Ecology law - general part Or on the Elements necessary for the establishing and existing of the Independent Law Discipline (personal Observations)

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Sumário

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Resumo

O presente texto trata de problemas do desenvolvimento do Direito Ecológico (Direito Ambiental) através das seguintes fases: 1. Precisar o objetivo geral do direito ecológico e, paralelamente, como parte da ciência e do sistema legislativo. 2. Enunciação dos problemas emergentes no direito ecológico. 3. Algumas percepções pessoais do autor sobre o desenvolvimento dos problemas do direito ecológico. 4. Parte que define os elementos necessários para a existência do Direito Ecológico. 5. Métodos necessários para completa percepção das relações ecológicas como matéria de pesquisa científica e prática. 5. Conclusões – Parte final que analisa os passos necessários para o estabelecimento do Direito Ecológico como elemento estrutural na legislação positiva tomada como exemplo a da República da Sérvia.

Palavras-Chave

Direito Ecológico. Objetivos. Problemas. Disciplina científica. Legislação. Aparato metodológico. Desenvolvimento do direito ecológico (ou do meio ambiente).

Abstract

The presented text deals with problems of Ecology (Environmental) Law developing, through logical phases of the: 1. Précising the general aim of ecology law, parallel as the science discipline and the part of legislative systems, 2. Pointing on the ecology law problems uprising, 3. Some author's personal perceptions of the ecology law-developing problem, 4. Part that defines the elements Necessary for the Existence of the Ecology Law, 5. Methods necessary for complete perception of the ecology law relation as the subject matter of the scientific researching and practical treatment, and 6. Conclusions - Final part that analyzes necessary the necessary steps for the establishing of the ecology law as the structure element of the positive legislation as the example of Republic of Serbia.

Key words

Ecology Law. General aim uprising of problems. Science discipline. Legislature. Adequate methodological apparatus. Developing of the ecology (environmental) law.

1 Introduction

1.1 Reality of Environmental Problems Uprising

During last few decades we are witnesses of practically all the environmental elements' degradation – problem expressed at the planetary level. First signals of this alarming situation have manifested themselves as rapid and endangering reduction of herbal and animal species numbers, reduction of species that have, through centuries, successfully survived all the mishaps caused by the nature itself. We are also witnesses of the human life conditions aggravation in all urban environments. This aggravation is parallel to the enormous development of productive forces during, approximately, passed 100 years[1]. Unfortunately, considering small initial

[1] Academici Nedeljkovic, Dusan [1981]. Nature and Man in Progress - World and Environmental Crisis of Nowadays. In **Man, Society, Environment,** pp. 17-21, Belgrade, Serbia: Serbian

economic and industrial progress, although this aggravation had to be noticed, had not been perceived at the very beginning of its acceleration. The man himself has felt the consequences. At first, these consequences were not big, or, present in a great area. Rapid decreasing of certain species' number, for example, whales, has been felt mostly as an economic stroke, but stroke made by overdone hunt. The reason was race for profit. Despite the paradox, today the profit in this area is far lower than it could have been. We are facing the same situation with the excessive usage of forest capacities in many countries of the world. Even though it was considered, at the beginning, as the source of extremely large profit, very soon it proved its economic negativity. But, this is just one part of the problem. The other one, although not so visible, its essence is showing more and more. We must have in mind the extreme importance that forests have for our lives, for e.g.: The prevention of erosion, prevention of flood, the influence on new basins and natural accumulations making, and today also an influence on quality of the air that we breath, which is considered as one of the main factors that provides an healthy and productive human life. This is just a small part of negative examples that shows man's bad influence on the entire environment[2]. These examples, in their multiplicity, and with its growing importance, force today's countries to react immediately, to prevent their bad influence. Those reactions must be socially organized and based on the knowledge; which includes multi-disciplinary scientific approach[3], within which are essential those sciences that can show what and how exactly we should act, in order to preserve and develop our environment, and, at the same time, which acting is negative for the *ecos* (L. word, based on the old Greek *oicos*: house, domicile, in nowadays term in Ecology science that mean all the World environment). Perceived all of the aspects, in the purpose of efficient reaction towards all increasing problems of endangering the environment, we must inevitably use the legal means. Of course, legal reaction is more present, from year to year. Legal means are expressed trough formulated, and therefore compulsory attitudes of states about right, or wrong – from this reason forbidden actions, towards the elements and processes of the environment[4]. Law has come to such

Academy of Sciences and Arts.

2 In the environmental problems researching, special attentions have been pointed at the economic growth based at the profitable logic, especially by: MAEDOVS & DONELL [1972.]. *The Limits to Growth*. New York: Potomac Associates Book, and SAHNAZAROV [1985]. **Where Mankind Goes** [ШАхназаров: Купшпет чеповечество]. Moscow, Russia.

3 For example, special recommendation for multi-disciplinary science access, in his paper presents Kauzlaric [1990]. Non Controlled Development and the Environment. See: **Energy and Environment**, pp. 255-265. Rijeka, Yugoslavia: Croatian Solar Energy Association.

4 As clearly has been said by academician LUKIC, Radomir [1981]. At the Serbian Academy of Sciences and Arts' meeting "Men, Society, Environment." See book: **Men, Society, Environment**, pp. 5-58, Belgrade, Yugoslavia: SANU.

answers progressively[5]. At the beginning, by the incomplete solutions of solitary problems, as it was the previously mentioned one, about the forest funds. But, at the very beginning, this approach has had two sides, which is the important characteristic of this problem:

One side, which has prescribed what and how it should be done,

And the other one that determined what must not be done.

But, it still does not mean that it has been completely accepted in people's consciousness, anywhere in the World, or, what is more important, in the consciousness of the administrations of the governments (which includes Serbian administration also[6]), that have the task of preservation of the ecology values from any danger, or violation, by anyone[7]. All those facts, together with reasons considering profit[8], are, as condition, enough to bring to massive insult of those rules of law, which prescribe and arrange the relation towards the values that are ecological in their being. Therefore, we come to the clear and growing necessity for development of the Ecology (Environmental) Law, parallel as a legal science branch, and as the part of positive legislatures of sovereign states. This is done so that this growing need should get adequate state-legal mean of its regulation.

