

ECOTERRORISM BETWEEN ECO-ACTIVISM AND CRIME

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ABSTRACT: *We are witnessing a phenomenon of multiplication and diversification of militant, demanding environmental actions, which, through the use of various forms of violence, fall formally into the criminal zone and generically into the sphere of terrorist-type manifestations.*

Those who participate or organize them mainly belong to the new generations who, under the impetus of eco-anxiety, rebel, accusing the destruction of ecosystems, unfair access to goods belonging to the natural heritage of humanity, the increase and worsening of environmental crime and the official indifference to these realities.

The challenge received by the legal systems concerns the legal treatment applied to this conduct, respectively the adaptation of the positive law to the specific objective and subjective nature of this type of actions. The concrete reference to these criteria and to determined actions, especially under the aspect of violent character, generates, however, different solutions in the sphere of criminal law, which must reflect the evolution of society.

KEYWORDS: *terrorism, eco-terrorism, eco-anxiety, civil disobedience, Paris Agreement.*

JEL Code: *K14, K32, K38*

1. The terrorist phenomenon, which essentially involves acts of violence carried out for political purposes, knows multiple forms of manifestation, always different, mainly innovated by technology, and the concept of terrorism constantly adjusts its limits and content, from the perspective of means, actors and the purpose served.

On December 10, 2022, blaming atmospheric pollution, environmental defenders invaded a Lafarge factory in Marseille, causing material destruction, and around Christmas, Greenpeace activists broke the top of the Christmas tree placed in front of the Brandenburg Gate in Berlin, invoking the authorities' lack of action against of climate warming.

In the evening of April 17, two activists of the Just Stop Oil organization stormed the gaming tables, brutally interrupting two games in a sports championship.

In Berlin, climate activists Letzte Generation, an organization founded in 2021 with branches all over the world, are omnipresent, frequently organizing attacks disguised under the slogan of "actions". They recently announced that they want to cause chaos,

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"paralyzing" the capital of Germany, shutting down Berlin indefinitely, posting hundreds of activists on the streets to get their demands for "Radical Climate Change". The announced blockade of Berlin involves major risks for the citizens of the Capital, especially in terms of emergency services; there is the danger of delays in the care of the wounded and sick.

In anticipation of the announced blockade, the Berlin-Brandenburg airport is under closer surveillance, considering that, last November, members of the Letzte Generation cut the airport fence and ran onto the runway, disrupting air traffic.

Letzte Generation, an organization established in 2021, with branches all over the world, received donations of almost one million euros last year, members even receive monthly salaries of over one thousand euros, and are currently being investigated for "establishing a criminal organization" , with over 2,000 criminal charges against activists in Berlin alone.

No one can guarantee that this kind of actions will stop here. Those who participate or organize them mainly belong to the new generations who, driven by eco-anxiety, revolt against the destruction of ecosystems and unequal access to common goods and protest against official indifference to ecological crises. (Dutu, M. Duțu, Dreptul climei. Regimul juridic al combaterii și atenuării încălzirii globale și adaptării la efectele schimbărilor climatice, 2021) (Dutu , Dreptul mediului, 2014) They proclaim the need for action by the public authorities and, paradoxically, invoke as an argument the increase and worsening of environmental crime on a large scale, up to accusations of ecocide. (Dutu, Dreptul penal : intre ecoterorism și ecocid, 2022)

Reducing to the essence, we are witnessing a phenomenon of multiplication and diversification of militant ecological demanding actions that fall (formally) in the criminal zone and generically in the sphere of terrorist-type manifestations, of sometimes using violence for political purposes.

2. *The concept of civil disobedience* begins with the work and actions of the American philosopher Henry David Thoreau (1817–1862), arrested in 1846 for refusing to pay the taxes owed to the state of Massachusetts, with the justification that a compliant attitude would have made him complicit in a politics that he condemned.

Later, Thoreau's plea in favor of civil disobedience inspired another famous militant, Mahatma Gandhi, who uses it in the fight against British colonialism, with the addition of two major elements: to be collective, and to be based on nonviolence. At the end of the 1950s, Gandhi's philosophy is presented by Martin Luther King as the only moral and concrete option of oppressed peoples.

In such a context, civil disobedience has become a constant of contemporary social movements, in the process of asserting fundamental rights.

If most of the time "green militants" defend values that concern the general interest, do not commit violence and act in plain sight, there are also forms of eco-climatic militancy that include elements of violence, which, at the level of legal, sociological and political analysis, legitimately generates a wide debate.

