautenberg, Jonson: *The International Law - Some Basic Viewpoints*, in: Dupuy, Rene-Jean (Editor of publication): *The Future of the International Law of the Environment*, Hague (Netherlands), Publisher: Kluwer Law International, Year 1985, p. 233-237.

The second step in our contemplation about the relations and logical borders between ecological law and other branches of law is inevitably applied to our method, or methods, of mutual mark of boundaries: Where does one branch of law stop and where does the other one begin, particularly having in mind the attitude of numerous jurists on the explicit addition of ecologically remarkable elements from other law branches, starting from the use of its terminology, up to certain principles? Opposite to them, we are supporters of the attitude about the autonomy of Ecology Law - its autonomous place in the system of legal science and positive legislatures is derived from the fact that it has:

- a) Its autonomous applying range – specific general object<sup>8</sup>, independent from the other law branches;
- b) Its special vocabulary, made during the last decades, but also a number of
- c) Autonomous principles.

“In legal theory it is usual to use two criteria to mark the boundaries between certain branches of law:

1. Either the criterion to mark the boundaries is the object treated by legal rules of a certain branch of law, or
2. The criterion is the manner i.e. the method of regulation<sup>9</sup>.”

Speaking about the Ecology Law, we have to see how, as every branch of law, it, in essence, regulates a legal relation as a relation of a special kind. Exactly as Civil Law regulates Civil Law relation, Substantial Criminal Law – substantial – criminal law relation, Criminal Procedure Law regulates relations in criminal procedure, *etc.* Tautenberg Jonson comprehended it in 1984. He spoke about the necessity of realizing the fact that in the past years, ecology law relation was clearly differentiated as a specific kind of legal relation<sup>10</sup>. It is, to be exact, the subject matter of the Ecology Law branch – the key *diferentia specifica*, which establishes the difference between Ecology Law and other branches of law.

Starting from the *methods of regulations*, it is useful to realize that certain law branches, in regulation of mutually equal relations of the law subjects, use the *coordination principle* as a basic one (e.g., Civil Law), while the other branches as their fundamental regulation method utilize the *subordination principle* (e.g., Administrative Law). Ecology Law, exactly because of its multidisciplinary approach, is based on the parallel use of both methods, present in most law branch-

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8 Closer reflections on specific general object defining see at: Joldzic, Vladan: Ecology law - general part - Or on the Elements necessary for the establishing and existing of the Independent Law Discipline (personal Observations), under number 2. - Defining of the Elements Necessary for the Existence of the Ecology Law, in: Revista Mestrado em Direito, Osasco (Brasil), ano 9, n. 1, Year 2009, pp. 134. – 136.

9 Popovic, Slavoljub: Administrative Law - General Part, Belgrade (Yugoslavia), Publisher: Savremena administracija, Year 1989, p. 15.

10 Previously mentioned text of Tautenberg, J.

es. Thus, building the elements of international law regulation assigned to ecosystem is involves coordination<sup>11</sup>, while establishing law relations within particular states, Ecology Law (to be precise: Legislator) is going, logically, toward the use of the *subordination method*, as fundamental.

In scientific efforts at the field of Environmental Law, starting from previously explained elements, we have to recognize facts of mutual relations, due to that reason, as well as the boundaries between a solid number of independent legal disciplines, their connections and elements of distinction between them and Environmental Law. It is logical to analyze, at first place, the relations between fundamental laws (constitutions) and Environmental Law.

## 2. Relation between Ecology and Constitutional Law

Speaking about the relation between Constitutional Law and Ecology law, it is useful to have in mind the preference of Constitutional Law over the other law branches, concerning that Constitutional Law contains norms and principles, which are obligatory for all law and legislature branches. In the law of contemporary countries, European before all, along with the maturation and the growing complexity of ecological problems, the phenomenon and obligation of developing constitutional rules, directly intended to enable the inauguration of adequate legislative regulation of ecological relations, is often present<sup>12</sup>. This had been obvious in contemporary law of the Federal Republic of Yugoslavia<sup>13</sup>, and is obvious, for example, in the actual law of the Federal Republic of Germany, Swiss Confederation, Republic of Serbia and many other states. Concerning the importance of constitutional provisions for the development of Ecology Law, we think that they should be analyzed to a certain degree.

