

**GREEN DIPLOMACY-A NEW TYPE OF INTERNATIONAL COOPERATION (II)****Elena IFTIME***Stefan cel Mare University of Suceava, 720229, Romania  
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*We mention our attempt in a broader context reserved to a generous theme, of a great complexity and of a strict actuality that aims the planet's health, of human and of other forms of living and nonliving forms of life.*

*Particularly insisting on legal international coordinates of environmental protection and conservation, through which are being accomplished the valences of human's right to a prosperous, healthy and ecologically balanced environment. This right occupies a central place among human rights, one of those essential gifts of nature to which no one should be detrimental to. It is considered to be a law of human solidarity consecrated by international and internal regulations, which involves in its content: the right to live in an unpolluted environment, which is not degraded by activities that can affect the environment, health, human welfare, sustainable development of society; the right to the highest medical care, unaffected by environmental degradation; right to a healthy working environment; right to benefit of durable usage of nature and its resources, the right to adequate water resources and food.*

*This valences exercise of this right in the context of each state's internal affairs, but especially in the life of international community, involves a new type of international cooperation suggestively called green diplomacy. It is a special form of the classical diplomacy, adapted to the specific and universality of environmental problems, particularly in the second half of the second century onwards. A diplomacy that seeks to harmonize the interests of a state and other's interests along with the interests of every human being on the Planet, concerning the conservation and development of natural conditions of life.*

*The major objective of this modern type of diplomacy is highlighted to empower the human beings, the micro and macro human community towards protecting, conserving and sustainable development of the Earth's natural heritage.*

*The efforts made for creating an institutional structure with international character in which environmental problems had to be debated, took shape and finality on organizing some meetings on this theme that reached its climax by institutionalizing the so-called "green Summits": Stockholm (1972); Rio de Janeiro (1992); Johannesburg (2002). These meetings remained as milestones in the field, through international documents adopted, which constituted the legal armour to fight for nature's protection.*

**Key words:** *green diplomacy; nature's protection; nature's conservation; sustainable development of the natural conditions of life; ecological crisis*

**JEL Classification:** *K3*

**I. PROTECTING NATURE: A RIGHT AND A DUTY**

Our approach, placed in the field of environmental conservation and rehabilitation, refers to the complex and highly sensitive issues of human relations with nature and with its people<sup>1</sup>. We start from the widely accepted idea that, the human emerged and evolved in a natural environment consisting of Earth, and the various and complicated living and nonliving forms of life: water, plants, birds, animals, etc.. In an objective manner, between man and the natural environment, have been established certain relations, in such a way that his existence "is inextricably linked to the existence of other living creatures and the whole planet's shells." (Pop, Popa, et al, 2012, p.538).

With certainty, the interaction between humans and the natural environment has been reflected in some rules of the human behavior, which in ancient times did not have any legal character. The oldest rules that aimed human relationships with nature, gave substance and normative expression to a consciousness (obviously rudimentary) of religious, moral and political nature.

In the absence of some factual information, we can assume the first rules of social conduct, regarded the basic occupations of humans, those strictly necessary to cover its need of life: fruit picking, fishing, hunting, fire protection, collective defense against wild animals or natural phenomena. In this way, made their appearance the rules of human behavior inside natural environment which being repeated and passed from generation to generation, become habits (ancient customs of whose breach attracted a collective disapproval of the acts and the violation disapproval of the rules of social coexistence). "Much later, when the world was engaged in the transition

from the primitive forms of community to state organization, collective disapproval began to be accompanied by a collective constraint” (Iftime, 2013). In this way, the state appeared as a form of the society’s collective organization and as an expression of states will, so then appeared the right, as a complex of human behavior rules which applied to people, as required. And the norms which were governing human relationships with the environment, having a high priority, have acquired a very special role to play. This was because, the social balance, people’s interests harmonization and aspirations, are in a direct and necessary link with harmony between man and nature. Therefore, the nature and the natural order must be “carefully discovered, cautiously, explored and used by man to satisfy its material needs and spiritual life” (Papa Ioan Paul al II lea ), without affecting (sometimes irreparably) its existence. Circumscribed to natural order is the social order, having as a major component, with its own features, the legal justice installed and maintained by the rules of law. The source of these norms may represent an internal will of each state or the joint intention of the international law subjects, expressing concerns for the health and equilibrium of the planet. Therefore we distinguish national law rules for the conservation and protection of the environment, but also norms of international law regarded in this regard.