3. *The notion of ecoterrorism*, (Huglo, 2022) recently used by the French Interior Minister to describe recent environmental protests, is part of the vocabulary used by the FBI in the U.S.A. at the end of the 1990s, in the context of eco-sabotage actions initiated by the organization Earth First (EF) and continued by the Earth Liberation Front (ELF) by setting fire, in 1998, to the Vail ski resort, in the state of Colorado (built on the living

territory of lynx), destroying power lines and setting fire to machines or installations considered harmful to the environment.

The sabotage actions of the Earth Liberation Front (ELF), which shocked the American society, hinted at a fifth wave of terrorism, this time called "green" after the anarchist, anti-colonial, extreme left and religious ones, which threatened the States United. If after 1980 the extreme left reproached the environmentalists for their refusal of violent action, the new generation seems much more willing to do so, with the argument of the existence of a "state of necessity", likely to remove criminal liability.

4. At the same time, there are major and justified concerns regarding the elimination of possible abuses in the legal treatment applied to those who defend with excessive means the cause of environmental protection.

The monitoring carried out by the UN in the field of human rights protection shows an increase in police and judicial repression in Europe against followers of civil disobedience, which invokes the insufficient action of states in order to comply with the Paris Agreement¹ and limit global warming to +1.5°C, considering "worrying" the way governments treat climate change activists.

On May 27th, more than 1,500 arrests were made during an Extinction Rebellion action in The Hague, Netherlands, to protest against fossil fuel subsidies. More and more activists are brought before the criminal justice system, some being even sentenced to prison. The punishments are generally suspended, community service and fines.

The UN special rapporteur for human rights and especially of "green militants", Michel Forst, qualifies this trend as a "deviation" from the rules of international law, recalling that civil disobedience, legitimized by texts that the states themselves ratified, represented the starting point of many struggles for the affirmation of social rights. (Forst, 2023)

In assessing and validating accepted forms of civil disobedience, the UN imposes four criteria. First of all, the author of the act must deliberately violate a norm, accepting as a matter of principle to bear a sanction. His act must be public and non-violent. Finally, the goal must be opposition to public policies considered unfair or to invoke a cause of general interest.

The challenge that the described social phenomenon generates at the level of legal systems concerns the legal treatment that such conduct receives, namely the adaptation of positive law to the specific objective and subjective nature of this type of actions. The concrete reference to these criteria and to determined actions, especially under the aspect of violent character, generates, however, different solutions in the sphere of criminal law, which must reflect the evolution of society.

Along with the repressive function and protection of the society against the crime that threatens it, the application of the criminal law also has an educational role, which means that the judge must not only focus on the repressive aspect, but adequately analyze the reasons why the activists have assumed the personal risk of standing trial and being convicted defending a cause of general interest. (Coman & Truta, *The Europeanisation of the criminal proceedings*, 2022) Respecting the independence of national courts, which even within the same countries pronounce very different solutions, it is necessary to harmonize the way in which the courts treat this field of crime, starting from the fact that

¹ Adopted on 12 December 2015 by the States Parties participating in the XXI Conference of the Parties (COP 21) to the United Nations Framework Convention on Climate Change

civil disobedience is regulated by international law and, therefore, authorized, as much while responding to these regulations.

Finally, as happened in other areas, the final decisions at the national level will be able to be examined at the European Court of Human Rights (ECtHR), which will establish standards in the matter. (Coman, *Efectele jurisprudenței Curții de la Strasbourg asupra procesului penal roman*, 2017)

On the other hand, the question arises whether the civil disobedience actions of environmental activists are likely to discredit the climate cause, or whether the criminal treatment applied to some of their actions is likely to discredit the cause they defend.

CONCLUSIONS

The conceptual and jurisprudential association (Cobzaru, 2012) of eco-climatic activism with terrorism is avoidable. Comparing the brutal acts of classic terrorism to the less peaceful forms of environmental activism can be an insult to the victims of real terrorists and tends to criminalize the climate cause itself.

It is justified, however, the governments' fear that, as the acts of civil disobedience increase, their climate policy will be more and more contested, and militancy may take more and more violent forms.

Without a doubt, the solution must be one of balance, and the criminalization of civil disobedience actions with eco-climatic stakes should be used as a last resort, after exhausting all the means of action of the public authorities, (Manu, *Dreptul administrativ și acțiunea administrativă în „era digitală”*, 2020) channeled especially towards solving the environmental problem, including through innovation dialogue models with new generations.

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