If we analyze, for example, the Constitution of the Republic Serbia, we can see many elements present not only in this fundamental law of our state, but also in many other modern constitutions, which is a fact of great importance for our analy-

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11 In accordance with the Vienna Convention on the Contractual Law, Done at Vienna on 23 May 1969. Entered into force on 27 January 1980. United Nations, Treaty Series, vol. 1155, p. 331.

12 Examples for this are: Fundamental Law of the Federal Republic of Germany, first issue of the Federal Law Gazette, dated 23 May 1949, as amended up to and including 20 December 1990, for theme important is version dated at the March 18, 1971, that establishes competence of the Federation at the field of fauna and flora protection, Constitution of the Greek Republic (Adopted: 11 June 1975, revised at April 6Th 2001, Official translation of the Parliament, Athena, Publisher: Eptalofos, Year 2004), Article 24, which establish "state obligation for the protection of the life and cultural environment," Constitution fédérale de la Confédération suisse du 18 avril 1999 (Etat le 19 février 2002), With packet of the environmental norms (articles 73. – 80.), from: [www.admin.ch/ch/f/rs/101/index.html](http://www.admin.ch/ch/f/rs/101/index.html) And many others.

13 See mentioned book: Vladan Joldzic: Constitutional - Legal Fundaments of the Environmental Protection in the Federal Republic of Yugoslavia.

ses. Framer of the Constitution of the Republic Serbia has non ambiguously emphasized that the Republic is a state, based on equality of citizens<sup>14</sup>, with full respect of human freedoms and rights<sup>15</sup>, clearly ordering that freedoms, human and citizen rights<sup>16</sup> are being realized, and duties fulfilled<sup>17</sup> upon the Constitution<sup>18</sup>, simultaneously proclaiming the human right of “a healthy life in a healthy environment<sup>19</sup>” and the duty of the state “to take care about a healthy life in a healthy environment<sup>20</sup>.”

As we saw, in modern states, constitutions ordered that the state (this means: Serbian State also) adopts and implements laws in the area of freedoms, rights and duties of humans and citizens, at first place, by establishing:

- (a) Human rights<sup>21</sup>, and especially
- (b) Responsibilities and sanctions for the violation of freedoms, rights and duties of humans and citizens<sup>22</sup>, and
- (c) The bases of environmental protection, as well<sup>23</sup>.”

Speaking about the bases for the life of environmental protection, the legislator orders quite precisely that, if we (for example, observe the Republic of Serbia) have the right and duty to create and put in power laws applied for environmental protection, we also have the right to ratify international conventions of envi-

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14 Compare, for example: Constitution of the Republic of Serbia, Official Journal of the Republic of Serbia, No 83, Year 2006, Article 11, Federal Constitution of the Swiss Confederation, of April 18, 1999, version of September 18, 2001 (from: [www.admin.ch/org/polit/00083/index.html?lang=en](http://www.admin.ch/org/polit/00083/index.html?lang=en)), Article 8, La Constitution du 4 octobre 1958; Révisions constitutionnelles de mars 2005 „French Constitution“, Article 1, from: <http://www.assemblee-nationale.fr/english/8ab.asp>.

15 For example, compare with: The Constitution of Greece, Adopted on: 11 June 1975, As revised by the parliamentary resolution of April 6th 2001 of the VII Revisionary Parliament (Official translation), last updated 8 May 2007, Article 25 - Protection of Fundamental Rights, La Constitution du 4 octobre 1958; Révisions constitutionnelles de mars 2005 „French Constitution“, Article 53-1. Also its' Charter for the Environment, Article 1.

16 See, for example: Constitution of the Swiss Confederation, Article 2, and The Constitution of Belgium, Coordinated text of 14 February 1994, a translation made by the Belgian Senate, version 21.1.1997, Article 23, *Supra* note 3(4).

17 For example, precisely defined in the Charter for the Environment, of the French Constitution.

18 See: Constitution of the Republic of Serbia, Article 1.

19 Constitution of the Republic of Serbia, Article 31, *supra* note 1.

20 See: Brazil Constitution, Adopted on: 5 Oct 1988, from: <http://www.georgetown.edu/pdba/Constitutions/Brazil/brtitle9.html>, Article 224, *supra* note 1, as well as The Constitution of the Republic of Serbia, Article 31, *supra* note 2.

