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STATE CONTROL IN THE FIELD OF USE HUNTING IN THE REPUBLIC OF MOLDOVA

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Citizen's right to a healthy and harmless is a primary law. National and international normative acts are meant to regulate large this fundamental right. Also, the right to a healthy environment and harmless is provided by specialized administrative bodies in this regard which are empowered to carry out the state of all levels. This article identifies the competent authorities exercise state control over wildlife and establishes funding problems within the industry. It makes a comparative analysis of the legislation of other states regarding state control of game and hunting use of funds.

Key-words: control state, constitutional right to a healthy environment and harmless, hunting, the hunting public administration.

CONTROLUL DE STAT ÎN DOMENIUL VÂNĂTORII ÎN REPUBLICA MOLDOVA

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Dreptul cetățeanului la un mediu sănătos și inofensiv este prioritar. Actele normative naționale și internaționale sunt menite să reglementeze acest drept fundamental. De asemenea, dreptul la un mediu sănătos și inofensiv este asigurat de organele administrative specializate în această privință, care sunt împuternicite să monitorizeze situațiile la orice nivel. Acest articol identifică autoritățile competente să exercite controlul asupra vieții sălbatice și stabilește probleme de finanțare în cadrul industriei. Se efectuează o analiză comparativă a legislației altor state cu privire la controlul de stat asupra vânătoarei și al folosirii fondurilor de vânătoare.

Cuvinte cheie: starea de control, dreptul constituțional la un mediu sănătos și inofensiv, vânătoare, administrația publică de vânătoare.

Introduction. Among the fundamental human rights of "third generation" rights of solidarity, the right to a healthy and ecologically balanced environment can be characterized by a special dynamic in terms of its legal recognition and guarantee both nationally and internationally. Initially proclaimed the Declaration on the Human Environment in Stockholm in 1972, enshrined the constitutional and legislative states, this right is perceived with difficulty, the system judicially European Convention on Human Rights and Fundamental Freedoms and EU law. In the absence of specific regulations, it is recognized and guaranteed, especially at procedural and judicially.¹

In fact, this situation was conditioned by factors of social, political and historical, but first we encounter problems with effective assurance, material of such a right. Therefore, current efforts have focused on establishing procedural safeguards designed to enable knowledge dimensions of environmental issues and to ensure citizens the opportunity to become involved in their resolution. This mismatch between, on the one hand, national laws, and on the other, international law and Community law creates many difficulties especially integrative nature of environmental law.

Such an approach was justified likely vigilant if the international community has identified certain limit to which a touch injurious environment constitutes a violation of

¹ Mircea Duțu, "Environmental Law", Publishing C.H.Beck, Issue 2, Bucharest, 2008, p.128.

a human right to the environment.² But today, when the threats global environmental problems threatening human society, protecting the environment is not a simple interest, but a fundamental right, essential for human survival as a species among species.

In this respect, devotion to constitutional increasingly is a positive step and opens its inclusion among the fundamental rights.

Nationally, Article 37 expressly *Moldova's* constitution establishes a constitutional right of every citizen to a healthy environment. Everyone has the right to an environment in ecologically harmless to life and health, and food and household items harmless. State guarantees everybody the right to free access and to spread truthful information regarding the state of the natural environment, living conditions and working conditions, the quality of food and household items.³ However, if any discrepancy between the covenants and treaties on fundamental human rights to which Moldova is a party and internal laws, the international regulations shall prevail.⁴

It is indisputable that the state is that institution which serves as a guarantee of protection of fundamental constitutional rights, including the environment. However good the existence of these rights is ensured state control exercised by organs branch.

Theoretical. Regulation household hunting widely⁵ used term “*hunting*” is made up of animals hunting interest and many hunting grounds.

Romanian law defines “*hunting fund*” as a set of wild animals hunting interest, together with their biotypes (environmental conditions in which they live and grow), which is composed of household units hunting, hunting called, constitution on the all categories of land, regardless of ownership, and so delimited as to ensure as much stability in their con-

tent game.⁶ Not included in the hunting areas built or fenced perimeter of the built surfaces scientific reserves, national parks, World Heritage sites and areas strictly protected areas within wetlands of international importance.⁷

Also in Moldovan legislation is proving lack of a comprehensive legal framework that would cover hunters and wildlife protection funds. *Draft Law on hunting fund* broader governing this field, clarifying certain existing inconsistencies in the legislation. Thus, under the “*hunting*” is all wild animals hunting interest and their living places, and “*hunting*” is a territorial unit to game management, located on different categories of land, with clearly delineated boundaries that ensure game stability.⁸

State wildlife Fund is a unique and indivisible, that is not subject to privatization or transfer to another form of ownership than public.

