

CZU: 349.6

DOI 10.5281/zenodo.15552837



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ECOLOGICAL CONTROL ACT: LEGISLATIVE FRAMEWORKS FOR ENVIRONMENTAL IMPACT MITIGATION IN MODERN CONSERVATION POLICY

Annotation: The present study explores the ecological control act as an essential instrument of environmental regulation, aiming to clarify its definition, classification and applicability in the context of environmental legislation. The research aims to analyze the legal nature of the ecological control act, identify its typologies and highlight the impact on environmental law relations.

The methodology used includes a detailed doctrinal and legislative analysis, complemented by a comparative examination of administrative practices. The classification of ecological control acts was carried out based on criteria such as the number of parties involved (unilateral, bilateral, multilateral), the effects produced (generative, constitutive, translative), the mode of execution (instantaneous, successive) and the form of conclusion (verbal, written, electronic).

The results highlight the diversity of ecological control acts and their importance in preventing environmental degradation. The study highlights the need for harmonization of legislation to fill the existing gaps in the regulation of some types of unnamed acts and to ensure their validity and efficiency. The conclusions provide a solid basis for improving the regulatory and administrative framework of environmental control.

Keywords: environmental control act sustainable resource management, pollution prevention and environmental quality protection, protection of critical habitats.

ACTUL CONTROLULUI ECOLOGIC: CADRUL LEGISLATIV PENTRU ATENUAREA IMPACTULUI ASUPRA MEDIULUI IN POLITICA DE CONSERVARE MODERNĂ

Adnotare: Studiul de față explorează actul de control ecologic ca instrument esențial al reglementării mediului, având drept scop clarificarea definiției, clasificării și aplicabilității acestuia în contextul legislației de mediu. Cercetarea își propune să analizeze natura juridică a actului de control ecologic, să identifice tipologiile acestuia și să evidențieze impactul asupra raporturilor de drept ecologic.

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Metodologia utilizată include o analiză doctrinară și legislativă detaliată, completată de o examinare comparativă a practicilor administrative. Clasificarea actelor de control ecologic s-a realizat pe baza criteriilor precum numărul părților implicate (unilaterale, bilaterale, multilaterale), efectele produse (generatoare, constitutive, translativă), modul de executare (instantanee, succesive) și forma încheierii (verbală, scrisă, electronică).

Rezultatele evidențiază diversitatea actelor de control ecologic și importanța acestora în prevenirea degradării mediului. Studiul subliniază necesitatea armonizării legislației pentru a acoperi lacunele existente în reglementarea unor tipuri de acte nenumite și pentru a asigura validitatea și eficiența acestora. Concluziile oferă o bază solidă pentru îmbunătățirea cadrului normativ și administrativ al controlului ecologic.

Cuvinte-cheie: *actul de control ecologic, gestionarea durabilă a resurselor, prevenirea poluării și protejarea calității mediului, protecția habitatelor critice*

1. INTRODUCTION

In the field of environmental law, an environmental control act is a legal and administrative measure intended to monitor and regulate human activities in order to prevent or mitigate negative effects on the environment.¹ These acts are fundamental for the implementation of environmental policy and include various legal instruments such as laws, regulations, directives and decisions, all of which have the role of ensuring compliance with environmental protection rules.²

Environmental control acts may include:³

- *Preventive measures:* These measures are designed to prevent pollution and environmental degradation, applying the precautionary principle and the „polluter pays” approach.

- *Sanctions and liabilities:* In cases of violation of environmental legislation, criminal or administrative sanctions may be applied, such as fines, restrictions on certain activities or even the closure of polluting units.

- *Monitoring and evaluation:* This involves the constant surveillance of environmental conditions and the assessment of the influence of human activities on ecosystems.

These acts aim to maintain the ecological balance and protect human health and the environment. The ecological control act, defined as a legal and administrative manifestation essential for the regulation of human activities with an impact on the environment, which can be optimized through a detailed classification and harmonization of existing legislation, so as to become a more effective instrument in preventing environmental degradation and promoting sustainable management of natural resources. This hypothesis suggests that a thorough understanding of the typologies and effects of ecological control acts, as well as a continuous adaptation of the regulatory framework, can significantly contribute to the consolidation of modern environmental conservation policies.

2. METHODOLOGY

In the development of this study on the environmental control act, legal and administrative research methods were used, complemented by a comparative analysis of

¹ Durac Gh., Bourlaud L., Dreptul mediului. Răspunderea juridică pentru daunele ecologice; doctrină și legislație. Iași: Junimea, 2004. 391 p.