21 See: Constitution of the Republic of Serbia, Article 1.

22 For example, by Article 12, *supra* note 3 and 4.

23 See, for example: Constitution of the Republic of Serbia, Article 72, *supra* note 5, or Constitution of the Italian Republic (Costituzione della Repubblica italiana, Gazzetta Ufficiale, No. 298, on 27 December 1947), Article 117 (s).

ronmental importance<sup>24</sup>. Solely by ratifying the contracts concerning International Environmental Law, countries complete their duties and define the borders of positive ecological legislature. This means: of the Republic Serbia as well<sup>25</sup>.

### 3. Relation between Ecology Law and the International Public Law

International Public Law at the same time represents a branch of legal science and a group of norms whose main – general study topic, and the object of regulation, is, before all, mutual relation between states<sup>26</sup>, as subjects of law<sup>27</sup>. It consists of several branches and their sections. Among them, the most important for us are the branches of International Law that treat:

- Use of water<sup>28</sup>,
- International Maritime Law<sup>29</sup>,
- International River Law<sup>30</sup>,
- International Law for using Biological Sea Resources<sup>31</sup>,

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24 See: Article 73, supra note 2 and 7, of the Constitution of the Republic Serbia.

25 About this moment see: Joldzic, V. & Milicevic, G.: Constitutional - Legal Fundamentals of the Environmental Protection in the Federal Republic of Yugoslavia, Edition: Environment, No. 1, Belgrade (Federal Republic of Yugoslavia), Publisher: Federal Ministry for Development, Science and the Environment, Year 1995, p 2-5.

26 Or to say, briefly, fundamental postulate of Anzilotti's work: International law regulates reciprocity relations of the states. See more at: Anzilotti, Dionisio: Cours de Droit International, Vol. 1, Paris (France), Publisher: Librairie du Recueil Sirey, Year 1929, pp. 466-534.

27 See closely at the: Encyclopedia of the Law (Enciklopedija prava), Belgrade, (Socialistic Federal Republic of Yugoslavia), Publisher: Savremena administracija, Year 1989, p. 794, as well at the: Avramov, Sima. & Kreca, Milenko: International Public Law (Međunarodno javno pravo), Belgrade, (Socialistic Federal Republic of Yugoslavia), Publisher: Savremena administracija, Year 1993, pp. 1-8, and Kent McKeever: Researching Public International Law, Editor (Publisher): Columbia University Law School, Library: Pegasus Arthur W. Diamond Law Library Research Guides, Last Updated January 2006. From: [www.columbia.edu/~cmckeeever/cv.html](http://www.columbia.edu/~cmckeeever/cv.html).

28 For example see: Convention on Fishing and Conservation of the Living Resources of the High Sea. At UNEP Ref. Series 3, Barcelona Convention for the Protection of the Mediterranean Sea Against Pollution, February 16, 1976, U.N.T.S. Reg.# 16908, reprinted in 15 I.L.M. 290, Year 1976.

29 With so many elements exceptionally explained in massive book by: Tetley, William: International Maritime and Admiralty Law, Q.C. Montreal, (Quebec, Canada), Publisher: Éditions Yvon Blais, Year 2003.

30 See, for example: Bourne, C. B.: International Law and Pollution of International Rivers and Lakes, The University of Toronto Law Journal, Vol. 21, No. 2, Toronto, (Canada), Year 1971, pp. 193-202.

31 For example, see: Dupuy, René-Jean & Vignes, Daniel: A handbook on the new law of the sea. Publisher: Martinus Nijhoff, Leiden, (Netherlands), Year 1991, pp. 993. - 996.

- Branch whose topic is energy<sup>32</sup>,
- International Law branch for using Biological Resources<sup>33</sup>,
- Air Protection<sup>34</sup>,

Branch that treats protection of flora and fauna around the World<sup>35</sup>, as the others branches, in process of continual establishing and development - expressed through continuous evolution of rules connected with their group objects, rules applied for regulating some of the ecological-law relation elements, or applied for regulating some other matters, not necessary of purely ecological character, by which they create ecologically useful legal elements, and include them into the development of ecological law regulations on international level.