Thus emerges the two dimensions of legal protection, the one of conservation and sustainable development of the environment; and the national and international one, that are in a conceptual and structural-systemic unity. The unitary character of the two components is explained by the “oneness and indivisibility of the Earth ecological environment, even if from the perspective of the state sovereignty, is protected at a national and international level ( Făiniși, 2005).

But, regardless of the domestic or international aspect of the issue, we must remember as a common feature, the right’s mission to consecrate rights and to establish procedures which ensures a collective management upon environmental heritage. As shown, the concept of environment must be interpreted in the widest sense, covering: natural and cultural heritage, biological heritage, built heritage, architectural and urban heritage, rural heritage (with all its elements).

At the internal level, the environmental law has as a regulatory object a category of social relations that arose in the process of preservation, development and environmental protection, involving legal rules and institutional structures. Therefore, the normative component intertwines with appropriate institutional structures.

Because the environment protection, conservation and sustainable development are cardinal issues of state policy in this area, the state intervenes directly giving an imperative character<sup>ii</sup> to the environment law. In an overwhelming majority these are technical norms approved by law and which governs relationships and strict ways of achieving some precisely defined objectives. In these terms, there will be accomplished the objectives regarding<sup>iii</sup>: use, conservation, protection and environmental and sustainable protection of the environment.

Internationally, the problems such as quality, protection and environmental development problems have concerned and will concern the international community from each human being, until the mechanisms and policy makers responsible for this task.

But international regulations in environmental problems are inevitably linked to international organizations with regional or universal vocation which perform specific functions, including regulatory function.

In the light of the proposed documents, we shall insist in this study upon the international legal dimension of conservation and environmental protection as it is looming in the international documents adopted over the years by structures with universal or regional vocation.

In the exercise of these specific functions, these structures develop specific law rules as they propose it for adoption to the Member States. Such rules may take the form of recommendations, more rarely, of some mandatory decisions like projects or international regulations. According to the classical coding procedure, draft international treaties will be subjected to a qualified analysis of a group of experts or debated in a diplomatic conference in order to be adopted and legally binding.

As for the treaties on environmental issues, should be noted that the application of legal provisions, these were often created by own organizations to facilitate the implementation of the detailed provisions. Have also been developed, implementing regulations, usually attached to the treaties. A very special place deals with the content of these international documents, the technical norms to which we referred in the preceding.

## II. LEGAL COORDINATES OF CONSERVATION AND ENVIRONMENTAL PROTECTION

Development and adoption of some legal rules governing the international cooperation relations of environmental issues and to ensure their implementation, requires the existence of some international agencies with competences in this domain.

Under the aegis of this, meetings were held (especially at the top) who discussed who brought into question, if not directly (global) the health problems of Earth, at least environmental implications of the discussed topics. The red thread of these meetings advises us that each human being on the planet, individual and all together must find the wisdom and resources to give life as many chances as we can, because these will turn around someday for the benefit of each and everyone.

It is a call for concern born out of the wave that propagates today across the planet, from the echo of a problem that is on everyone's lips: the ecological crisis, in other words the alarming picture of Earth's health: a nature that is increasingly hostile to man, with phenomena that no longer fit into events that we have been used to, with true nature's fury, floods, acid rain, desertification, water depletion, etc. (Iftime)

From where, since when and especially why humanity has reached in such a deadlock?

These are questions to which the green diplomacy (environmentalist diplomacy) is trying to find answers but most of all, solutions. It is a new type of international cooperation, a form of classical diplomacy, adapted to the specific and universality of the environmental problems, mostly from the second half of the twentieth century onwards. A diplomacy which has as a goal to harmonize the interests of a state, with the interests of every human being, regarding the protection, conservation and sustainable development of natural conditions of life.

A diplomacy in which the "expert's word is more important, the technical nature is more obvious, the civic participation is more direct and shared responsibility more significant" (Marinescu, 2003, p.21).