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5 Very detailed explanations about step by step development of the law access to the environmental problems, expressed more than 30 years ago, in ex state Yugoslavia, had FELIKS, Dr. Radmilo [1974]. Protection of the Mens' Environment in the Material-legislature of the S.F.R.J. In "The international science meeting of the AIJD [Herceg Novi, Yugoslavia]," see: **Archive for the Law and Social Sciences [Arhiv za pravne i društvene nauke]**, *No.* 2, pp. 17-19, Belgrade, Yugoslavia.

6 Nor in the consciousness of the people in sciences and politics, although they have to be first which are able to make such access to the matter of the environmental protection. Having that in mind, it is obvious why ordinary men have not formed quality attitudes toward environmental problems. Such quality attitudes are strongly needed, as explains ZIVKOVIC, Miroslav [1981]. See: Some Propositions [Sociological] for Thinking. In **Men, Society, Environment**, pp. 91-92, Belgrade, Yugoslavia: SANU.

7 Se closer Roman Club Conclusions from the founding meeting [April, 1968], Club hold at the initiative of the Aurelio Pecei, vice-president of the Fiat corporation, document that clearly concluded that environmental values had not been defined, but, quite contrary, many of them had been quoted and named as recourses. In Conclusion *No.* 2 of the Roman Club had been said precisely, that does not exist any institution, or group of people, at the authority, or in the intellectual sphere, or anywhere, that those burning ecological problems of: using the recourses, and of the ecological bases' protection, confess and explicitly get in consideration. Growing ecological problems of our time get the certificate to this conclusion. See: GRUNFELD, Josef [1979]. **Growth in a Fiat World**, p. 93 Philadelphia: Franklin Institute Press.

8 Stojanovic, Dr. Zoran explained profit as strong negative influencing factor for the environmental protection. "Economical interests, as well as making of earning, are at the first place." And more "Cases when local structures protect, or tolerate, firms that soil the environment and imperil the citizen's health are quite often phenomenon." See: STOJANOVIC, Dr. Zoran, ETINSKI, R. Salma, J. and Đurđv, D. [1992]. Legal Protection of the Environment [**Pravna zaštita životne sredine**]. Belgrade, Yugoslavia: Naučna knjiga.

1.2 Personal Perception of the Ecology Law Developing Problem

From the reason of respecting reality of grooving ecological problems, their strength and complexity, in our work of the Ecology Law developing, practically at the very start, opposite to all the authors of that time, we had insisted, and we insist now, at the need to respect methodology of scientific work, at the level of Ecology Law to. Precisely: On the obligations for constructing, even as a draft, elements of:

Defining of the General Object of the Ecology Law;
Précising Methodological Apparatus;
Defining of the General Aim;
Explaining of the Connections and Limits between the Ecology Law and Agnative Branches of Law Science;
Reflections on Inherent Principles of Observed Branch in Developing; and
Systematization of the Ecology Law,

elements for which we think that are this minimum of needed and enough elements for real scientific approach to the Ecology Law field. We think that time approved such approach.

If we go deeper into ecological subject matter from the aspect of the Ecology (Environmental) Law, as from year to year faster and faster developing, and much more complex segment of the entire law, we can clearly see that Ecology Law is engaged with grooving number of ecology-law relations, which are expressed at the levels:

Of sovereign states,
Between states, and
On the international level.

Working parallel at such complex matter of researching and developing, aiming many expressed ideas and realized results, we think that it is necessary and possible to research Ecology Law much deeper than we can meet in major part of law-science works. Also, we think that, at this moment, is present urgent need to develop Ecology Law more systematically, analogically to branches of law science and legislations developed in earlier times. For example: Criminal Law or Propriety Law. This perceiving, although has base in cognition of the norms that have attribute "ecology," by no way can to go around and overlook relations between subjects of law, which are regulated by those norms. Relations present in reality, not only at the levels of:

1. Law science opinions,

2. But at the levels of sovereign states' legislations, or
3. The level of International Public Law.

This means that we have, at first, duty to observe and understand those relations that are presented on the levels of national states, and, of course, at the international level, regulated by norms of sovereign states legislations.

Aiming that the set of elements, that make totality of the ecology-law relations, is more complex from day to day, as well as more present in reality, we think that the Ecology Law, as the branch of science and legislation, is obvious in reality, but not adequately theoretically perceived, nor systematized. In this access and aiming we are followers of the normative-sociology seeing of law, access defined as aiming of the law through the basic legal elements:

Norms, as well as
Relations regulated by them, and present in reality.

We accept seeing expressed by Pasukanis, or Perisic[9], strong followers of Diguit's aiming that the world of the law is not closed ideal world of norms, separated from reality, but is world of human will that can be seen through concrete manifestations and effects by them made[10]. We point out that the number of such manifestations, their diversity, and more and more clearly expressed interconnections, are of great significance for aiming of fertile process of legal notions and institutions forming, specific for Ecology Law. We think that is possible, in this moment, to attain their global aiming, as well as logical concreting (L. *concrescere*, grow together) and knowledge. This is, we think, necessary, for further Ecology Law developing, at the level of:

- Treating different kinds of objects that compose ecos,
- As well as different: Positive and negative accesses to those objects, or groups of objects.

At the other word, we formed conclusion that is possible to access to the Ecology Law as the entirety made by two essential and complex parts:

A.) General, and
B.) Separate

General Part has to be engaged with:

1. Determining of the Ecology Law Object,
2. Determining of the Ecology Law General Aim,

[9] PERISIC, Branislav [1964]. "It is not sufficient for law to be structured mass of norms, duty of law also is to make certain order of the relations. The established order is mass of the regulated relations in society." In **Structure of Law**, *p.* 2. *Publisher Narodne novine*, Zagreb.