² Бринчук М. М. Экологическое право. Москва: Юристъ, 1998, 684 с.

³ Ardelean G., Repararea prejudiciului ecologic, GlobeEdit, Academia de „Științe ale Moldovei”, Chișinău, 2017. 251 p.

legislation and administrative practices. The methodology included:

1. **Doctrinal analysis:** Relevant scientific works were studied to clarify the definition and classification of environmental control acts, as well as to understand the evolution of the concept in environmental law.

2. **Legislative examination:** A detailed analysis of national and international legislation in the field of environmental protection was carried out, identifying the specific regulations governing environmental control acts.

3. **Study of judicial practice:** Relevant cases from jurisprudence were analyzed to illustrate the practical application of environmental control acts, highlighting the challenges encountered in their implementation.

4. **Comparative method:** By comparing the legislation and practices of different jurisdictions, good practices were identified that can be integrated into the national legal system to improve the regulation of environmental control acts.

The materials used include legislative texts (laws, regulations, directives), administrative documents (decisions), as well as doctrinal and empirical sources. Data from official reports on the state of the environment and the impact of human activities on ecosystems were also included. This integrated approach allowed for a comprehensive analysis of the subject, providing a solid basis for the conclusions and recommendations formulated in the study.

3. DISCUSSIONS AND RESULTS

Based on the proposed purpose, we consider it relevant to start by giving the definition and essence of the ecological act.

3.1. Definition and essence of the ecological control act.

The ecological control act constitutes the way in which the control process is expressed.⁴

Although the ecological control doctrine offers various definitions of the ecological control act, however, in order to identify its essence, it is necessary from the start, in our opinion, to resolve the issues related to what the ecological control act represents in the sense of environmental law regulations and how the ecological control act differs from other similar institutions.

The doctrine defines the act of ecological control, at least in two ways.⁵ The first way represents a traditional approach to defining the act of ecological control, as a manifestation of will committed with the intention of producing ecological control effects, that is, to create, modify or extinguish an ecological control relationship. The second represents a definition of the act of ecological control in relation to the acts to be undertaken by the controller - the ecological inspector, where the act of ecological control is viewed as a manifestation of will - unilateral, and as the case may be bilateral or even multilateral - committed with the intention of establishing, modifying or extinguish, according to objective law, ecological control relationships, provided that, the very production of the ecological control effects depends on the existence of this intention.

In summarizing the above, we refer to the definition of the act of ecological control,

⁴ Capcelea A., Dreptul ecologic. Chișinău: Știința, 2000. 269 p.

⁵ Ionita G.I., Ionita-Burda Șt. D., Dreptul protecției mediului, ediția a V-a, Editura Universul Juridic, București, 2022, p.257.

where, based on the above, we conclude that the act of ecological control represents a manifestation of will carried out by one or more persons (natural or ecological control), which aims to create, modify or extinguish ecological environmental control relationships.

3.2. Classification of the ecological control act.

The environmental law legislation in force expressly regulates the regime of certain categories of ecological control acts. However, as a result of social development and business expansion, in addition to regulated ecological control acts, new categories of ecological control acts have appeared, partially regulated or not fully regulated by law. And for this reason, the need to carry out a classification of the ecological control act was felt.

Following an analysis of the doctrinal sources and the legislation in force, we can reveal the following classification of the ecological control act:⁶

- Depending on the number of parts of the ecological control act, we distinguish unilateral, bilateral and multilateral ecological control acts.

The unilateral act of environmental control is one that produces its effects only due to the manifestation of will of a single party to the report. In other words, there are those acts of environmental control that give rise to obligations only for one of the parties. For example, the provision to carry out environmental control serves as a unilateral act of environmental control.

Bilateral and multilateral acts of environmental control are those in which their effects are the result of the agreement of will of both or all parties participating in the environmental control. The bilateral act of environmental control is the act in which the participating parties are two persons, and in the multilateral act of environmental control there are more than two persons. The environmental agreement represents the purpose of a multilateral act of environmental control.

- Depending on the effect produced by the ecological control act, we distinguish ecological control acts generating rights, ecological control acts constituting rights, ecological control acts translating rights and ecological control acts producing the effect of extinguishing rights.⁷

Generating rights are those ecological control acts, through the performance of which the birth of rights and obligations is produced as an effect, usually non-existent until the moment of issuing or committing the act. Thus, the provision extending the ecological control term generates the right of the control authority to extend the control for the duration of the 5-day term.