Regardless of the country belonging, geographic area, color, language, mental structure, people live on the same planet and are affected equally by environmental issues. These are issues that we have generated together and which can be solved sustainably only by involving everyone. This is why green diplomacy has become a global diplomacy, conducted on behalf and interest of human rights and of the international community, for a healthy, prosperous and ecologically balanced environment. And the main objective of this modern type of diplomacy is the responsibility of human beings of the planet, of the micro and macro human communities, towards the protection, conservation and sustainable development of the Earth's natural heritage.

In the exercise regarding this diplomacy, since the beginning of the twentieth century have been felt more often the concerns for creating some institutional structures with international character inside of which to be enriched the conservation, protection and development components of the environment. For the beginning, were organized meetings<sup>iv</sup> which brought into question, only tangentially the environmental issues. Then inside of a conference organized in Bern (1913) has been discussed the possibility of organizing an international meeting which should have as a main theme of debate the universal protection of nature. Because of the context of the First World War, ten years have passed from this initiative, to the First International Congress for nature's protection. The meeting took place in 1923 in Paris and marked the beginning of some sustainable efforts to become a permanent international structure concerned with environmental problems.

As a result, an international bureau for nature's conservation was founded in Brussels (1928) and in 1932 could be organized the Second International Congress for the protection of nature. The thread's fight for the environmental preservation and protection was renewed after the Second World War inside of a structure specially created to this purpose in the UNESCO (The United Nations Educational, Scientific and Cultural Organization).

The first one of these summits (1972) remained as a landmark in this field<sup>v</sup>, through the Statement which consecrated for the first time as a principle<sup>vi</sup> "human right to an environment of which quality to allow him to live in dignity and prosperity". In other words, for the first time is proclaimed human's right to a healthy and prosperous environment. It is a right of human solidarity through which the said document makes his entrance in the large family of human's rights and liberties belonging to the third generation of human rights.

The statement highlights, at the same time, the organic link between "environmental protection, economic and social progress of nations, in terms of eliminating the negative effects of underdevelopment" (Marinescu, 2005). Along with the stated Declaration was adopted one other document- Vigie Plan concerning global assessment and having as guidelines:

- establishing a database of world's resources;
- structuring an environmental global monitoring system composed of several subsystems (surveillance resource subsystem, climate surveillance subsystem, health supervisory system, oceans monitoring system);
- establishment of an international information system regarding the environment (INFOTERRA) connected to over 129 countries and 13 UN institutions.
- establishment of an informational system regarding "environmentally harmful chemicals" outlined in "The international Regime of Potentially toxic chemicals." Within the Stockholm Conference, on 5<sup>th</sup> of June was proclaimed the "World's Environmental Day". Also are significant the two resolutions concerning nuclear weapons and the need for convening a second United Nations Conference on Environment.

In conclusion to the Conference, was adopted a decision on "Transmission to the governments of the recommendations at national level"<sup>vii</sup> and the final conclusion was found in one of these statement's principles as a call to the states to ensure that these international organizations play a coordinated, effective and dynamic role in environmental prevention and improvement.

The role of organizations with universal jurisdiction it is even more important because nature's conservation is a cardinal problem of the cotemporary world that cannot find solutions in a sectoral approach, but in a global concerted action of all factors on which environmental protection relies on.

This is the idea which founded then, the United Nations Environment Program, set up in December 1972, headquartered in Nairobi (Kenya). On this basis were developed projects focused on issues of maximal importance for the protection of nature, such as: monitoring ocean's pollution, soil degradation, deforestation, water depletion,

etc..Were performed research and interdisciplinary studies, having the role of decision makers, but also each and every human being on the planet about the risks of irreversible environmental degradation, about the correlation of economic growth and environmental protection.

For material support of the activities mentioned above, has been established: World Wide Fund for Nature (1961 headquartered in Morges, Switzerland) and lately, the Environmentally Fund, administrated by the National Development Program together with the International Bank for Reconstruction and Development (World Bank). Subsequent developments of the international community determined UN (through the General Assembly) to launch a call to a global meeting, to define the strategy for limiting (till stopping) environmental depreciation in all countries, in the context of sustainable and optimal development in terms of environmental protection. This strategy has as primary objectives the protection of the atmosphere, terrestrial resources, conservation of biological diversity, protection of freshwater resources, of seas and coasts, a rational ecologically management of biotechnology, waste products and toxic waste, the growth of life quality and human health, improved living and working conditions of the poor, eradicating poverty and stop environmental degradation.