[10] DUGUIT, L. [1901]. **L'état, le droit objectif et l loi positive**. Tom I, p. 21.

3. Relations between Ecology Law and the other branches of law, and
4. Ecology Law Systematic, and, of course,
5. Principles of Ecology Law.

Processes of aiming and developing Ecology Law Principles also mean engaging with notions that can be expressed:

> At the same time, also and parallel as Ecology Law notions, or clearly as Ecology Law notions.

This process of aiming and developing of the Ecology Law notions is really very complex, at the same time connected with adoption and finishing of the ecology notions formed preferably by:

1. Number of natural sciences, and
2. Branches of sociology.

Separate Part of the Ecology Law, starting from knowledge of the Ecology Law General Part, has to:

1. Point his energy at the cognition of more numerous mass of ecology relations, regulated by legislation,
2. Aim this mass of ecology relations at the law-logical way,
3. Define and systematize them, and, thus,
4. Help in further process of their legal regulation.

In this process of systematization it is possible to perceive whole Ecology Law matter from different points:

1. Classifying Ecology Law relations as:
   (a) Relations expressed and treated in states, by their legislation's, or
   (b) At the level of interstate relations, as well as
   (c) At the international level; and
2. By the systematization of the Ecology Law objects.

We think that is, for really quality aiming of the Ecology Law matter, necessary to adopt both points.

In attempt to contribute Ecology Law developing, as a relatively new branch of law science and legislation, our exertion is focused on questions connected with the General Part of the Ecology Law, as well as at questions that need answers, for formulating the Separate Part of this law branch. In the present text we shall express some our thinking on central questions of:

1. Defining of the elements necessary for the existence of the Ecology Law, and
2. Methods necessary for complete perceiving of the Ecology Law relations as the subject matter of the scientific researching and practical treatment,

 although we can discus much broader list of questions, starting from the name of discipline, through perceiving anthropocentric logic of the Ecology Law Forming to questions of Principles, of course in the text of the book not the article.

2 Defining of the Elements Necessary for the Existence of the Ecology Law

2.1 Subject of the Ecology Law Protection

Every human society, using its natural resources, transforming nature for its development, has noticed, through long time periods, that in these processes, certain rules of nature must be respected, and, because of them, sometimes, more precise social rules of human conduct have to be established, so that these processes could happen undisturbed. In such, long time present, situation, lawyers started thinking that processes like: Production of energy11, use of waters and water currents[12], forests and soil, must be precisely regulated. Not only regulated in a way that each of them will happen in the best way for itself, but also that they do not disturb each other.

Through the time has been crystallized knowledge that this would be accomplished in the best way if each of mentioned processes will function with the least negative influence on its surrounding. This mean: If it is possible, to function at such a way that protects and develops the environment. From this reason social groups have to normatively regulate different fields of life: Food producing, producing of energy, traffic, as well as energy transport, constructing, using of waters and their treatments, *et cetera*. To regulate them by norms that will be pointed, at the same time, or only, on development, or on the protection of the *ecos'* elements. In the approximately 25 to 35 years ago, sovereign states have brought to life majority of such rules, now in effect within their legal systems (laws, acts, sub-laws, standards in function of so-called legal blankets, *et cetera.*), but, starting from the obvious necessities, they have also engaged themselves in successful international cooperation, mutually formulating answers on many joint, ecologically oriented, questions, expressed at the international level. A lot of international conventions, which deal with the problem, have been brought. That's the reason and the way on

[11] POPOVIC Dr. Slavoljub [1990]. Legal Aspects of the Relations Between Energetics and the Protection of the Environment. At the **International science meeting- Renewable Energy Sources** [Opatija; April 18-21. 1990]. Also at the book **Energy and Environment**. Tom II, pp. 177-185, Opatija, Yugoslavia (now Croatia).

[12] Theme threatened, in detail, by DOSE, Dr. Ulrich [1972]. Water Protection and Clearing up of the Waste Waters in Federal Republic of Germany, Belgrade, Yugoslavia: **Komuna**, *N.* 1.

which various intellectual forces have started dealing with the questions of protection and development of ecos, at first with those connected with the international field of cooperation[13]. At the beginning, those norms from the autochthonous legal systems, as well as from the international law, just were some kind of addition to legal entirety -- entirety that has not had, as the basically object and aim, protection of the eco-systems, but regulation of: Traffic, energy producing, and so forth. It means that all those rules basically (and at first place) solve some other, but not purely ecological problems. Solving them, they, at the same time, gave a small, but important, ecological contribution, from their aspects. At first, such norms had been only partially adapted to the protection of some elements of the environment, not completely adapted, or strictly formed for environmental elements' protection. As the norms of: Administrative Law, Hunting Law, Public Law, Traffic Law, Law of Building, Public International Law, Maritime Law, Criminal Law... all of them, I shall say, have been *ecologized*. This means that with their being such, *ecologized*, norms, at first, treat some other, not the ecological object and problem. By treating their primarily matter, all those norms also and parallel give an ecological contribution. Forming of such legal constructions, open way for the formulating of purely Ecology Law norms.

Looking at the relation between men and the natural surrounding, all positive-law systems, for the last couple of decades, have realized that for the regulation of this relationship, we need more than these *ecologized* – partially adapted and applied rules. This insufficiency exists for two reasons:

> First is the narrow connection to the subject matter of the belonging law branch.
>
> The second is the uncovering of various ecology relations, or their unsatisfactory law covering, at the state law level, or at the international law level.