Constitutive of rights are those acts of environmental control, which involve the consolidation of a pre-existing right. In turn, acts of environmental control constituting rights can be: of consolidation or modification of the right. For example, the decision to approve the environmental agreement is an act of environmental control constitutive of rights and consolidation, because by carrying out this act of environmental control, the beneficiary of the planned economic activity can realize a pre-existing right over the future activity, but which at the moment cannot realize it, because the law prescribes the condition of carrying out the prior control.⁸

⁶ Duțu M., Dreptul mediului și al climei, Vol. I. Partea generală, Editura Universul Juridic, București, 2022.

⁷ Ionita G.I., Ionita-Burda Șt. D., Dreptul protecției mediului, ediția a V-a, Editura Universul Juridic, București, 2022, p.257.

⁸ Zamfir P, Evaluarea impactului asupra mediului – ca instrument juridic de promovare a intereselor în context transfrontalier: problema bazinului râului Nistru, 2020.

Translative ecological control acts are those that aim to transfer (transmit) an existing right or obligation from a person – party to the ecological control act to another person who is also a party to the ecological control act. In turn, translative ecological control acts can be: translative of rights, translative of obligations and mixed. In the latter, the transmission takes place, simultaneously, of both rights and obligations.⁹

Ecological control acts concerning the extinguishment of rights constitute that category of ecological control acts, the implementation of which has as its effect and purpose the extinguishment of certain obligations or rights. For example, the decision to impose a restriction on the use of environmental resources, as an ecological control act that has as its effect the extinguishment or suspension of the rights of the beneficiary of environmental use, to use these resources.¹⁰

• Depending on their formation, we distinguish consensual and formal ecological control acts.

*Consensual ecological control acts*¹¹ are that category of ecological control acts that are considered concluded, and produce effects, as a result of the simple agreement of the parties' will. These ecological control acts are governed by the rule according to which the ecological control act is considered concluded when the parties have agreed on the essential conditions of the ecological control act. An example can be the impact assessment act, which is also the applicant, who initiates the impact assessment, can withdraw it at any time until approval.

*Formal*¹² are ecological control acts that, in order to be considered valid, require compliance with certain formalities, or conditions of solemnity or form. An example of a solemn act can be the Delegation of Control, which, not being presented to the party subject to control, will not produce the effect of initiating the control procedure.

– Depending on the method of concluding the ecological control act, we distinguish between ecological control acts that can be concluded strictly personally and ecological control acts that can be concluded through a representative.

Ecological control acts that can be concluded strictly personally are those that can only be concluded by the right holder or by the person who is to carry out the control. Thus, for example, the legislator establishes that the ecological control can be carried out strictly by the person indicated in the control delegation.¹³

*Ecological control acts that can be concluded through a representative*¹⁴ are usually those acts that already belong to the person subject to control. We refer to the process of contesting decisions on control, etc.

Depending on whether or not they are regulated by the legislation in force, we distinguish between named and unnamed ecological control acts.

*Named*¹⁵ are the ecological control acts that correspond to a specific ecological control operation and that are named in the environmental law legislation, as they are usually

⁹ Dutu M, *Tratat de dreptul mediului*, Ediția a 3-a, Editura C.H.Beck, București, 2007, p.464

¹⁰ Ardelean G., *Consacrarea diferitor tipuri de prejudicii ecologice prin prisma specificității care le caracterizează*, 2016. În: *Legea și viața*, nr. 5/2016. p. 40-45.

¹¹ Боголюбов С. А. *Экологическое право. Учебник для вузов*. Москва: НОРМА, 1998. 434 с.

¹² Калинин И.Б., *Экологическое право*, Томск, 2009.

¹³ Barac L. *Răspunderea și sancțiunea juridică*, București: Lumina Lex, 1997. 376 p.

¹⁴ Barbu A I, *Dreptul mediului*, editura C.H. Beck, București, 2017.

¹⁵ Badescu V-S, *Dreptul mediului. Sisteme de management de mediu*, Editura C.H. Beck, București, 2011, 414 p. ISBN 978-973-115-862-4.

assigned a name, which is usually related to a regime set in a legal text. The category of typical ecological control acts is formed by the delegation of control, the decision to apply the restrictive measure, the decision to extend the control term, the control report, etc.