Entering the international law relations on the occasion of the environment, there should be always on mind, and insist upon the fact, that International Environmental Law develops through practice of conclusions of international contracts, on basis of using general law rules, as well as on formulating new special rules, on condition that they are consisted under massively adopted contracts, which treat some of the ecology law relation questions. In the other words, sources of International Law lie in common will of states, so, that sources itself, in formal sense, are actual legal acts through which law rules are manifested. By the act of ratification, as an act of expressing sovereign state will, these rules become an integral part of positive Ecology Law (legislation), of Serbia, where the key elements of relation between the International, and Internal Ecology Law of sovereign state are also reflected<sup>36</sup>.

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32 Treated, for example, at the level of law science at the journals like: Oxford Journals Law Journal of World Energy Law & Business, Oxford, Publisher: Oxford Journals.

33 See: Redgwell, Catherine & Bowman, Michael (Editors): International Law and the Conservation of Biological Diversity, London (Great Britain), Publisher: Kluwer Law International, Year 1996.

34 See, for example: Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water. In: Joldzic, Vladan & Milicevic, Gordana. The Environment and International Agreements of Importance for the Federal Republic of Yugoslavia, Belgrade (Federal Republic of Yugoslavia), Publisher: Federal Ministry for Science, Development and the Environment, Year 1995, p. 72. Convention on Long-range Transboundary Air Pollution Š1979Ć. See: Joldzic, Vladan & Milicevic, Gordana: The Environment and International Agreements of Importance for the Federal Republic of Yugoslavia, pp. 61-63. Vienna Convention for the Protection of the Ozone Layer ŠMarch 22, 1985Ć. See: Joldzic, Vladan & Milicevic, Gordana: The Environment and International Agreements of Importance for the Federal Republic of Yugoslavia, pp. 64.-65. Convention on Environmental Impact Assessment in a Transboundary Context, February 25, 1991, 30 I.L.M. 800, Year 1991.

35 See legislations, for example, of: Japan: Law for the Conservation of Endangered Species of Wild Fauna and Flora (Law No 75), Tokyo, Publisher: Ministry of the Environment, Government of Japan, Year 1992. from: <http://www.env.go.jp/en/nature/biodiv/law.html> and Australia: Flora and Fauna Guarantee Act 1988 (Victoria), From: Victorian Consolidated Legislation, [http://www.austlii.edu.au/au/legis/vic/consol\\_act/fafga1988205/](http://www.austlii.edu.au/au/legis/vic/consol_act/fafga1988205/).

36 See: Joldzic, Vladan: Conventions of Importance for the Protection of the Environmental and Interests of Republic of Serbia; Belgrade, (Serbia), Publisher: Institute for Criminological and Sociological Researches, Year 2006, pp. 30. – 44. Joldzic, Vladan: The Environment and International Agreements of Importance for the Federal Republic of Yugoslavia, pp. 17-26.

#### 4. Relation between Ecology Law and Administrative Law

Administrative Law, as a part of legal science, but also as a part of positive law of sovereign states, represents a very complex branch of law, which deals with a specific kind of legal relation: the Administrative legal relation, in all its complexity<sup>37</sup>. It is based, as a part of the positive legislature, before all, on the norms “that are used for the regulation of social relations in connection with the organization and activity of public administration<sup>38</sup>.”

*Diferentia specifica* of Administrative Law relation is expressed by the fact that one of the sides in this relation is “by rule, the body of the state administration<sup>39</sup>.” Exceptionally, such side in legal relational could be an organization as well (not the organ of the state administration), authorized, by law, or resolution conceived upon law, for performing actual Administrative Law duties, which means that this organization is given specific public authorizations.

By performing Administrative Law duties, the bodies of the state administration, and the organizations that are authorized for performing specific duties, within their authorization (defined by acts and sub-statutory acts), “concerning specific subjects, appears toward another subject of the actual relation with stronger will - with authority, with orders which are obligatory for subjects to whom they are related<sup>40</sup>.” This is the second, key *diferentia specifica* of Administrative Law in comparison to other branches of law<sup>41</sup>. In Administrative Law relation, the authorized subject appears with a stronger will. “By its disposition, he obliges the other subject even against its will<sup>42</sup>,” by rule (mostly) with the act in the form of *decision*, an act which conceives the abovementioned relation. The authorized subject brings his decision on the base of laws and sub-statutory norms (in the form of addendums). The authorized subject forms the aforementioned relation by adopting such legal act i.e. his *decision*. The authorized subject forms his *decision* on the basis of norms that are regulating the appropriate side of an environmentally oriented public relation, and the norms that authorize him as a part of administrative establishment, in the actual Administrative Law relation. Therefore, the main characteristic of Administrative Law is the fact that its basic or general subject is: Administrative Law relation, as well as all the other legal elements that have influence on its formation and development.