That is why a process of setting purely ecologically oriented rules has started, covering, as the basic and main subject matter, one of the areas, or elements, of the environmental protection. For example: Protection of air, protection of water, and protection of the biological elements of the environment. Every one of these objects is treated with the common goal, regulation of the adequate relation with: Elements of natural surrounding, quality of life, and preservation of human health[14]. Produced from the reason of necessity, those regulations have been, and

[13] At the beginning of the seventies, in Yugoslavia, throw their works, discuss: CIGOJ, Dr. Stojan [1970]. **Using of the Nuclear Energy and the Law Protection of the Environment**. Belgrade, Yugoslavia: Gledišta, *No.* 7-8, p. 39, and PELEŠ, Dr. Momčilo [1981]. International Cooperation at the Field of Environmental Protection. In **Men, Society, Environment**.

[14] LAMARK [1977]. **La technique juridique de protection de l' environment**, Oxford, pp. 772-789.

are, in process of developing, parallel at the national and international law level. At this second, higher level, we can say, in a far higher level that in many sovereign states. For example, in Yugoslavia, whose successor Serbia is, this process has been obviously connected with development of the international law, especially from the year 1973[15]. At the International Law level the main postulate for regulation of the ecological relations, from the year 1984th, has been based on the principle *Sic utere tuo ut alienum non laedas* (Use your property in a way that you do not violate your neighbor[16]), which has been stated in Article 194 of the United Nations Convention on the Law of the Sea (December, 10, 1982)[17].

Creating and realizing various activities, through them influence on the surrounding, man, in essence, enter into relationship with the surrounding and her values. At the other way speaking, we are creating an ecological relationship in its complexity. The role of legal norms is to regulate all parts of this developing ecological relationship, for human surrounding and, consequently, for whole human society, in the best way. We can say that legal norms do this more and more. This process is obvious in many sovereign states. From this reason we can say that positive Ecology Law exists, but not yet as really completed and systematized scientific entity, nor as the legal entirety. It exists on two levels:

1. As a growing part of the International Law, and as
2. The part of positive legislation of the states, also the State where the author of this article live.

Although, in any document that treat some of the ecological relations, this has not been said explicitly, with careful analyzes of this problem, it is easy to see that the principle: *Sic utere tuo ut alienum non laedas* has been a part of the positive-law systems of many states long before the United Nations Convention on the Law of the Sea has emphasized this principle[18].

[15] About this see more Joldzic, Dr. VLADAN & MILICEVIC, Gordana [1995]. **The Environment and International Agreements of Importance for the Federal Republic of Yugoslavia**. Belgrade, Yugoslavia: Federal Ministry for the Environment, pages 8-9 and 17-25.

[16] Principle well known from the time of the Roman Empire.

[17] See page 7 of the Convention.

[18] Compare, for example, legislations of the USA, Canada, Australia, France, Germany, legislative system of ex state Yugoslavia and many others.

2.2 Possibility of Systematic Development of the Ecology Law Protection

2.2.1 Development of the Ecology law Protection and the possibilities of its Systematization

Considering possibilities for development of systematized, ecologically oriented legal protection, talking about the protection of *ecos*, it is obvious that in an organized society the main importance in realization of this task belongs to various legal mechanisms and instruments. Clearly, they must be established by the law, just as well as the organization of such mechanisms and instruments must be based on the really precisely formulated laws. Mentioned instruments are:

A.] Legal principles,
B.] Rules, and
C.] Common law.

It is also clear that legal principles must be present, in any time and at any place, in process of building and expression of the human environment legal protection. Common laws also have place of their own, covering, by their existence, those questions that have not been completely explained by legal and sub legal rules. On the other side, they have been built into the International Environmental Law. That is the reason that such rules are included in most of the conventions, which treat certain objects which ecos consists of. Therefore, constitutions of a great number of states formally adopt them. For example: the Constitution of the Federal Republic of Germany, ex-Yugoslavia state and the others[19].

The fact is that the Ecology Law is branch of positive legislation in development. It is considered as branch, because in the last 20 to 30 years many constitutional, legal and sub-legal texts have been passed, which are dedicated to different problems of the *ecos* protection. Obviously, this has lead, lately, toward attempt to develop their systematization, which, actually, is the main condition for truly creating of this new law branch.

Republic of Serbia, for example, in area of the protection and promotion of the environment, has great number of laws (over 50) just as well as sub legal regulations (over 500) – legislative constructions that deal directly and only, or indirectly and partially, with: Area and urban planning, protection from the ionize radiation, heath correctness of food, population's protection from contagious diseases, circulation of medicaments, protection of water, air, animals, herbs, circulation of poisons,

[19] See, for example: Greece Constitution, Adopted on: June, 11th, 1975th, government translation, Constitution fédérale de la Confédération suisse, du 18 avril 1999 [Etat le 19 février 2002].

production and circulation of drugs, circulation and transport of explosive and dangerous substances, cultural property, forests, noise, protection of nature, national parks, collection and usage of waste materials, *etc*[20].

If we observe complex states, such United State of America is, or Yugoslavia was, on federal level, certain areas of the environmental protection are arranged by special laws, such as: Regime on the waters of interest for state, and on the international waters, or protection of them from various pollutions[21], hydrometeorology matters considering whole state, transport of dangerous materials, circulation of explosive materials and poisons, chemicals for herb protection, protection from the ionizing radiation, production of drugs, protection from the diseases which affect whole country, production and circulation of medicaments, protection of herbs from the diseases and noxious insects which affect whole country, *etc*.

In the Republic of Serbia, the "Law on the Environmental Protection" has been passed with certain numbers of sub legal acts (firstly at the year 1989th) and in Montenegro the similar law has been done just at the year 1996th. In many other countries such laws had been adopted approximately 10 to15 years before22 or later[23].

If we observe Serbian State as example, to this mass of ecologically oriented laws and sub-law acts, about we have spoken, should be added mass of more than 60 passed laws and the regulations with legal force, included in our legal system by the acts of ratification. Acts by which former Yugoslavia, as the predecessor of actual Serbian State has taken:

A.] Many ecologically oriented, and

B.] Purely ecology – legal international responsibilities.

