

PROTECTION OF WASTE MANAGEMENT IN THE FIELD OF CRIMINAL LAW – A COMPARATIVE APPROACH

Roland LINDT* **

Abstract

The purpose of the current study is to compare different methods of sanctioning the violators of waste management regulation applied by certain European countries in the field of criminal law.

Since the question of environment is a shared competence of the member states and the European Union, it is indispensable to take the Union law into account. In connection with criminal law and environmental protection, Directive 2008/99/EC of the European Parliament and of the Council is the primary source of law, which obligates the member states – among others – to introduce a criminal offence against those who violate certain waste management rules. The directive had to be implemented until the end of 2010, therefore such a criminal law provision already exists in most of the European countries.

As Union law provides only minimum rules, significant differences can be explored among national regulations. Thus we are able to distinct countries observing the connection between administrative law and this type of criminal acts. In certain criminal codes, the related delict is realised when the perpetrator disrespects intentionally an administrative law provision, meanwhile certain legislators have decided to separate the two branches of law. On the other hand, the prescribed sanctions can also differ from each other, because the Directive requires only an „effective, proportionate and dissuasive criminal penalty”.

After analysing the related measures, we can conclude that the legislator tends to apply an anthropocentric point of view when formulating the prohibition. As the closure of the topic, we demonstrate – utilising the results of social sciences – that environmental criminal law shall be approached from a rather semi-natural point of view.

Key words: *environmental protection, waste management, criminal law, green criminology, alternative sanction*

I. Introduction

During the latest decades, environmental protection and related questions have been gaining more and more attention by the international scientific community. Besides the fields of natural sciences, ultimately numerous social sciences have commenced to examine environmental issues, introducing new areas of research.

As an example, security studies, which is a discipline of major importance these days, has developed a new branch called „environmental security”. The purpose of this relatively young area is to identify the potential threats originating from the environment or endangering our environment itself that could, both directly or indirectly, peril human civilisation. Researchers distinguish three major groups of environmental risks:¹

- Threats of natural environment to the society that are independent from human activity (e.g. volcanic eruptions or earthquakes),

* Student, Faculty of Law, University of Miskolc; (e-mail: lindt.rol99@gmail.com). This study was elaborated under the coordination of Dr. Hornyák Zsófia PhD; (e-mail: joghzs@uni-miskolc.hu).

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¹ Szálkai (2021) 208 p.

- Human activity that is harmful to the environment, but not to the civilisation (e.g. depletion of certain minerals that are replacable thanks to technological development),
- Human activity that is harmful to both environment and civilisation (e.g. pollution, emission of greenhouse gases).

The latter shall be treated with legal instruments.

In this field, we encounter the so-called „waste problem” that has become one of the most significant environmental risk factors during the past few years. However, this regime of causal environmental law necessarily differs from the others. As *Kecskés Gábor* points out, in other cases of regulation, such as nuclear law, prevention is the main objective, while waste production must be accepted as a natural inherent of human civilisation,² thus a different approach is needed.

The importance of waste management law is represented by a Eurostat survey, according to which in the member states of the European Union (henceforward: EU), an amount of 2.145.000.000 tons of waste was produced in 2008. Later in 2018, this figure exceeded 2.337.000.000 tons,³ meaning that in a decade an increase of nearly 9% can be observed. Due to the pandemy, people have spent considerably more time in their homes from the beginning of 2020. This change also leads to an increased amount of domestic (mainly plastic) waste. *South Nigel* calls this phenomenon by the name „everyday ecocide” caused by overconsumption and as a consequence, the increase of waste production.⁴

Fortunately, taking into account the scale of the problem, decision makers have started to take this issue seriously at international level. Without the intent of enumerating all international documents created in the topic, I would rather highlight the Agenda 2030 adopted by the General Assembly of the United Nations in which 3 out of 17 „Sustainable Development Goals” contain targets related to a proper waste management.⁵ It can be noticed that 3 out of 5 targets explicitly referring to the waste problem are in connection with sustainable consumption and production.

Among Hungarian documents, we have to mention the „Climate and Nature Action Plan” (*Klíma- és Természetvédelmi Akcióterv*) of 2020 published by the Ministry of Innovation and Technology in which 4 measures aim directly at the amelioration of Hungary’s waste situation:⁶

- elimination of illegal landfills
- ban on the marketing of single-use plastics
- protection of Hungarian rivers from foreign waste
- forcing multinational companies to use environmentally friendly technology

Programs and action plans, although being frequent in the field of environmental law, are not sufficient means of enforcing environmental interests, since disrespecting them does not

² *Kecskés* (2012) 101-102. p.