*Unnamed*¹⁶ are the ecological control acts that, according to a specific name, do not enjoy a specific regulatory regime determined by law, as they cannot usually be assigned to a homogeneous category of ecological control acts. They are the expression of the freedom of will of the person exercising the control. The respective category of ecological control acts includes acts that request certain information, documents, indicate a certain way of carrying out the control, etc.

- Depending on the way the ecological control act is executed, we distinguish between ecological control acts of instant execution and ecological control acts of successive execution.

*The act of ecological control of instant execution*¹⁷ is that act of ecological control, in which its execution involves a single performance, the extent of which usually cannot be assessed in temporary parameters. The execution of such contacts occurs immediately. Examples of acts of ecological control of instant execution can be the decision to establish the additional term for carrying out the control.

Acts of ecological control of successive execution are those, the manner of execution of which involves multiple, successive actions, usually staggered in time. An example of such acts of ecological control can be the decision to establish a restrictive measure.¹⁸

- Depending on the correlation between them, we distinguish main acts of ecological control and accessory acts of ecological control.

The *main* ones are the ecological control acts, the execution of which is not conditioned by the manner and condition of execution of another ecological control act and which, in fact, have an independent existence.

Accessory is the ecological control act, the execution of which depends on the content and manner of execution of another ecological control act. An example of an accessory ecological control act is the decision to extend the term for performing the control.

- Depending on how the will to perform the ecological control act is expressed, we distinguish between mandatory and negotiated ecological control acts.

Mandatory ecological control acts are those, the execution of which is required by law, and the parties, participants in the control are not able to discuss the appropriateness of their issuance, presentation or performance.

Negotiated are the ecological control acts, upon the realization of which the parties negotiate or can negotiate any condition thereof. The category of negotiated ecological control acts is formed, for example, by the environmental agreement.

- Depending on the possibility of revoking the ecological control act, we distinguish between *revocable* ecological control acts and *irrevocable* ecological control acts.

Although the ecological control act represents an act through which the exercise of a public interest is ensured – that of environmental protection, nevertheless the hypothesis that certain ecological control acts could lose their importance, significance or ne-

¹⁶ Badescu V-S, Dreptul mediului. Sisteme de management V de mediu, Editura C.H. Beck, București, 2011, 414 p. ISBN 978-973-115-862-4.

¹⁷ Dutu M, Dutu A, Răspunderea în dreptul mediului, Editura Academiei Române, București, 2015.

¹⁸ Codul funciar, nr. 828-XII din 25.12.91, republicat: Monitorul Oficial nr.107/817 din 04.09.2001.

cessity, and as a result, they could be revoked or become obsolete¹⁹. But most ecological control acts are acts with a revocable character.

However, cases are admitted when the party to the environmental control act cannot unilaterally refuse to execute the environmental control act, these acts being irrevocable. Obviously, these situations represent exceptions, the rule being that – one can unilaterally renounce the execution of the environmental control act, referring in particular to the decision of the control body.

- Depending on the nature of the service performed through the environmental control act, we distinguish conservational environmental control acts, administrative environmental control acts and disposal environmental control acts.

Conservational are those environmental control acts, which aim to prevent loss or damage to the environment. This category includes control acts that order the application of restrictive measures.

Administrational are those acts, which aim to ordinary enhancement of an asset or heritage. In essence, environmental control acts in their entirety and purpose could also represent administration acts, or the purpose of carrying out the control is also to ensure the rational use of environmental resources.

The act of ecological control is of *disposition*, which has the effect of imposing a certain behavior for the subject subject to control. This category also includes acts of suspension of the ecological control procedure.

- Depending on the capacity of the ecological control act to produce effects, we distinguish between valid ecological control acts, null ecological control acts and ecological control acts affected by the expiration date.²⁰

Validly concluded ecological control acts are those acts, when completing which all the conditions of validity were respected and which have the capacity to produce ecological control effects following their issuance.

Invalid environmental control acts are those acts, when the validity conditions were not met and which as a result do not have the capacity to produce effects for the environmental control process. This category of environmental control acts is considered not to have been concluded. Consequently, all acts carried out on the basis of the invalid control act are subsequently nullified.

Validly concluded but lapsed environmental control acts constitute that category of acts, which although they were issued or carried out validly, will not produce effects for reasons or causes that are independent of the issuer's will. We refer, for example, to the situation of initiating a field control, but which will not be able to be carried out because the beneficiary of environmental use no longer exists, either because he has passed away or has been liquidated.