Realization of responsibilities from those international contracts has been ensured through the legislation formulated at former Federal level, now adopted in Serbian republic law system, as well as from the start of their formulating, at the level of Republic of Serbia regulations[24].

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[20] See, especially, from Joldzic, Dr. VLADAN & MILICEVIC, Gordana [1995]. **The Environment and International Agreements of Importance for the Federal Republic of Yugoslavia**, pages: 5–17.

[21] One such example is: Offshore Petroleum [Safety Levies] Act 2003 of Australia, as well as, Australian Environmental Protection [Sea Dumping] Act, Year1981.

[22] For example, in Sweden, Law for the Protection of the Environment had been adopted at the Year 1969.

[23] Example is: Australian Environment Protection and Biodiversity Conservation Act 1999, Act *No.* 91 of 1999, as amended.

[24] Republic of Serbia now posses 65 ratified ecologically oriented conventions as a part of the positive legislation, not only the earlier in the text mentioned 50 inherently formed environmental laws.

Common to all of those rules is to regulate relations of persons, as well as of artificial subjects, towards different material values and processes, as important parts of the ecology system. They regulate it with exactly defined aim of preservation and promotion of the all those values. All of them, because of their importance for man[25]. Its quality is reflected in this aspiration to protect environmental values of importance for human society, as well as, at the same time, nature.

Simultaneously with the forming of this mass of texts, legal and sub-legal, dedicated to the protection of the elements of the ecos, Ecology Law has started its development as new branch of the law science. Started it with numerous scientific works dedicated to the same problem legislations had to solve, and with the help of new science discipline they did, accelerating this process by the efforts in the development of the logic of ecology – legal systematization, furthermore participating in its development. Therefore, we can now say that the Ecology Law has started its parallel road:

As a part of legislations in many states, and
As a scientific branch[26] just as well.

Certainly, this is the road in which we shall have, in future, to put a much more efforts, relaying such efforts on the legal logic, just as well as on the knowledge's of already existing branches of the law science and, of course, of legislations. Especially since the giving of the answers for most ecology-legal questions, asks for multi-disciplinary scientific approach. Therefore, the only correct way is: The Ecology Law must be developed as the multi-disciplinary branch of the law sciences. At the similar way as the Criminology has been developed previously – on the foundation of Material Criminal Law and the Law of Criminal Proceedings, Legal Psychology, Psycho-pathology, Sociology, Socio-economy, *et cetera*. Ecology Law, oriented to its own subject: Entire ecological relation, in the purpose of its improvement, will relay to: Constitutional, Administrative, International Public, International Private, Civil Law and Criminal Law – on them, because all of these branches have contributed to the solving of different groups of the ecology problems. Both through their general scientific considerations and by forming rules specified to their closer subjects.

In the so far ecology legal matter development, within the ex Yugoslavia, and Serbia, just as well, it has been clearly pointed out that the main *ecos* elements are

[25] See: CANO, Giullermo, J. [1984]. Trends in International Environmental Law with Particular Reference to the Western Hemisphere. In **The Future of the International Law of the Environment**, pp. 401-402.

[26] See more in JOLDZIC, Vladan [May 17. 1988]. "Necessity for Development of the Ecology Law as the Branch of Science and Legislature," plenary presentation at the Serbian Academy of Sciences and Arts' meeting "Role of Sciences in Protection and Progress of the Environment," Belgrade, Serbia.

property of general interest[27]. It has been perceived that environment is public property, but the property of present and future generations, for which are economic relations important, so, that "considering legal base, it is easy to separate man's right on healthy environment[28]." In the same time, there is the fact, pointed out that support to this right has been formed by valid regulations of sovereign states, regulations that can be classified in four groups:

A.] Those that establish bases of society state and rights of man, including the right "on healthy life[29]" in healthy environment, institutionalizing them by constitutions[30],

B.] Those that arrange the attitude towards the material values, among which the important place belongs to "elements of nature[31]," and, especially, "air and water[32]."

C.] Rights of human in social reproduction[33] and

D.] Those which deal with the questions of rights, duties and proceedings, from the aspects of the Administrative Law and laws related to it[34].

Many problems of protection and improvement of the *ecos*, which are dealt by the International Law, just as well as positive laws of sovereign states, if not even most of their parts, represent mutual product of technology and economy[35], demography[36] and urban development of human community, showed in last

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27 For example, see: S.F.R.J. Constitution [Year 1974th], Articles: 85-87.

28 **Discusions** [1981]. [At the Slovenian language: **Rasprave**], *Vol. XII*, SAZU, Ljubljana, p. 103.

29 LAMARK [1977]. **La tecnique juridique de protection de l' environment**, Oxford, pp. 772-789.

30 See, for example: Grundgesetz, May 23, 1949, Fassung vom 18. 3. 1971 [Federal Republic of Germany], Greece Constitution, Adopted on: June, 11, 1975, government translation, Constitution fédérale de la Confédération suisse, du 29 mai 1874, CONSTITUTICAO DA REPUBLICA FEDERATIVA DO BRASIL; Emenda Constitutional No 20 de 1998; promulgada Congresso National em 15/12/1998, DIE VERFASSUNG BELGIENS; Koordinierter Text vom 17. Februar 1994., TITEL II: DIE BELGIER UND IHRE RECHTE; Art. 23, and Constitution of the Federal Republic of Yugoslavia, Article 52.

31 PAURE J. [1979]. **Les parcs naturels régionaux en France**, pp. 10-11, Grenoble, France.

32 DESPAUX [1980]. **Droit de l' environment**, p. 12, France.

33 ТРАНИН, Апексанdар, Апексанdрович [1987]. Охрана окружајошцеи среди. In **Пробпемби развити буржоазного права**; p. 83, академиа наука ссср, Moscow.