³ Eurostat: Generation of waste by waste category:

<https://ec.europa.eu/eurostat/databrowser/view/ten00108/default/line?lang=en> (27.03.2022.)

⁴ *South* (2014) 14. p.

⁵ Resolution 70/1. of the General Assembly. Related targets are:

- 11.6 by 2030, reduce the adverse per capita environmental impact of cities, including by paying special attention to air quality and municipal and other waste management
- 12.3 by 2030, halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses
- 12.4 by 2020, achieve the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment
- 12.5 by 2030, substantially reduce waste generation through prevention, reduction, recycling and reuse
- 14.1 by 2025, prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution

⁶ <https://zoldbusz.hu/files/KTA.pdf> (27.03.2022.)

result in any legal sanctioning. Although we are able to discover *lex imperfecta* rules in the domain of hard law too, violation of these rules usually implies some sort of penalty.

The liability regime serving the protection of environmental provisions is practically undefinable due to its complexity. We may separate horizontal and vertical complexity. The former suggests that the legislation of the given country utilises several branches of law to reach the appropriate effect. For instance, in Hungary, Act LIII. of 1995 on general rules of environmental protection refers to civil-, criminal- and administrative law liability regimes.⁷ The latter shows the role of supranational sources of law (mainly international contracts). In our region, EU law has also a dominant place which requires its analysis in our topic.

The current study concentrates on a specific segment of this versatile liability regime, namely on criminal law liability. The reason behind the examination of this point of view is that criminal law penalties usually serve rather the punishment of the perpetrator than the environmental interests. Since criminal penalty mainly focuses on repressive and preventive effects, it is reasonable to search for solutions in other countries' legal systems to insert a reparative element into the regulation. Before putting the potential solutions under the spotlight, it is recommended first to take a closer look at EU law, because certain sources establish relevant minimum criminal substantive and procedural rules for the member states.

II. Main discussion

EU regulation, criminal law and waste management

The Treaty on European Union (henceforward: TEU) declares the establishment of an internal market with the objective of promoting sustainable development goals such as „high level of protection and improvement of the quality of the environment” in Europe.⁸ In accordance with this provision, the issue of environment is one of the most significant EU policies. According to the Treaty on the Functioning of the European Union (henceforward: TFEU), this field of regulation is a so-called „shared competence” between the Member States and the EU,⁹ meaning that related rules can be created at both national and supranational level.

From our point of view, it is also indispensable to mention that the TFEU provides the opportunity of creating directives via the ordinary legislative procedure that consist of establishing minimum rules concerning the definition of criminal offences and sanctions in connection with certain areas of crime.¹⁰ At this point, the Treaty gives us a closed list of these noteworthy areas, not including crimes that endanger environment. Although it is added that the Council may identify further areas after obtaining the consent of the European Parliament, this provision can not be a legal basis for a directive establishing minimal rules for environmental crimes on its own.

The directive currently in force concerning the protection of environment through criminal law¹¹ is based on Article 175 (1) of the Treaty establishing the European Community (currently Art 192 of the TFEU) according to which the European Parliament and the Council are able to establish rules through the ordinary legislative procedure, after consulting the Economic and Social Committee and the Committee of Regions, to treat environmental problems.

Before introducing the essential norms of the Directive, it should be noticed that there was another source of EU law with a similar regulation, namely the Council Framework Decision 2003/80/JHA which was annulled by the Court of Justice of the European Union.¹²

⁷ Act LIII. of 1995 Section 101 (1)

⁸ TEU Art. 3 (3)

⁹ TFEU Art 4 (2) e)

¹⁰ TFEU Art 83 (1)

¹¹ Directive 2003/80/JHA of the European Parliament and of the Council (henceforward: the Directive)

¹² Judgement C-176/03

Though it was in force for a short period of time, a modification which formulated the definition of „Violation of Waste Management Regulations” in the Hungarian Criminal Code, was inspired by it.¹³

Returning to the Directive, the implementation of two offences regarding waste management is prescribed for the member states:¹⁴

- waste management, which causes or likely to cause death or serious injury to any person or substantial damage to the quality of air, soil or water, or to animals or plants,
- illegal shipment of waste, defined by Article 2 (35) of Regulation (Ec) No 1013/2006 of the European Parliament and of the Council, undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked.