Null and voidable ecological control acts.

Those ecological control acts are voidable, which according to the applicable ecological control regime, are formally and presumptively concluded validly, but by virtue of certain circumstances can be declared null and void. The issue of their validity is to be examined in court. We also use the term act struck by relative²¹ nullity in the case.

¹⁹ Trofimov Ig., Dreptul mediului. Partea specială. Curs introductiv, Chișinău, 2000.

²⁰ Sion I.G., Ecologie și drept internațional. Cooperarea și strategia internațională în domeniul protecției mediului înconjurător, Ed. Științifică și Enciclopedică, București, 1990, p.126-127

²¹ Ardelean G., Repararea prejudiciului ecologic, GlobeEdit, Academia de „Științe ale Moldovei”, Chișinău, 2017. 251.

At the same time, ecological control acts that can be struck by absolute nullity are null and void ecological control acts, for which an invocation of nullity is not necessary. For example, undertaking control acts after the expiration of the control term leads to the nullity of the performed act.

• Depending on the form in which the ecological control act is to be concluded, we distinguish between ecological control acts concluded in verbal, electronic, and written form.

Ecological control acts that can be concluded in verbal form are those ecological control acts, for the consideration of the validity of which the verbal agreement of the parties is sufficient, without the need to draw up a document.

The ecological control act concluded in written or electronic form is the one for which the law, for the consideration of the validity, requires a written form. We refer to the same delegation of control.

The ecological control act concluded in tacit form is that ecological control act, which is considered concluded by the simple performance of actions that prove the performance of the ecological control act and which, as a rule, already express the actions to execute the ecological control act, without the need for written formation of those on which the parties have agreed. We refer to the act of not contesting the control report or the decision to apply the restriction measure, which does not need to be concluded in writing or stated in writing regarding the fact that he will not contest these acts. The simple non-contestation is sufficient.

3.3. Conditions of the ecological control act

Any ecological control act, in order to produce effects, must be validly concluded. In order to consider the validity of the conclusion of the ecological control act, it is necessary to comply with certain conditions that are determined as its validity conditions.

In this way, we distinguish the conditions of the ecological control act that concern its validity, the conditions of the ecological control act that concern its enforceability, as well as the conditions of the ecological control act that concern its effectiveness.

Conditions of validity. The specialized literature defines the conditions of validity of the ecological control act as those structural elements, mandatory for any ecological control act, which are determined by law as mandatory elements, their compliance being imposed under the sanction of nullity. At the same time, the list of these conditions is exhaustive and is established by law.

As the doctrine, so the legislation in force sets out various categories of conditions for the validity of the ecological control act. Among them we can distinguish: legality, the capacity to issue the ecological control act and consent to carry out the ecological control act, the object of the ecological control act and the form of the ecological control act.

In this sense, we try to briefly summarize the content of each of the conditions for the validity of the ecological control act.

Legality as a condition of validity presupposes the correspondence of the content and effects produced by the ecological control act to the provisions of the legislation in force²²

More precisely, the respective condition establishes that the ecological control act

²² Zamfir P., Doaga V., Ghidul judecătorului pentru cauze civile ediția a II-a, Cap. VI. paragraful 8. Litigii ecologice. Chișinău, 2013. p. 797. 1200 p.

must in fact correspond to the law. The condition for the performance of these ecological control acts is that they do not contravene the legislation in force.²³ The very condition of legality of the conclusion of the ecological control act results from the principle of legality in the development of public law relations. Thus, legality is defined as a fundamental principle of law, based on which any subject of law must respect, and when appropriate, apply the laws and other normative acts.

The *capacity to issue or to carry out* the ecological control act represents the condition that reflects the possibility of the person to have the quality of a party to the legal relationship of ecological control and the possibility of his or her committing the ecological control act through his or her own actions. This capacity derives from the person's ability to acquire and exercise rights, by virtue of his or her capacity as a control agent, as a representative of the state, or as a subject subject to control

Consent constitutes that essential and general condition of the act of ecological control, which consists in the decision of the party to exercise the act of ecological control. Given the fact that consent is nothing more than an externalization of an internal and real act of will, it is necessary that its manifestation be carried out in compliance with certain conditions.

Thus, in order to establish the validity of consent, it is necessary to comply with the following conditions:

- a) it must come from a person with discernment;
- b) external influence in the form of a conflict of interest in carrying out the ecological control must be excluded;
- c) it must not be flawed.