34 See: JOLDZIC, Dr. V. [1990]. **Role of the Law Science and Legislature in the Protection and Progress of the Environment** [Uloga pravne nauke i zakonodavstva u zaštiti i unapređenju životne sredine]. In *Ustavnost i zakonitost*, *No.* 2, p. 34, Belgrade, Yugoslavia, and JOLDZIC Dr. V. [1995]. *Ecology Criminality in Law and Reality*, p. 110. Belgrade, publisher: Institute for Criminological and Sociological Researches, Serbia, Yugoslavia.

35 In connection with economical and technological progress as one of the main causes of the environmental soiling. See "Development et environment - theme V," as well as the United Nations Conference on the Human Environment, Stockholm, june 16, 1972. Reprinted In 11 I.L.M. 1416 [1972]. Also: U.N. Document A/CONF. 48/14/Rev. 1 [1973].

36 Which problem threat, at really quality and detailed way: MAEDOWS & DONELL [1972]. In: **The Limits to Growth**. USA, New York: Potomac Associates book.

few decades. Their characteristic, essentially important for legal approach to this problem, is rapidity and complexity of appearance[37].

Law, as science discipline, mostly has been based on experience, which bases itself on long time knowledge – knowledge about phenomena and processes it treats. Law, as practical and science discipline, approaches to that treatment according to rules of logic. However, human environment, ecological relations related to it, and all its elements, with their complexity and rapid development, don't permit slowly, based on experience, development of rules that will regulate it. There is general need for prompt solution of every problem that occurs, and, in essence, represents the part of ecology relation mosaic – ecology relation mosaic as a whole logical being. Some of these problems, to be resolved, require great cooperation of other sciences, not only stand alone use of law knowledge, and the others don't. When and what is required (more and more often) is cooperation of those sciences with law, so that law can, as prompt as possible, perceive the relation in its essence, and regulate it, according to such essence, accordingly to present human and other ecologically expressed needs. Therefore, it is obvious that each of those problems has to be approached with: (a) conscious, (b) plan, and (c) logic, and that *scientific methods of law making*, with conscious and plan, have to be used. The same methods, which had been used in previous time, have to form rules of earlier known branches of law – which means the common law methods[38]. Therefore, lot of states have been using this kind of approach, for decades now, starting from treating objects separately (one by one), towards their perception with the aim to sort them (group by group), regulating desired relations towards them, by using different categories of legal constructions: Laws, sub-laws, another categories of legal acts, through time even constitutions and constitutional laws. Examples of such constitutional ecology norms are:

> Article 163 of Socialist Federal Republic of Yugoslavia Constitution [from the year 1963],
> Articles 85, 86, 192 and 210, Constitution of the Socialist Federal Republic of Yugoslavia [from the year 1974],
> The Principle Law of Federal Republic of Yugoslavia, its edition from March 18, 1971, which establishes the supervision of the Federation in the area of preservation of: flora, fauna and air,
> Article 24 of Greece Constitution, which establishes the obligation of the State to protect environment of life, and culture,

[37] ШАХНАЗАРОВ [1985]. **Купипет чеповечество?** Moscow, Russia.

[38] LUKIĆ, Radomir [1977]. **Methodology of Law** [Metodologija prava]. Belgrade, Serbia, Yugoslavia: SANU.

Article 7 of Switzerland Constitution [Year 1974] – Edition from 1976, which proclaims that government can perform resolutions towards hunt, fishing or protection of nature and environment,
Constitution of the F. R. of Yugoslavia, Articles 52 and 77, *et cetera*.

Chronologically, it first came to forming legal constructions concerning certain national parks, later, national parks in general. Examples are, the law made for the first national park: Yellowstone – USA [1872], parks: in Canada [1887], Mexico [1889], Great Britain [1895], Switzerland [1909], Italy [1922][39]. Those legal acts, since their appearance, have been constantly improved in two directions:

1. Towards better defining on the objects of protection, and
2. More complete and clearer defining the repositories of obligations of the protections (in different states, toward various national parks, with their specific characteristics).

Therefore, for e.g. USA has, today, the National Park Service of Federal Administration, which in its business cooperates with Environmental Protection Agency, and Great Britain has the Administration Council "whose members are representatives of the government and local authorities[40]".

The second group object, that has been legally protected, is water, especially in the second part of XX century. Here, before all such legal constructions, should be mentioned law of USA: "Water Pollution Act[41]," supplemented with "Clean Water Act[42]." France has the "Law on Water Protection" [November, 16, 1964]. With this legal construction has been, for the first time in one European country, introduced one law that defined, precisely in details, how to restrict, or suspend, the production, or application, of technology, which produces water pollution. This act precisely defined right of the Prefect (chief administrative officer of a department) to stop, or restrict, production that has too much pollution. The similar law in Italy: "Law on Water Protection[43]" has been made in 1976th. Its importance has been reflected in fact that this legal text made, for the first time, systematization of ecology legislation, but specified only for water treatment. That means that Italy now treats, with one text, all the waters: superficial, subterraneous, rivers and seawaters, accumulations and springs, and all sources of possible pollutions. By the Article 26 of that Law, Italy had substituted all previous legal acts, which have dealt with waters.

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39 SHAPOSNJIKOV, L.K. [1975]. **La protection de la nature et les nationaux dans le monde**. Documentation Français, *No.* 3224, p. 4.

40 See: **Parcs naturels et nationaux d' Europe** [1977]. *No.* 55, p. 58.

41 **Water Pollution Act of the USA**, Year 1961, Congress Library.

42 The Clean Water Act [CWA]; 33 U.S.C. ss/1251 et seq. [1977]. See also In US Code, Chapter 26, Congress Library.

43 Well known as "Merli Law."

Federal Republic of Germany had done the same thing. For many years Federal Republic of Germany had been treating waters in fragments, by: "Law on Waterways [from the year 1968]," "Law on Cleaning the Running Waters [from the year 1975]" and "Law on Water Farms [from the year 1976]," but the unified "Law on Running Waters" had been brought, for the first time, in the year 1981[44].