The provision incriminates both intentional and seriously negligent perpetration.

These norms, also defining the activities considered part of waste management, do not clarify certain definitional elements: the precise meanings of „substantial damage” in connection with the natural elements and of „non-negligible amount” are not determined. These uncertainties may cause serious differences in the field of jurisdiction between the member states.

The Directive also prescribes the punishment of accomplices related to the listed offences. Furthermore, it states the cases in which a penalty shall be applied against legal persons too.¹⁵ Nevertheless, concrete penalties do not appear among the provisions: the Directive only requires „effective, proportionate and dissuasive criminal penalties”.¹⁶ In my opinion, the wording of these articles refers to the necessity of general preventive sanctions.

Having observed the main source of EU law in our topic, we can declare that these minimum rules left a broad discretion, therefore the member states’ legislators were able to follow different approaches. That is the reason why a comparative analysis shall be realised.

Protection of waste management through penal law in certain member states

Before examining a few examples of national regulation, we shall highlight the aspects that may differ from each other. As we have already identified undetermined elements in the Directive, moreover, there are no penalties prescribed at supranational level, these conditions should be checked in national criminal norms. In addition, another correlation that shall be analysed regarding environmental crimes is the relation of criminal and administrative law. In the interpretation of *Kőhalmi László*, three models can be separated:¹⁷

- absolutely dependent model: criminal offence is committed simply by violating an administrative rule or decision or by exceeding a limit value,
- relatively dependent model: criminal offence is committed by violating an administrative rule and causing a demonstrable environmental damage,
- autonomous model: criminal offence committed by triggering a result described by criminal rules, no connection with administrative rules.

Naturally, many other details could be observed, but from a practical point of view, these factors seem to be the most relevant.

Hungary

In Hungary, the regulation of waste management has been seriously reconstituted with Act II of 2021. The reform has also reached the Hungarian Criminal Code (Act C of 2012) (henceforward: Btk.) by modifying the definition of the related criminal offence. The previous version,¹⁸ created by Act XCI of 2005, mentioned earlier, did not specify each waste

¹³ Act XCI of 2005 Art. 10

¹⁴ The Directive Art. 3 b-c)

¹⁵ The Directive Art. 4, 6

¹⁶ The Directive Art. 5, 7

¹⁷ *Kőhalmi* (2010) 127. p.

¹⁸ For the previous version see: *Görgényi* (2020) 382. p.

management activity individually, it rather made a reference to the definitions used by the Act on Waste (Act CLXXXV of 2012). Therefore we could separate two criminal conducts:

- disposal of waste at a site that has not been authorised,
- realisation of waste management activities without authorisation or by exceeding its scope or any other unlawful activity involving waste.

It can be noticed that the term „other unlawful activity” widened the range of interpretation of the second provision. It was considered an aggravating circumstance if the waste involved in the perpetration was deemed hazardous by the Act on Waste. Negligent acts were also punishable.

It shall be emphasised that this criminal offence used a particular definition of waste: two conjunctive conditions had to be fulfilled by the substance in question. In the first place, it should have been deemed waste under the Act on Waste while being hazardous to human life, or the earth, the air, the water, and their constituents and the species of living organisms. It must be mentioned that the latter criterion is fulfilled even if a real damage does not occur, the theoretical possibility is enough.

The most severe punishment was a maximum of five years of imprisonment in the case of involving hazardous waste. Banishment is also applicable.¹⁹

The recently introduced modification has reorganised the structure of the offence. Probably the most important change is that the particular waste definition has been erased and the special condition was introduced next to the criminal conducts. From now on, the disposal of waste is only punishable if it may endanger human life or the natural elements listed above or is committed in respect of a substantial quantity of waste. The same „result” applies to the activities involving waste.²⁰

Habitual recidivism and the involvement of particular substantial quantity of waste were inserted as aggravating circumstances.²¹ In connection with these elements the new interpretative provisions state that:²²

- crimes of similar nature are „Environmental offences” and „Damaging the Natural Environment”,²³
- substantial quantity is a quantity over 1.000 kg or 10 m³,
- particular substantial quantity is a quantity ten times bigger than substantial quantity.

