



Fiscal de Sala Coordinador de Medio Ambiente y Urbanismo  
Fiscalía General del Estado

# **THE ROLE OF PUBLIC PROSECUTORS IN THE PROTECTION OF THE ENVIRONMENT**

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## **SOCIAL ATTITUDES TOWARDS THE ENVIRONMENT**



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## **HUMAN INFLUENCE IN WILD ANIMALS**



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**THE COUNCIL OF EUROPE AND THE PROTECTION  
OF THE ENVIRONMENT IN THE CONTEXT OF THE  
PUBLIC PROSECUTION SERVICES**



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**COUNCIL OF EUROPE COMMITTEE OF MINISTERS RESOLUTION  
(77) 28 ON THE CONTRIBUTION OF CRIMINAL LAW TO THE  
PROTECTION OF THE ENVIRONMENT  
(Adopted by the Committee of Ministers on 28 September  
1977, at the 275th meeting of the Ministers' Deputies)**



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**Considering that various aspects of present-day life, especially industrial development, entail a degree of pollution which is particularly dangerous to the community;**

**Considering that the health of human beings, animals and plants and the beauty of landscapes must be protected by all possible means;**

**Considering that while recourse to the criminal law in this field should be a last resort, nevertheless use must be made of it when other measures are not observed or are ineffective or inadequate;**

**Considering that it is in the interests of the member states of the Council of Europe to develop a common policy directed towards effective protection of the environment;**



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**Recommends governments of member states:**

- 1.- Examination of criminal penalties for damage to the environment;**
- 2.- Re-examination of the principles of criminal liability, with a view, in particular, to the possible introduction in certain cases of the liability of corporate bodies, public or private;**
- 3. Examination of the advisability of criminalising acts and omissions which culpably (intentionally or negligently) expose the life or health of human beings or property of substantial value to potential danger;**





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**4. re-examination of criminal procedure in matters of environmental protection and in particular:**

**a. creation of specialist branches of courts and offices of public prosecution to deal with environmental cases.**

**b. means of giving persons or groups the right to become associated with criminal proceedings for the defence of the interests of the community.**

**c. creation of a special criminal register of persons convicted for pollution, independently of the general criminal register.**

**d. exclusion from amnesty of serious environmental offences.**



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**Draws attention to the advantages which certain member states may derive from gradually compiling in a single collection in particular the criminal provisions relating to environmental protection with a view to:**

- a. subsequent consolidation at a national level, e.g. by codification, of the entire legislation on the environment in so far as this appeared desirable or feasible,**
- b. an eventual future harmonisation of all legislations of the member states of the Council of Europe in this field;**

**Recommends to the governments of member states that they ensure wide circulation within their departments concerned of the report by the European Committee on Crime Problems on the contribution of criminal law to the protection of the environment;**

**Invites the governments of member states to report to the Secretary General of the Council of Europe every five years on the action they have taken on the recommendations contained in this resolution.**



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**EUROPEAN COURT OF HUMAN RIGHTS**



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## **INITIAL PHASE**

- **REJECTION OF COMPETENCE ALLEGING “RATIONE MATERIAE” (1969-1980).**

**( SINCE THE PROTECTION OF THE ENVIRONMENT IS NOT A RIGHT INCLUDED IN THE EUROPEAN  
CONVENTION OF HUMAN RIGHTS )**





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## **SECOND PHASE**

- **INDIREC PROTECTION OR REBOUND PROTECTION .  
(PROTECTION PAR RICOCHET)**
- **SINCE SOME HUMAN RIGHTS ARTICLES HAD AN ENVIRONMENTAL DIMENSION.**
- **MOST RELEVANT COURT ROULINGS:**
  - **1980: ARRONDELL (ARTICLE 8 ECHR) (NOISE GATWICK AIRPORT).**
  - **1990: POWELL AND RAYNER (ARTICLE 8 ECHR) (NOISE HEATHROW AIRPORT).**
  - **2003: HATTON AND OTHERS (ARTICLE 8 ECHR) (NOISE HEATHROW AIRPORT).**



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## **THIRD PHASE**

### **TWO KEY COUR RULINGS**

- **1991: FREDIN (SWEDEN)**
- **1994: LOPEZ OSTRAL (SPAIN)**



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## **FOURTH PHASE**

### **TWO RECENT COURT RULINGS**

- **2016: FIERCOLECT IMPEX SRL (ROMANIA)**
- **2017: SUGHELI ET AL (GEORGIA)**

**IMPORTANT INITIATIVE: THE MANUAL**



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**THANK YOU FOR YOUR ATTENTION**