Managing household hunting in the state forest fund and departmental control over it are made by the central forestry authority.

Hunting household management (control, protection, reproduction and rational use of hunting resources) the funds of the hunting territory of forests is carried out predominantly by the ***Society of Hunters and Fishermen in Moldova*** under contracts with local government authorities' first level by agreement with central authority empowered to natural resource management and environmental protection.

The right to manage the household hunting forest land allocated is performed under the contract of lease hunting forest land between central forestry authority and the beneficiary, for a period of 10 to 20 years by agreement with the central authority with progestin's and control of natural resources and environmental protection.⁹

² P.Sands, “Principles of International Environmental Law”, vol.I, Manchester University Press, 1995, p.222.

³ The Constitution of Republic of Moldova 29.07.1994, Official Gazette of RM, No. 1 of 12.08.1994.

⁴ Ibid, article 4, paragraph 2.

⁵ Annex 1 to Law nr.439 the animal kingdom, Official Gazette of the Republic of Moldova nr.62-63 of 11/09/1995.

⁶ See art. 1 letter i) of Act No. 407 of hunting and the protection of hunting / 2006, Official Gazette nr.944 from 22.11.2006, the hunting by means of hunting fauna, together with all the hunting.

⁷ Daniela Marinescu, “Treaty of environmental law”, Third Edition, Legal Universe, Bucharest, 2008, pag.297.

⁸ <http://moldsilva.gov.md/libview.php?l=ro&id-c=247&id=381&t=/Transparenta-decizionala/Proiecte-de-decizii/Consultari-publice/Consultare-publica-pentru-Proiectul-Legii-Fondului-Cinegetic-si-Protectia-Vinatului>

⁹ Paragraph 11 of Regulation household hunting, Official Gazette of the Republic of Moldova nr.62-63 of 11/09/1995.

Assignment preponderantly unwooded land hunting by hunting funds is made based on contracts between local government authorities and the beneficiaries of the first level, for a period of not less than 10 years by agreement with the central authority for the management and control of natural resources and with environmental protection.

Guard and protection of hunting is the competence of the appropriate State and the beneficiaries' landowners hunting.

Managing household hunting and departmental control over the activity of natural and legal persons on the protection, use and reproduction hunting, sports and amateur hunters' development is carried out by the central forestry authority.

Also lists local legislator rights organizations and individuals in positions of responsibility of state bodies authorized to exercise control in the use hunting namely:

- carry out control over the observance of rules, regulations, terms established by law, and requirements for protection and use of animals,

- to exercise control over state record keeping of animals,

- to exercise control over fairness and the opportunity to develop and conduct measures to preserving habitat conditions for breeding and migration routes of animals,

- control card hunter, authorization for possession, and use of arms firearm hunting license (sheet, sheet harvesting), the authorization of hunters hunting dog passport, other persons, who are hunting lands and roads public fire guns, hunting dogs, with tools to catch and production of game,

- to control hunting bags, guns, ammunition, hunting and production of transport of citizens who violated the requirements of the law, documents establish their identity, and in the absence of these documents or refusal to present-to be brought to the nearest police station or local government body for establishing identity

- prepare 3 copies of minutes on per-

sons who committed violations of the requirements set, 2 of which shall be sent within three days to the central authority for managing natural resources and the environment for taking those measures. In case the offender refuses to sign the minutes, in it is an appropriate note, confirmed by the signature of witnesses,

- to confiscate illicit game production, handicraft production items made from it and send them as documents, purchasing organizations and trade sale,

- seize the citizens who have committed violations of the terms and rules of hunting guns, hunting tools, means of transport if they were used as hunting tools unlawful and hunting books, and hold them in a manner determined by to tackling offenders Liability.¹⁰

Central authority empowered to natural resource management and environmental protection exercise control over:

- protection and use of the animal kingdom, the fulfillment by all ministries, individuals and legal obligations to protect the animal kingdom, respecting the established use of wildlife resources,

- household management and compliance by beneficiaries hunting land requirements imposed by legislator,

- the status and development trends of hunting,

- compliance with laws and other regulations regarding the use and protection of hunting,

- development and implementation of the programs and measures for the protection and reproduction hunting, • compliance with the limits set by the use of hunting,

- cessation of work on making that violate the rules, regulations and other requirements for protection and use of the animal kingdom, protection of habitat conditions for breeding and migration routes of animals to eliminate violations.