Upon these issues was to be made a new international consensus on the framework of the second United Nations Conference of Environment. The event took place in Rio de Janeiro (Brazil) from 3 to 12 June 1992 and brought together representatives from 181 countries (including Romania). The Conference adopted two reference documents for protection and conservation of the Earth's natural heritage: The Earth Charter and Agenda 21.

1) The Earth Charter (or Declaration of Principles) listed principles (27 in number) by which humanity should lead in the relations between man and nature. The document reiterates some of the principles of the Stockholm Declaration (1972) which adds some new principles<sup>viii</sup>. We mention for example: the right of peoples to a healthy and prosperous life in harmony with nature; the sovereign right of nations to exploit their own resources (without causing damage to the environment); states obligation to adopt legal rules relating to the environment; polluter's obligation to repair the caused damage (the polluter pays principle).

2) Agenda 21 was conceived as a program of action that had to be implemented by governments, development agencies, UN structures and independent groups in all areas of activity in which human activities can affect the environment.

The preamble of this document is conceived as a warning upon the serious problems of economic, social or health regarding the Earth's natural heritage: "Humanity is at a turning point of its history. We are currently witnessing to the perpetuation of disparities between and within nations, to the worsening of poverty, hunger, health and illiteracy and to the continuing deterioration of ecosystems to which they are tributary for our good condition. But, if we integrate the environment and development issue, and pay more attention to these issues, we can meet the basic needs, improve living standards for us all, will better protect and manage ecosystems and ensure a more prosperous future. No country can achieve all this alone, however, the mission is possible if we work the entire assembly in a global partnership for a sustainable development"

Apart from the two documents listed above, the second United Nations Conference on Environment has also adopted:

- Convention on Climate Change through which signatory states pledged that by the year 2000 to reduce carbon dioxide emissions into the atmosphere at the level of 1990.
- Convention on Biological Diversity, in which are established the measures that need to be taken in order to protect ecosystems and the various forms of life.
- Statement of Principles on the conservation and forests management. The document was originally conceived as a convention, of which it was not possible to reach an agreement. It thus remained only a declaration of principles for the conservation of tropical forests.

After the Rio Summit, other meetings were held having as debate topics the analysis of way in which the objectives set have been achieved. Such a meeting was held in New York (1997) and also concluded that industrialized countries have failed to apply some of the standards set in Rio de Janeiro. No important goals were achieved, such as: increased aid to fight poverty in the least developed countries, the fighting against deforestation and desertification, reduction of carbon dioxide etc. As a result, some of the goals set at Rio have been brought into question at the Kyoto Conference (Japan-1997) with a focus on minimizing greenhouse effect. Through the Kyoto Protocol have been introduced some certain standards to limit greenhouse gas emissions. For the mentioned purpose, has been suggested the planting of some shrubs with special properties in absorbing carbon dioxide from the atmosphere.

The third UN World Conference on Environment took place in Johannesburg (2002)<sup>ix</sup>, being devoted to sustainable development<sup>x</sup>. During the conference were tackled issues such as: water and sanitation system, energy, health, agriculture, ecosystem management.

In the mentioned problems, there have been some reference documents, which did not rise to expectations of the previous documents. The most important is the Johannesburg Declaration which recorded the commitment of the signatory states in order to promote and consolidate the basic principles of sustainable development. The fifth Paragraph of the Johannesburg Declaration expressly states which these principles are: economic development, social development and environmental protection at a local, national, regional and global level. Also

there were set the courses of action, for achieving the environmental objectives such as: the management and protection of the natural resources, to ensure a social and economic sustainable development.

### III. THE GREEN REGIONAL DIPLOMACY

The problem of protection and consecrating of human rights to a healthy, prosperous and ecologically balanced environment was a concern of some regional structures with legal jurisdiction in the matter. Under the aegis of these, were adopted documents that register not only the previous mentioned right, but also the correlative duty of the human community to preserve, protect and improve the environment for present and future generations<sup>xi</sup>.