The object of the ecological control act. The issue of the object of the ecological control act is examined differently in the specialized literature. Referring to the object of the ecological control act, we can use the general rule, according to which the object of the ecological control act is the identification of the correspondence of the acts of use or valorization of environmental resources to the provisions of the legislation in force.²⁴ The ecological control act appears and is carried out in order to achieve some objective.

In the doctrine, regarding the object of the ecological control report there are various expositions. For the most part, they refer to the framework of the interest pursued when carrying out the ecological control.

The problem is that some authors believe that the object of an ecological control report can only be a conduct claimed by the active subject - the controller towards the passive subject - the subject subject to control, and other authors believe that the object of an ecological control report is not always the obtaining of a particular conduct but also the obtaining of certain results, even material ones.

We are of the opinion that the object of the legal ecological control report is both the conduct and the result, which can also be of a material nature.

This results from those considerations, that if we talk about the social character of any legal relationship, then since the ecological control relationship is also a legal relationship, therefore we should not exclude its material element - the result, which although is the extrinsic element of the legal relationship, but is still the object of the respective one, because we cannot say that the ecological control act is carried out only for the sake of

²³ Lupan E., Cu privire la noțiunea juridică a prejudiciului ecologic. În: Dreptul, 3/2003, p.77-89.

²⁴ Onet C., Dreptul mediului, Editura Universul Juridic, București, 2017.

actions or abstentions on the part of the control inspector, but it is also pursued, even in the first place, the purpose of obtaining certain results. The parties often pursue a certain material result, regarding which they assume obligations and establish rights. This, in fact, is the improper – extrinsic object of a social relationship, but in any case it is the object of this social relationship.

The form of the ecological control act constitutes that condition of validity which reflects the way of externalizing the manifestation of the agreement of will made between the parties. As mentioned above, the legislation in force determines several forms of the ecological control act, such as the written one (simple and electronic, etc.), verbal and tacit.

3.4 Effects of the ecological control act.

By effects of the ecological control act are understood the totality of obligations and rights that may arise both from the content of the ecological control act, and as a result of the execution of the ecological control act, as well as as a result of non-execution, improper execution, as well as in the case of non-compliance with the execution conditions of the ecological control act.

Starting from revealing the content of the effects of the ecological control act carried out, it is necessary to mention that they concern several basic categories. Thus, depending on who the effects affect, we distinguish between effects concerning the parties and effects concerning third parties. Depending on the nature of the effects, we distinguish between effects resulting from the proper execution of the ecological control act, effects resulting from the non-execution or improper execution of the ecological control act and effects resulting from the invalid execution of the ecological control act.

Effects resulting from the execution of the ecological control act. When we talk about the effects resulting from the execution of the ecological control act, it is necessary to mention that these constitute the main category of effects that the parties pursue when carrying out the ecological control act.

As is rightly noted, „...the reason for concluding a treaty is precisely the creation of ecological control effects, that is, the commitment of the parties to a certain mandatory conduct”.²⁵

In this context, we note that the main effect that a valid ecological control act creates is the establishment of a conduct of the parties in the ecological control process and thereafter.

This conduct is reflected in the content of the rights and obligations that the parties have when carrying out the ecological control act.

In this sense, the parties to the ecological control act are obliged to accurately execute, in the manner and within the terms established by law, all the conditions for its execution. In this context, any deviation, even of such a nature, which at first glance would be acceptable to the other party to the ecological control act, will in any case be considered as improper execution of the ecological control act.

Also, in terms of the effects of the ecological control act, it is necessary to mention one of the basic rules governing the execution of the ecological control act, namely the rule of revocability of the ecological control act.

In this sense, although the subject subject to control cannot refuse to support this mechanism, the control authority may nevertheless order the termination of the execu-

²⁵ O. Balan, E. Serbenco, «Drept internațional public», Chișinău, 2001, pag. 255.

tion of the ecological control act.

Another rule governing the effects of the ecological control act is reflected in the principle of relativity of the ecological control act. Thus, one of the categories of effects, which arises from the principle of relativity of the effects of the ecological control act, consists in the fact that the concluded ecological control act produces effects only with respect to the persons in respect of whom the control is carried out, unless the law provides otherwise.