Central authority empowered to natural resource management and environmental

¹⁰ Item 83 of Regulation household hunting, Official Gazette of the Republic of Moldova nr.62-63 of 11/09/1995.

protection unconditionally prohibits hunting of some or all species of game both in land area and separate and throughout the country where hunting fund suffered from natural disasters, disease outbreaks or in other instances.

State Environmental Inspectorate has the right:

- to stop unauthorized use of hunting and use in violation of rules, regulations, deadlines and other requirements for protection and use of hunting,
- to develop guidelines on the disposal enforceable violation of rules, regulations, deadlines and other requirements for the protection and use of hunting,
- to amend the terms and methods of hunting or prohibit hunting in order to restore optimal density of various species of game, ridden after natural disasters and disease outbreaks in wildlife or domestic environment,
- to release recipients hunting land, regardless of time and place hunting permits for shooting the animals, if they are hurting farm, forestry, and other areas of national economy and security purposes, battles with rabies or other objective causes,
- to fine people in positions of responsibility or some people who violated the requirements of the law, and to make proposals appropriate bodies to initiate criminal proceedings against persons guilty of shares, subject to criminal liability,
- to bring civil actions in courts and Arbitration for damages caused by hunting,
- controls and if necessary, extract the venison production in kind to the reception points, bases, at other locations, as well as businesses, organizations that manufactured items of game production, control acts related to hunting household collection, processing and realization of game production,
- free tools to confiscate illegal hunting of persons guilty of violating legal norms and rules of hunting safety.

Scientific research. Like in the UK lack specialized organs to exercise state control over the use of hunting. Therefore, ex-

ercise regulation on hunting and hunting funds is performed within the jurisdiction of various governmental and non-governmental organizations and local authorities.¹¹

Not long ago the **British lacked** a clear regulatory framework on rural life, hunting and fishing. However, in the late 70 's, governments that were administered funds especially hunting methods prohibitive, gradually introducing various restrictions on the use of the animal kingdom objects hunting purposes. Existing normative acts aimed at hunting in Britain can conveniently be divided into 2 broad categories:

- 1) laws governing hunting weapons and ownership,
- 2) laws relating to wildlife and the countryside.

The right to hunt in the UK is subject to ownership of land. Laws governing ownership of land are different in England and Wales on the one hand, in Scotland and Northern Ireland, on the other hand. In terms of hunting opportunities applicable to the general rule, according to which the ownership of wild animals, objects of hunting, capture them appears only once, and therefore unconditional hunting may be exercised only by the landowner or the person authorized by the owner. Violation borders forest funds authorized by hunters without permission is a crime and illegal crossing of the border with a gun is a serious crime, even if the gun was not loaded. Violation boundaries also influences hunting dog, the responsibility being assumed by their owners. Wild animals are moving from one fund to another forest in principle does not violate the boundaries of the forest fund, so the fund owners are not arises any liability relating to compensation of damage caused by wildlife.

In the Russian Federation regulating state control over the use of hunting is done by state inspectors who have hunting and firearms.¹² Similar regulations currently only

¹¹http://www.journalhunt.ru/arhiv-nomerov/2010-god_787/noyabr/article_885.html

¹² Article 40 of Law No. 209 of the Russian Federation on hunting and wildlife protection funds from 24.07.2009.

be found in the draft Law of the Republic of Moldova hunting in Article 25, which contains provisions on state inspection for hunting which is exercised by the central public authority responsible for household hunting. According to the Project said state inspectors for hunting in the line of duty in hunting, will be entitled to the firearm, including its own hunting throughout the year.

In Romania the competent bodies in the exercise of state control of hunting at all levels is the central public authority responsible for forestry and manages wildlife hunting.¹³

Conclusions and implications. State control of the use of hunting is one of the leading insurance premises constitutional right to a healthy environment and harmless. This can only be achieved through administrative branch being applied levers and tools of influence, and if necessary by the application of coercive force of the state are attracted to natural and legal liability that violate hunting laws.

Analyzing legislative practice applied in neighboring states, we conclude that however Moldovan legislation aimed at hunting and wildlife protection funds are at a level that requires continuous improvement and enhanced.

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¹³ Article 6 letter l, of Law 407/2006 hunting and protection of hunting, Official Gazette nr.944 from 22.11.2006.