An order of this kind is in the African Charter of Human and People's Rights, with the requirement that "all peoples have the right to a general satisfactory environment, favorable to their development"<sup>xii</sup>. Although it appears in a document regional oriented that aims the cooperation between the third world countries, the provision has the meaning of a first mandatory conventional stipulation of people's right to a favorable environment to their development.

Another regional document, the American Convention on Human Rights<sup>xiii</sup> contains relevant regulations in this way as shown, introduces through the Additional Protocol of 14<sup>th</sup> November 1998, which refers to the economic, social and cultural rights. Among the consecrated rights in this Protocol, is the right of every person "to live in a healthy environment and to benefit from the essential public services."

On the European continent, the Treaty of Maastricht (1993) provides, among other things, "that the European Union recognizes fundamental rights as guaranteed by the European Convention on Human Rights (1953) and as it results from the common constitutional traditions of the Member States and the general principles of the European Community law"<sup>xiv</sup>. Of course, among the human rights recognized and guaranteed by the Community law, joins also the human right to a healthy and ecologically environment.

The Maastricht Treaty, also known as the Treaty on European Union (TEU), makes references to the "sustainable development of the Communities, has integrated in the implementation of other communities policies, the requirements of environmental protection. It is illustrative for this point, the art 130 R7 of the EC Treaty (as amended by art. G.38 of TEU), which sets highlights in Community's policy regarding environment, namely: preservation, protection and improvement of the environment; protection of human health; prudent and rational utilization of natural resources; international promotion of the intended measures for solving the regional or worldwide environmental problems.

Similar regulations are reiterated by: the Treaty of Amsterdam (1987), the Treaty of Nice (2001), the Treaty of Lisbon (2009). The documents referred bring improvements to the environmental policy's regulations, with solutions and ways of ensuring a high level of environmental protection, in all measures that are taken.

Are illustrative in this regard, the regulations concerning the Treaty of Lisbon (2009), which through Article 35 and 37 bring important additions concerning environmental policy.

Thus, in the preamble of the Treaty is expressly stated that "the European Union places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice". For this purpose, it is necessary to strengthen the protection of fundamental rights, making them more visible through the Charter, in the light of changes in society, social progress and scientific and technological development.

Concerning on human rights linked to environmental policy, a better visibility is guaranteed by content of the art. 35 and 37 of C.F.R.E.U. Referring to health care, the Charter states in art. 35 that: "everyone has right to preventive healthcare and can benefit from medical treatment under the conditions established by national laws and practices. By defining and implementing all the Union policies and activities (implicitly in environmental policy) is being ensured a high level of human health protection. Likewise, under the slogan "a better life for Europeans, a healthier environment for the Planet", the art.37 of the Charter provides that EU policies should provide a high level of environmental protection and improvement of the air quality which must be provided with the principle of sustainable development.

#### IV. CONCLUSION

From this brief overview of some documents of the utmost importance for the green diplomacy, regional or universal, can be drawn the following conclusions:

Although contain various formulations, the documents referred to highlight a broad meaning about the concept of environment (as the environment of the entire biosphere), but also a restrain sense (as a physical environment of the individual, the habitat) and the natural surroundings.

Also, all the documents take into account human right to a healthy and ecologically balanced environment that assumes:

- The right to live in an unpolluted environment, that is not degraded by human activities which can affect the environment, the health and welfare of the humans and the sustainable development;
- The right to the highest healthcare level, unaffected by environmental degradation;
- Access to adequate food and water resources;
- the right to a healthy working environment;
- the right to housing, land use and living conditions in a healthy environment;
- the right not to be expropriated as a result of their activities in the environment (except in justified cases);

This right is complemented with the right of those expropriated to obtain compensations in legally suitable conditions;

- the right to assistance in case of natural disasters or man made;
- the right to benefit from the sustainable use of nature and its resources;

The right referred has to be correlated with the general obligation of the States to take appropriate measures for implementing the right to a healthy environment. There are measures which prevent environmental degradation, establish the necessary remedies and regulate sustainable use of natural resources.

Making the content of the human right to a healthy and prosperous environment requires the prior authorization of the activities with environmental impact, public participation in the development and implementation of environmental decision, administrative and legal procedures to repair environmental damage.