Legislation that treats air protection has been developed in the third quarter of XX century. Examples are: "Law on the Struggle against the Polluted Air [Italy, 1966]," "Clean Air Act [USA, Year 1963[45] and 1970[46]]" and Japan, "Law on the Atmosphere Control [from 1974]."

At the end of sixties and at the beginning of seventies, simultaneously with development of regulatory protection of air and waters, have been mentioned necessities for forming of mechanisms and methods for reaction against illegal actions of law subjects, mechanisms and methods which can be available not only to state administrators, or subjects directly offended by pollutions. USA is the first state that includes, in the year 1970, within "National Environmental Policy Act," in ecology regulations: *Actio popularis*, institute of the Roman law. The essence of *Actio popularis* is the fact that it can be raised by any citizen (*Quivis ex populo*), "asking the protection of certain...mostly public interests, while he doesn't have to prove the existence of his own interest for the dispute[47]." By this, anyone was, and still is, able to cast imputations on certain legal subject, for what it does – starting from the fact that is presumable possible ecology harm, based on the fact that accused subject start projecting, or building, certain dangerous object, or start its functioning, providing that this object, according to the way of its functioning, threatens, or causes, harm to undefined circle of subjects. Furthermore, according the "National Environmental Policy Act," *Actio popularis* has to include a demand for *Restitutio in integrum* (return to the previous situation, or status), if any damage has been caused. Many different countries later accept this approach to usage of *Actio popularis*, as the institute of the Ecology Law. In positive legislation that Serbia has developed in the last years of Yugoslavia – *Actio popularis* has been installed by Article 156 of the "Law on the Administrative Proceedings[48]."

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[44] For all the mentioned facts connected with the problem of waters in legislature, see: **Environmental Science and Technology** [1981]. *No.* 9, p. 977.

[45] Clean Air Act of 1963. See: **Public law** 88-206.

[46] Clean Air Act of 1970. See: **US Code**: Title 42, Chapter 85.

[47] **Encyclopedia of Law** [Enciklopedija prava] [1989]. p. 5, Belgrade, Yugoslavia: Savremena administracija.

[48] Law on the Administrative Proceedings.– (At the Serbian language: Zakon o opštem upravnom postupku) **Official Gazette of Republic Serbia** [1997]. *No.* 33, and [2001]. *No.* 31.

Legislation matter, which forms the protection from dangerous chemical technologies and products, is even younger than the legal protection of waters and air, around the world. In France, "Law on Production and Sale of Dangerous Chemical Products" is from the year 1977th, and in Switzerland it is from 1981st.

All, until now, quoted laws, through the time have been followed by more and more numerous sub-legal acts, by which are defined:

A.] Sources of pollutions,
B.] Limitations for pollution, and
C.] Established obligations, for administrative organs, to form registers of polluters.

In some of ecologically oriented legal acts, as for e.g. in Canadian "Clean Air Act [1971]" it is gone even further. Canadian Parliament, by mentioned Law, formulated so-called standards of pollution:

1.] Allowed,
2.] Allowed and desired, and
3.] Levels of pollution that instantly bring to taking of measures defined in positive legislature[49].

Legislators had gradually realized that it was required to form financial funds (this mean: their resources also) from which will be possible to compensate environmental damage, caused by pollution. Such approach gradually had worked up to forming of the "Polluter pays principle," firstly at the level of Connecticut, but U.S.A. lifted this principle to Federal level, by "Clean Air Act," at the year 1970. Today, this principle is worldwide accepted.

The end of sixties had represented the time of introducing the first steps of ecology expertise institute, through the formulation of *Environmental Impact Statement*, within the "USA National Environmental Policy Act[50]." By the Act has been introduced the procedure necessary to form adequate valuation of the human activities' influences (mostly through the projects of public economy) on the environment, including the valuation of their possible negative effects, just as well as possible alternatives. This principle has been accepted very soon by European countries – Italy [1971][51], Sweden [1975][52].

[49] As have been defined by Article 4, Clean Air Act. Closer look at the mentioned Canadian Act see in: Participation and Environmental Policy in **Canada and the United States**: Trends over Time. Journal article by VANNIJNATTEN, L. Debora [1999]. Policy Studies Journal, Vol. 27.

[50] See: Publ. L. 91.-190.; 83 Stat. 852; Codified at 42 U.S.C 4331.

[51] Decree of the President of the Republic of Italy [*No.* 32; April 15th, 1971] destined to the air protection.

[52] With the Amendment at the Law for the Protection of the Environment, from the Year 1969. This Amendment precisely regulates relations against steel mill, energy power sources and the

For this time is characteristic perception that ecologically oriented protection requires defining, by legal means, not only the protection of individual elements of the environment, but, also adequate formulating of the *national environmental protection policy* – for environment as entity. Therefore, U.S.A. brings specific, environmentally oriented, *Lex generaly*: "National Environmental Policy Act [1969][53]," by which then all later laws, specified for the protection of environment, have been formulated in harmony. This has been followed by Sweden – with the "Law on the Protection of the Environment [1969]," Federal Republic of Germany – "Law on the Protection of Nature and Care for Land [1976][54]," "Law on the Protection of Imission [1990][55]," "Law on the Responsibility for Environmental Contravention[56]," Switzerland [1983] – "Federal Law on the Environment," Great Britain – "Environment Protection Act [1990][57]," and after them from numerous states too. Through process of these laws' forming, principles, such as: *polluter pays* and *environmental impact assessment* became constitutional parts of national legal policies of the environmental protection. This is of enormous importance from the simple reason that Ecology Law, as a branch of law science and legislature, in process of developing, by them gets its first original and generally accepted principles. But it still does not get its *systematization*. What lacks is: Observing of all the elements of previewed legal relations, and realization of common interest of all objects of regulation of desired legal attitude. May be exactly from the reason of deep sub-specialists perception on each of them individually, in this time, without global observing of them all, as a total and unity. But, in these days, such observing does not stop any of us, to apprehend them as a total.