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37 Administrative-law relations see closer, for example, at handbook: Council of Europe (Handbook): Administration and You: Principles of Administrative Law Concerning the Relations Between Administrative Authorities and Private Persons, Strasbourg (France), Publisher: Council of Europe, Year 1997, p.: 16, 17 and 26.

38 Professor Popovic, S. Administrative Law - General Part, p. 4.

39 Ibid, p. 7.

40 Ibid, p. 7, passage 4.

41 For example: In relation with Civil-law relations, characterized with formal equality of the wills.

42 Popovic, S.: Administrative Law - General Part, p. 8.

Ecology Law for its *basic subject* has *ecology-law relation*, which means: a human relation, regulated by norms, formed on occasion of some of the objects, which is expressed as a constitutive element of the *ecos*. In the narrower determination, those elements are expressed as a *group* and *individually grammatical*<sup>43</sup> and *protected objects* inside *ecology-law relation*<sup>44</sup>. The regulation itself of these relations, in practice, is very often based upon rules of Administrative Law logic conception. Therefore, by expressing superior will of the authorized subject. That is the common line between Ecology Law and Administrative Law, from which it absorbs an important part of its logic and application. Features that differentiate them are:

- A. Type of relation, and
- B. General object of regulation.

As we have already noticed, Ecology Law regulates an *ecology-law relation*, whereas Administrative Law regulates an *administrative-law relation*.

The object of regulation and legal treatment of Ecology Law is an *ecology-law relation based on ecological rights and values*, observed as an entity, as its general object.

General object of Administrative Law is expressed as a *public law relation*.

Ecology Law, in a great part of its development, has to rely upon the Administrative Law elements, which very often, appear through the application of *Administrative Law principles* and norms. Clearly, some of these principles, as well as the aforementioned norms, observed by: law-logical, normative-hierarchical, or dogmatic method, have their different places in the Administrative and the Ecology Law system, precisely because of the differences between general subjects of the two observed branches of law. This is the main reason why their general subjects and those mentioned principles, of Administrative Law and Ecology Law, are the elements of their mutual demarcation, and also of the necessary cooperation.

## 5. Ecology Law and Penal Law Guaranties

Penal Law is a complex branch of law, which consists of three disciplines:  
(a) Criminal Law,

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43 More often, but not always.

44 It is useful to know that grammatical object is, in Criminal Law theory, object on which any criminal activity was done. It is not necessary that this object is at the same time, object on which will be produced consequences. Also, we can see that criminal activities are pointed on – so called object of offence. May be that the object which we observe is by legislation protected object, object on which we can see results (consequences) of criminal activity? In many cases: a.) grammatical, b.) object of offence, and c.) protected object, is the same object, but not in every case. In accordance with the Criminal Law theory we can, for the purpose of the Ecology Law, say that: Grammatical object is object on which activity of ecology law relation was done, At the place of the object of offence is object of activity, and, of course, Ecology Law also has protected objects.

(b) Law of Economic Offences

(c) Law of Misdemeanors.

Their common characteristic is the ordering of sanctions for prohibited behavior of law subjects, defined precisely by the law (so called *incrimination* - determining the “legal being” of the offense). By definition, the most important element of this *trias* (L. *trias* – trio) is Criminal Law, mostly because of the seriousness of danger, which is the characteristic of criminal offences. Committers of those offenses, in majority of states, can only be legally responsible natural persons<sup>45</sup>, but in a small number of newly adopted criminal codes, they can be legal or “artificial” persons too<sup>46</sup>.

Economic offences (i.e. violations and infringements) can be committed not only by natural, but also by legal (artificial) persons. These two kinds of incriminated behaviors are differentiated on the base of three elements:

- Economic offences are the offenses that are expressed by economic activities of subjects<sup>47</sup>, while
- Misdemeanors can be committed by any other kind of act - economic or non – economic.
- Also, the seriousness of the expressed jeopardizing, or violation of the protected values, which is, generally, less intense in the cases of misdemeanors.