Must not be lost of sight, the two dimensions of the human right to a healthy and ecologically balanced environment: the individual and the collective dimension. The individual dimension registers the right of each individual to: the safety of his existence and the natural environment, pollution prevention, ceasing activities that have as effect a harmful pollution, all of these having an echo upon the collective dimension of this right.

As for the European Community, there must be noticed the interest of the EU member states, for broader forms of cooperation, with EU and non-EU states, capable to face the challenges that arise in economic terms. In this context, are important also the efforts in the sense of accountability for the European citizens for protection, conservation and sustainable development of the environment. As a current trend, can be seen an environmental approach based more on stimulants and a good management of problems of this kind, taking into account that the environmental policy, expresses in the end, civil society's interests.

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<sup>i</sup> For further details, see E. Iftime, *Normativitatea socială în Teoria generală a dreptului*; Edit. Did. și Pedagogică, București. 2013, pg. 8. Likewise, see also D. Marinescu, *Tratat de dreptul mediului*, Edit. All Beck, București. 2003, pg. 3 și urm.; F. Făiniși, *Dreptul mediului*, Edit. Pinguin Book, București. 2005, p. 12 and next.

<sup>ii</sup> There are rules of conduct which cannot be derogated and this concern: environmental quality; amount of pollution or pollution concentrations which may be emitted by a particular source; selection of certain means to achieve environmental objectives; defining the physical and chemical properties of certain products.

<sup>iii</sup> For a better understanding of the assigned meanings of this concept see, D. Marinescu, *Tratat de dreptul mediului*, op.cit. p.43.

<sup>iv</sup> The 8th Zoological Congress (Graz, 1908), and the first meeting of the provisional committee for the universal protection of nature (Basel, 1908)

<sup>v</sup> The Conference papers were published by the UN Information Committee in the volume „*Un singur pământ*”, București, 1972

<sup>vi</sup> Along with this principle the statement includes: the fundamental human right to freedom, equality and satisfactory living conditions; obligation of States to protect and improve the environment for present and future generations; conserve natural resources and their careful management for the benefit of present and future generations; member states cooperation concerning environmental protection issues, national policies of all states need to strengthen the potential environmental progress etc.

<sup>vii</sup> The 109 recommendations that made up the content „Environmental Action Plan”

<sup>viii</sup> It is about principle 25 of the Stockholm Declaration (1972)

<sup>ix</sup> The conference took place from 26 August to 4 September 2002.

<sup>x</sup> The concept of sustainable development was adopted as a result of a recommendation by the UN General Assembly Resolution nr.42/1987. It stood at the base of a guiding principle of national strategies and policies in the economic field of development and environmental protection. The principle was introduced Brundtland Report (1987) and was supported by the representatives of the seven major industrialized countries. The concept of sustainable development is defined as a type of economic development that ensures the satisfaction of the present needs without compromising the ability of future generations to meet their own requirements. Sustainable development involves reciprocity and independence between four systemic components: human environment, economic environment, ambient and technological environment.

<sup>xi</sup> As shown, please see, D. Marinescu, *Tratat de dreptul mediului*, Ediția a IV-a, București 2010; E. Lupan, *Tratat de dreptul protecției mediului*, Ed. C. H. Beck, București 2009.

<sup>xii</sup> See, Art. 24 from African Charter on Human and Peoples Rights, adopted in June 1981 in Nairobi by the Organization of African Unity. It entered into force in 1986.

<sup>xiii</sup> This Convention was adopted at the International Conference of American States in San Jose, Costa Rica - 1969 and entered into force on July 10, 1978.

<sup>xiv</sup> Must be shown that by the end of the Maastricht Treaty, an environmental policy of the European Communities took shape and concreteness through the Single European Act (1986) whereby is recognized the necessary expertise in this field, inspired by some regulations adopted a decade ago, more significant being the norms contained in the general Program adopted by the Declaration of EU Council and the representatives of the Member States on 22 November 1973. It can be seen that although the European Communities were established in the sixth decade of the last century, the environmental concerns appear later, perhaps also because in Europe (an implicitly in the Community) was applicable in this field the European Convention of Human rights, to which the Community's treaties refer to. For more details see, Elena Iftime, „*La protection de l'environnement dans le droit communautaire européen*”, în „*Le droit international, note avenir* – Les éditions de la Fondation Académique Danubius Galați, 2003, p. 63.