The most severe sanction that can be imposed is eight years of imprisonment in case of perpetration involving a particular substantial quantity of hazardous waste.²⁴

In conclusion, we can declare that the Hungarian solution of the protection of waste management seems to be severe, with a maximum of eight years of imprisonment. Furthermore, substantial damage of the protected values is not required: it is sufficient to realise the offence if the activity can potentially endanger them. Finally, it seems that the new Hungarian regulation follows the relatively dependent model, since it uses the concepts of administrative rules, however additional elements appear in the definition.

Spain

The Constitution of Spain of 1978 (*Constitución Española*) declares the right to an „environment suitable for personal development” (*medio ambiente adecuado para el desarrollo de la persona*), as well as the duty to preserve it. The applicability of criminal, administrative and reparative sanctions also appear in the same article, against those who violate the previous

¹⁹ Btk. Section 253

²⁰ Btk. Section 248 (1)-(2)

²¹ Btk. Section 248 (3) b-c)

²² Btk. Section 248 (6) a), c-d)

²³ Btk. Section 241-242

²⁴ Btk. Section 248 (4)

duty.²⁵ This article was placed in the chapter titled „Governing Principles of Economy and Social Policy” (*De los principios rectores de la política social y económica*) instead of chapter „Rights and Duties of Citizens” (*Derechos y libertades*) referring to the fact that regarding this fundamental right, the country’s activity has a determinant role.²⁶ With this constitutional basis, it is not surprising that the Spanish Penal Code (*Ley Orgánica 10/1995 del Código Penal*) contains both repressive and reparative elements.

The related article²⁷ consists of two criminal offences. It criminalises separately the transportation of waste that is illegal according to the EU waste transportation Regulation. The penalty is either an imprisonment from three months to one year or a fine of six to eighteen months and the prohibition to exercise professional activity up to one year.

The other offence refers to the violation of waste management rules while listing the activities included by the definition. It is also important that the absence of control of these activities is also punishable. A conjunctive condition is the harming or endangering of the protected values defined previously by the Directive or another value defined by the current provision, the balance of natural systems (*equilibrio de los sistemas naturales*). Concerning the punishment, penalties determined by Article 325 are applicable, meaning that if such an action caused a serious risk to human health, the upper limit of imprisonment could be imposed.²⁸ Related to this provision, a fine and the prohibition to exercise professional activity shall also be ordered.

In connection with these crimes, if the perpetrator proceeds voluntarily to repair the caused damage, the judge has to impose the smallest possible penalty prescribed in the related offence.²⁹ On the other hand, the Spanish criminal law also knows the instrument of *ex delicto* civil law liability as a general provision.³⁰

Summarising the gained knowledge, the sanctioning regime in connection with the violation of waste management rules appeared to be advanced, since it creates the opportunity of imposing a penalty of imprisonment up to twenty years depending on the result of the committed crime and also implies the prohibition of exercising the profession concerned, meanwhile it creates the opportunity of reparation in exchange for a more favourable judgement. Concerning the undefined elements of the Directive, the clarification of the content do not happen among criminal rules. It seems that Spanish criminal law also follows the relatively dependent model, referring to other sources of law in general and the EU Regulation on the transportation of waste, but establishing other elements protecting certain values like human life, natural elements and the balance of natural systems.

France

Although the French Penal Code (*Code pénal*) mentions environmental protection among the fundamental interests of the nation,³¹ the related book of this code does not establish any environmental crime. This kind of delicts are usually placed in the sources of environmental law.

On the other hand, we must not ignore the achievements of the sanctioning regime. In our topic, the penalty called „sanction-reparation” (*sanction-réparation*) may be relevant, at least indirectly. This sanction can substitute or be combined with the penalty of imprisonment or fine and consists of repairing the damage of the victim, making also possible a reparation in

²⁵ Constitución Española Art. 45

²⁶ *García Domínguez* (2004) 136. p.

²⁷ Código Penal Art. 326

²⁸ According to the general rule of the Código Penal Art. 36: twenty years

²⁹ Código Penal Art. 340

³⁰ For more information see: Código Penal Title V; *Leyva Morote* (2016) 121-123. p.

³¹ Code pénal Art. 410-1

nature.³² In case of illegal disposal of waste, this reparation could be executed by eliminating the landfill.