The “contact point” of Ecology and Penal Law is found in fact that the norms of Penal Law<sup>48</sup> provide protection for the eco values by incriminating the behaviors that are opposite to the substantial norms of ecological character<sup>49</sup>. This means that such behavior is incriminated and sanctioned by the positive law. These Ecology Law norms are appearing as a substantial-law base for forming all three kinds of incriminations:

- Criminal acts,
- Economic offences and
- Misdemeanors,

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45 For example, in German Criminal Code, of the year 1875, amended at the Year 1994. See original text: Strafgesetzbuch Der Bundesrepublik Deutschland, Verfassungsorganen des Bundes vom 11. August 1999 (BGBl. I S. 1818).

46 See, for example, Article 121-2 of the French Penal Code (Cod Penal du 5 Fevrier 1994, 15 Journal Officiel du 2 février 1994 en vigueur le 1er mars 1994).

47 Activities that, also, can be of environmental importance. See, for example: South Australia’s Environment Protection Act of 1993 (From: [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)), text which incriminate, with: Section 79 „1“ criminal liability for “serious environmental harm,” and Section 80„1“, which incriminate criminal liability for “material environmental harm,” activities of man, as well as of artificial persons, also.

48 As a branch of some observed positive legislation.

49 On this theme see closer: Joldzic, Vladan: Environmental Crimes in Law and Reality (Published at Serbian language: Ekološki kriminalitet u pravu i stvarnosti), Belgrade, (Federal Republic of Yugoslavia) Editor (Publisher): Institute for Criminological and Sociological Researches, Year 1995, pp. 20-24.

intended for the protection of eco values<sup>50</sup>, but, at the same time, comprehensibly, the largest numbers of those rules are, in many states, also intended to protect health, bodily integrity, and human life.

## **6. Conclusions**

In our scientific efforts, expressed in this text, in the field of Environmental law development and application, we have pointed out the mutual relations between Ecology law and other branches of law, the relations that are at the same time of key interest for Environmental law as well as for other related legal branches. We have made efforts to emphasize: at first place, the legal-logical differences between the observed legal branches and, at the second place, their connections and mutual importance. Of course we have not treated all, but solely the branches of utmost interest for our field of research. Such work produced some results – our conclusions. What can we summarily conclude, apart from the remarks already made in the text?

1. Primary, it is evident that ecology law efforts, its efforts to develop at the level of the international community and law, as well at the level of states, are obviously impossible to be made outside the constitutional boundaries.
2. If we preview environmental problems through time, it is obvious that the relation between Ecology Law and International Public Law is in the process of feedback enhancing.
3. Whatever simple research effort we can do, in any state, as well as at the level of the international community, the relations between Ecology Law and Administrative Law are unavoidable and of utmost interest.
4. If we accept previous four conclusions, it is clear that all treated and explained issues need some kind of efficient guaranty. Such guaranty is an adequate system of Criminal Law and legislature, as we explained in Part 5 of our text.

Of course, our research does not produce a complete picture of all the possible interconnections, differences and boundaries between ecology and other branches of law, but the author states that the presented relations are of utmost importance.

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<sup>50</sup> Fact which is clearly visible from: Australian Environment Protection and Biodiversity Conservation Act 1999, legislative text that give legal basement for incriminations in positive Criminal Code Act 1995, Act No. 12 of 1995, as amended “amendments up to Act No. 137 of the year 2000“.

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[http://www.austlii.edu.au/au/legis/vic/consol\\_act/fafga1988205/](http://www.austlii.edu.au/au/legis/vic/consol_act/fafga1988205/).
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*POVEZANOST IZMEĐU EKOLOŠKOG PRAVA I DRUGIH GRANA PRAVA I  
GARANTIJE KRIVČNOG PRAVA*

*Ovaj rad se bavi problematikom uzajamnih odnosa i razgraničenja između ekološkog prava i drugih grana prava. Autor tretira određena pitanja u vezi sa tim uzajamnim odnosima i nastoji da uspostavi precizno razgraničenje između prava životne sredine i drugih grana prava kao što su: ustavno pravo, međunarodno javno pravo, upravno pravo, građansko pravo i kazneno pravo.*

**Ključne reči:** *logične povezanosti i razgraničenja, pravo životne sredine, ustavno pravo, međunarodno javno pravo, upravno pravo, građansko pravo, kazneno pravo.*