Effects resulting from improper execution or non-execution of the environmental control act. In addition to the effects resulting from the environmental control act, the legislation also establishes others, which the parties usually do not determine as an expected or pursued purpose when planning and carrying out the environmental control act, but which they admit in the event of the occurrence of certain circumstances. These are the nullity, lapse, revocability and restoration of the situation prior to the violation of the right and the suppression of actions by which the right is violated or the danger of its violation is created, the imposition of the obligation in kind upon execution, the repair of patrimonial damage (environmental liability).²⁶ These categories of effects do not represent the actual purpose of the environmental control act, but the parties understand that such a situation may occur.

Nullity as an effect of failure to comply with the conditions of validity of the environmental control act.

The main effect of failure to comply with the conditions of issuance, but also of execution of the environmental control act is its nullity. In the specialized literature, it is indicated that in public law, nullity is determined as a sanction that deprives the environmental control act or some of its conditions of the effects contrary to the norms of environmental law or administrative law, established for its valid implementation.

In this sense, we say that nullity occurs when at least one of the conditions of validity of the environmental control act or its execution conditions is not respected.

Both the legislation in force and the specialized literature distinguish several categories of nullity. Thus, depending on the nature of the defended interest, we distinguish absolute nullity and relative nullity. Depending on the extent of the effects of nullity, we distinguish partial nullity and total nullity. According to the manner of legislative consecration, we distinguish express nullity and implicit nullity. Depending on the type of validity condition not met, we distinguish between substantive nullity and formal nullity.²⁷

The main rule governing the effects of nullity is that „the ecological control act struck by nullity is considered not to have taken place, and the condition struck by nullity is considered not to have been established”²⁸. This rule entails a series of consequences, such as that all acts performed on the basis of the null act are also struck by nullity. The party that is guilty of the occurrence of nullity is also obliged to repair the damages caused to the other party.

Lapse constitutes the termination of the ecological control act by establishing its

²⁶ Lupan E., Dreptul la indemnizație al deținătorului factorului de mediu poluat, În: volumul „Pentru o teorie generală a statului și dreptului”, Ed. Arvin Press, Cluj-Napoca, 2003, p.219-227.

²⁷ Lupan E., Consacrarea caracterului obiectiv al răspunderii juridice pentru poluarea mediului, în rev. Analele Universității din Oradea, seria Drept, anul III, 1995, p. 82-92.

²⁸ Legea privind protecția mediului înconjurător, nr. 1515 din 16.06.1993. În: Monitorul Parlamentului Republicii Moldova, 1993, nr. 10.

ineffectiveness due to the intervention of causes subsequent to its issuance or realization and independently of the will of the parties to the control process.

Revocation represents the termination of the execution of the ecological control act due to the will of its issuer - the ecological control authority. If in civil legal acts revocation does not require motivation, then in the case of revocation of the ecological control act, the issuer is obliged to motivate his decision.

Environmental law liability, which incorporates as effects the restoration of the situation prior to the violation of the right, the situation that occurred in the control process and the suppression of actions that violate the right or create the danger of its violation, as well as the imposition of an obligation in kind, such as the repair of patrimonial damage (environmental law liability).

At the same time, Ecological Control Acts, although not explicitly defined in global legal frameworks, can be understood by comparative analysis of environmental legislation and philosophical principles from abroad. Their main purpose is to regulate interactions between people and the environment through legal mechanisms that prioritize sustainability, pollution reduction and biodiversity conservation. Their key objectives include:²⁹

- **Sustainable resource management** (e.g., New Zealand's RMA law emphasizes maintaining ecosystems for future needs).

- **Pollution prevention** (e.g., Norway's Pollution Control Act mandates waste reduction and environmental quality protection).

- **Protection of critical habitats** (e.g., British Columbia's Ecological Reserves Act reserves land for scientific and ecological conservation).

These acts often balance anthropocentric needs (economic growth, human well-being) with ecocentric values (the intrinsic rights of nature). At the same time, in foreign literature there are different forms of Ecological Control Legislation. They are analyzed through the prism of several approaches:

a) Statutory frameworks, which consist of:

- **Preventive measures:** Pollution Control Acts (e.g., the case of Norway, where the emphasis is on technological solutions).

- **Zonal protection:** Ecological Reserve Acts that designate protected areas (e.g., British Columbia's criteria for reserves).

- **Procedural mandates:** Requirements for environmental impact assessments (EIAs), as seen in NEPA and CEIA.³⁰

b) Regulatory Instruments

- **Licensing systems:** The NSW Environment Protection Agency issues permits for high-impact activities.