The detailed regulation of waste management is contained by Title IV of Book V of the Environmental Code (*Code de l'environnement*). At the end of the first chapter, we can encounter criminal dispositions. This leads us to a huge list of possible offences³³ (16 cases) that will be punished by the instruments of criminal law. Concerning these offences, they all refer to certain provisions of the *Code de l'environnement* itself, other French acts and certain sources of EU law. According to the general rule, the perpetrators shall be imprisoned for two years and pay a fine of 75.000 euros. If the offence is committed by an „organised band” (*bande organisée*)³⁴ the applicable penalty is seven years of imprisonment and a fine of 150.000 euros.

After taking a glance at the results of French legislation, it seems that the sanctioning regime contains progressive elements that concentrate on the reparative function, however the penalties prescribed by the *Code de l'environnement* seem to be rather objective sanctions of administrative nature. Here we can observe the absence of the legal definitions of terms like substantial damage or non-negligible amount too. French criminal legislation applied the absolutely dependent model: we have seen that criminal offences are realised by the violation of precisely listed provisions of French and EU law. This close relation of criminal and administrative norms make jurisdiction harder and thus it may harm the principle of legality.³⁵

Considerations outside the law

If we wished to find the main purpose of environmental law, we would probably say, that the regulation should serve the prevention of pollution and if the pollution could not be prevented, we should establish the legal obligation of reparation.

Unfortunately, criminal law, in its current state, is unable to serve general prevention properly. In the field of environmental crimes, a high level of latency can be observed. This phenomenon may be explained by the passivity of the authorities or the lack of specialised staff.³⁶ In addition, criminal statistics from the USA proved that perpetrators of such offences usually did not get imprisoned. The reason behind this tendency is probably the fact that in such cases there are more mitigating circumstances than in connection with ordinary delicts: the perpetrators tend to make a confession and cooperate with the authorities.³⁷ Moreover, penalties that can be imposed against the perpetrators of these delicts are too light. For instance, *Veronique Jaworski* recorded that activities which harm endangered species had a lower scale of penalties compared to a common theft.³⁸

From an economic aspect, environmental damage can be interpreted as an unpaid cost of the companies that remains externalised and will be „paid” by the society. Therefore, social pressure and regulation should force the economic operators to internalise this amount.³⁹ According to the model of the „rational polluter”, the polluter will not cease its harmful activity until the point where the marginal cost of the sanctions equals the marginal benefit,⁴⁰ so the legislator shall create an optimal sanctioning regime which would make pollution economically disadvantageous. Nevertheless, overregulation in the field of environmental law tends to cause the decrease of competitiveness. From the 90s, in the name of sustainable development, new environmental strategies were created aiming at the amelioration of corporate productivity and

³² Code pénal Art. 131-8-1

³³ Code de l'environnement Art. L541-46

³⁴ Code pénal Art. 132-71

³⁵ *Jaworski* (2009) 899. p.

³⁶ *Kõhalmi* (2010) 130-131 p.

³⁷ *Boyd* (2008) 497. p.

³⁸ *Jaworski* (2009) 910-912 p.

³⁹ *Boiral* (2004) 2. p.

⁴⁰ For more details see: *Kõhalmi* (2010) 149-153. p.

competitiveness, while also respecting environmental interests. This theory of a win-win situation, also called Porter hypothesis, has not proved to be feasible in the practice without any trouble.⁴¹

Regarding criminal sciences, we should highlight the ideas of a newer branch of criminological theories, the so-called „green criminology”. This area, usually considered a critical trend, supports the extension of our traditional conceptual framework in connection with perpetrators and victims.⁴²

In this context, we can distinguish three main ideological approaches: anthropocentrism, biocentrism and ecocentrism. While the latter two are based on the equality of all living beings and the major responsibility of humanity due to its intellectual superiority, current regulation reflects the anthropocentric approach, meaning that the main purpose of environmental regulation is to satisfy human needs in a sustainable way. Critics of this ideology also call it „green capitalism”.⁴³ That is why certain researchers suggest the application of a new, bio- or ecocentric approach in criminology, in which ecosystems and non-human beings would have a key role as the victims of environmental crimes.⁴⁴

From our point of view, it is also necessary to see the interpretation of the perpetrator applied by green criminology. In a broader sense, everyone can be considered perpetrator who benefits from environmental damage in some way, whether it is a natural or legal person, or even a country.⁴⁵ Here we have to make two distinctions. From a practical point of view, it is evident to make difference between individual and corporate crime, since their motivations also differ, thus the legal instruments used against them shall be different.