- **Notices and penalties:** Clean-up notices, prohibition orders and tiered fines (up to \$5 million for corporations in NSW)³¹

c) Philosophical Foundations

- **Land Jurisprudence:**³² Recognizes nature as a legal subject (e.g., river rights in

²⁹ Ardelean G., Consacrarea diferitor tipuri de prejudicii ecologice prin prisma specificității care le caracterizează, 2016. În: *Legea și viața*, nr. 5/2016. p. 40-45.

³⁰ Prieur M., *Droit de l'environnement*, Dalloz, 1991.

³¹ Prieur M., *Droit de l'environnement*. Paris: Dalloz, 6e édition, 2011. 1151 p.

³² Diaconu L. *Environmental Control and Fiscal Policy* În monografia colectivă *Theory and Applied Fiscal Policy : Empirical and Theoretical Studies*, Peter Lang GmbH, Internationaler Verlag der Wissenschaften, Berlin, Germany, 2024,p.77-88

India's Biodiversity Act).

- **Law for Nature:** Focuses on ecological normativity and patrimonium (common management).

JURISDICTION	SCOPE	ENFORCEMENT MECHANISM	PHILOSOPHICAL APPROACH
NEW ZEALAND (RMA)	Sustainable management	Indirect protection of biodiversity	Anthropocentric sustainability
NORWAY	Pollution reduction	Technology based standards	Utilitarian (cost benefits analysis)
NSW AUSTRALIA	Pollution offences	Tiered penalties (T1-T3)	Deterrence based regulations
INDIA	HOLISTIC protection	National Green Tribunal	Ecocentric Rights Biodiversity Acts
CEIA (Convention on Environmental Impact Assessment)	Transboundary Acts	Mandatory consultations	Substantial proceduralism

Fig.1 A Comparative Analysis on Key Differences

Based on the information presented in the table, the key distinctions are addressed through 3 aspects:

- **Scope:** While the Indian framework integrates air, water and wildlife laws, the Norwegian law focuses strictly on pollution.

- **Enforcement:** NSW (Australia) uses strict liability for minor offences, while the CEIA mandates transboundary cooperation.

- **Philosophical approach:** The Earth jurisprudence (India) grants nature legal subjectivity, contrasting with the anthropocentric penalties in NSW.

Thus, a comprehensive Environmental Control Act should combine preventive zoning, technology-based pollution standards, rights-based environmental principles and rigorous enforcement hierarchies to address both local and transboundary environmental challenges. The shift from reactive pollution control to proactive environmental management remains essential.

4. CONCLUSIONS

Environmental control acts are fundamental legal instruments designed to regulate human activities that may influence the environment, with the objective of protecting ecosystems and public health. These acts include a variety of measures, such as laws, regulations, directives and administrative decisions, which are implemented to prevent pollution, reduce negative impacts on the environment and penalize those who violate environmental protection rules. The efficiency of these acts depends significantly on the clarity of the legislative framework, rigorous application and harmonization of national and international rules, so as to eliminate existing gaps. The classification of environmen-

tal control acts according to the number of parties involved, the effects generated or the methods of implementation highlights the diversity and complexity of their application. The favorable impact of these measures is observable in reducing pollution, conserving natural resources and ensuring a healthy environment for future generations³³ However, their implementation can generate economic, social and cultural challenges, which require careful analysis to maintain a balance between environmental protection and sustainable development. In addition, the success of environmental control acts depends on cooperation between institutions and governments, as well as long-term strategic planning. Regular updating of legislation is essential to respond to new challenges brought by climate change and social evolution. In conclusion, environmental control acts are vital for the responsible management of the interaction between people and nature, but require an integrated approach and adequate resources to achieve long-term objectives. As a result, we draw the following critical conclusions, which we have arranged in points:

1. **Integration vs. Fragmentation:** Effective Environmental Control Acts require horizontal integration of air, water, and biodiversity laws (as in India), rather than isolated approaches (e.g., the reserve-specific law in British Columbia).

2. **Procedural vs. Substantive:** CEIA's mandatory consultation requirements overcome NEPA's procedural ambiguity, emphasizing the need for binding substantive rules.

3. **Ecocentric Evolution:** Modern frameworks must adopt rights-based ecological philosophies (e.g., patrimonium) to transcend traditional anthropocentrism.

4. **Enforcement Effectiveness:** Tiered penalties (NSW) and specialized tribunals (India's National Green Tribunal) demonstrate stronger deterrence than discretionary measures.

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