On the other hand, we are able to identify a special type of white-collar crime in connection with pollution, named „green-collar crime”. Significant differences regarding the characteristics of these two categories can be demonstrated. In short, we have to point out that classic white-collar criminals realise actions to gain illegal profit, while green-collar crime mainly consists of the non-compliance of certain legal obligations with the intention of reducing costs, causing a higher level of pollution.⁴⁶

In accordance with the two categories of perpetrators, two regulation models were developed: the imperative and the cooperative ones. The latter, concentrating on prevention and reparation, shall be applied against individual perpetrators whose illegal activities root in ignorance. The former could be efficient against corporate crime, also sanctioning the failure of control and supervision.⁴⁷ In contrast, other scholars supply the introduction of a new term called „environmental illegalities” which could be committed also without intent or negligence, it is to say a new form of objective liability in criminal law using sanctions similar to the ones used by civil law, breaking through the strict doctrine of criminal law.⁴⁸

In my opinion, the usage of reparative sanctions within the field of penal law is to be welcomed, but it does not require the introduction of a new type of criminal offences. Besides, I suppose that the methods of imperative and cooperative models should be combined in the field of corporate crime to accomplish all the objectives of the sanctioning regime at the same time.

We have already seen through the French example that a reparative penalty like *sanction-réparation* can also be imposed next to the penalty of imprisonment or a fine which serve repressive and preventive goals. We have also noticed that Spanish criminal law provides

⁴¹ For real-life examples see: Boiral (2004) 3-5. p.

⁴² Korinek (2013) 137-138. p.

⁴³ Irk (2016) 12-15. p.

⁴⁴ Ailén Jarque (2021) 77. p.

⁴⁵ Ailén Jarque (2021) 81. p.

⁴⁶ Molnár (2021) 273-275. p.

⁴⁷ Molnár (2021) 281-283. p.

⁴⁸ South (2014) 9. p.

a special ground for exemption related to the violation of waste management rules. Currently, Hungarian criminal law lacks such a provision.

Apart from these solutions, a huge amount of alternative sanctions seems conceivable. We may mention the idea of „therapeutic jurisprudence” which suggests the establishment of so-called „problem solving courts” specialised for such cases. Alternative sanctions like obligatory external audit, mandatory organisation of presentations and education about environmental awareness etc. could be imposed. Another popular tendency is the application of restorative justice.⁴⁹ In such a process, the perpetrator is confronted with the victims of his act and the parties are able to share their motives and thoughts on the case to find an appropriate way of redress. Naturally, both approaches have potential pitfalls,⁵⁰ yet these ideas seem to be promising.

Otherwise, we must not ignore the fact that the measures of different branches of law are enforceable simultaneously in case of violation of the norms of environmental law, so criminal law does not need to solve all the possibly emerging problems.

III. Conclusion

Waste problem has recently become potentially the most significant risk factor in the field of environmental security. The regulation requires a unique approach, since waste management strongly differs from other areas of environmental law. This branch of law uses a complex liability regime from which the criminal law elements were put under the spotlight.

Directive 2008/99/EC of the European Parliament and of the Council contains supranational rules concerning environmental crimes. It formulates two criminal offences related to waste management that had to be implemented by the member states. However, the introduction of effective, proportionate and dissuasive penalties remained a national competence.

We have seen through the example of three member states that the applicable penalties vary widely and become more severe when the conduct realises a serious damage or threat to the protected values. The majority of elements undefined by EU law also remained a professional question at national level. It was proved that the absolutely dependent model of environmental crimes regulation makes jurisdiction pointlessly complicated, thus the application of the relatively dependent model should be preferred.

Through the results of other social sciences we have noticed that the successful prevention of environmental crimes requires other solutions than the strict penalties of criminal law. After separating the concepts of individual and corporate crime in connection with environmental protection, we have concluded that, despite of certain differences, the application of alternative sanctions in all these cases seems to be fruitful.

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⁴⁹ An instrument of restorative justice also exists in Hungarian substantive criminal law, but can not be applied to all kinds of offences, see: Btk. Section 29 „Active Repentance”

⁵⁰ For more details see: Boyd (2008) 503-510. p.

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Sources of law

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 - Judgement C-176/03
- Hungarian law
 - Act LIII of 1995
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 - Act II of 2021
- Spanish law
 - Constitución Española (1978)
 - Ley Orgánica 10/1995 del Código Penal
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