Global perception of all analyzed legal products can bring us to some common conclusions:

> First – There has been established a solid number of objects – objects of legal regulations.
>
> Second – Law had come to the point, where it has started process of regulating from the general elements of attitude, towards environmental elements individually: air, water, *etc.*
>
> Third – Traditional regulative methods are applied: Methods of administrative, civil, contractual law (for e.g., between states, and on international level).

other economic objects.

53 National Environmental Policy Act of 1969 [NEPA] 42 U.S.C. 4321-43.

54 At 20 December, 1976. See: **Bundesgesetzblatt**; T.1. *No.* 147; S 3574-3582.

55 See: Bundesimmisiongesetzblatt; **Bundesgesetzblatt** [1990]. *No.* 1.

56 See: Gesetsz uber die Umwelthaftung; **Bundesgesetzblatt** [1990] *No.* 1.

57 See: Environmental Protection Act 1990 [of Great Britain] [c. 43], ISBN 0105443905.

Fourth – National legislations form both (a) laws, and (b) sub legal acts, specified for ecology – legal tasks.

Fifth – Legislation development – all mentioned processes, go on simultaneously on international and national levels.

Sixth – Simultaneously goes on the process of adaptation of existing legislations: civil, economic, traffic, criminal, for new aim: regulation of the ecological relations.

Seventh – Formed norms can be (according to their characteristics) classified in two categories:

A.] Preventive, and

B.] Repressive[58].

Eighth – Common characteristic of all these legal products is that they offer base to the desired treatment of ecos elements – by the fact that they have, for their object of regulation, individual, or even, groups, of these mentioned elements.

These conclusions, we have formed, are also valid for Republic Serbia[59].

We think that analyze of steps that we made towards the *ecos* protection, as well as previous conclusions that we formulated, offer us possibility of much wider view on its possible law protection, than the one that exists today. Furthermore, they offer us personal freedom to form that kind of view about possible Ecology Law development in totality, adding to it those separates for which we think that are matured to be observed as its constitutional elements.

If we take into consideration the fact that law regulates, from year to year, much more and more complex and wider, mutual relation between man and the ecos in general, although law just now realize this fact, regulates all those relations as a specially structured subject, in all its complexity, and doing this with clearly defined aim, common to all elements that form this relation: relation towards water, forests, mineral wealth, air, soil... and regulates it by complex methods of law science, by which its being has been incarnated and studied, it is clear that we can talk about the new branch of law science: Ecology Law. On account that Ecology Law deals not only theoretical, but problems of reality also, concrete problems within the existing communities, legally organized, as well as with the problems present at the international level, we think that we can speak about the Ecology Law as the branch of law science, as well as of the contemporary societies legislations', and, of course,

[58] Capitant, H. [1976]. La protection du voisinage et de l' environment. **Travaux de l'Association**, T. XXVII.

[59] In fact, for any unitary, co-federal, or federal state. This can be seen by simple comparing of legislations, for example of the USA, Canada, Brazil, Australia, Nigeria, Italy, or any other state.

the international community, just as well. Clearly, I shall permit myself to formulate this notion: the Ecology Law of Republic Serbia, too.

Legal systems have comprehended that certain questions required legal treatment. Having in mind ecological necessities, states formed *ecologized* and purely ecological norms, treating with them observed problems. Such problems have been treated by simple constructed and individually oriented norms, or complex legal constructions. Legislations at the region of ex Yugoslavia, Serbia also, have followed this way, too. In the essential phase of development, while there were relatively small amount of rules that treat problem of ecology, connection between them could not be seen, but we think that today it is possible.

We think that, if we talk about ecological relation in legal-theoretical way, we can observe it in its realization towards exactly specified group objects and that by manifold attitude towards them. I also think that attitude towards these group objects of ecological-legal treatment can be grouped in two groups.

I - Attitude towards nature in general, and values that directly come out of it, or the most closely connected to it, and

II - Attitude towards objects of legal-ecological treatment, which actually are the product of human activity, as a complex sum of activities.

Starting from this diversification on two mentioned groups, we can talk about individual relation towards:

I

1.] Nature in general,

2.] Mineral wealth,

3.] Forests,

4.] Hunting wealth,

5.] Waters,

6.] Air,

7.] Agricultural land,

8.] Wealth of fauna, and

II

1.] Articles of the common good,

2.] Poisons and other dangerous substances

3.] Ionic radiation,

4.] Building area:

a.) Building at the living area, and

b.) Building at the economic area,

5.] Waste materials,

6.] Traffic, and

7.] Other individual values, which are hard to be classified[60]. We can call them, as it is usual: *other values*.

8.] I also think that values of cultural tradition belong in total sum of these values, so that they should be observed as individual, separated whole[61]. Consequently, acts of the International Law that treat this mater, are, also, constitutive parts of the law branch we are talking about. The base for this approach we find in the International Law documents, more precisely OUN – UNEP acts, which pay special attention to cultural tradition of humanity[62].

We think that this systematization of group objects in two big groups can be applied to the Ecology Law in general. That means: Not only to the Ecology Law of sovereign countries, but the International Environmental Law just as well. Of course, systematization, that we formed, is liable to some later process of logical refinement, by the other authors.

2.2.2 Rules that Make Ecology – Legal Construction, Their Location and Being

Entering problem of the *Ecology Law systematization*, it is also necessary to answer to the questions:

(a) By which rules,
(b) Which structures, and
(c) Locations (of those norms), and
(d) By which way,

We can make the regulation of the attitudes towards those group objects, we had pointed at previous pages, considering the fact that the norms actually are those essential constructive elements of the ecology – legal construction?

Law and legal systems don't know for the universal classification of norms, but separate them starting from different aspects – aspects, which have been formed by law theory. Regulations, including those related to ecology, can be categorized according to:

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[60] See more about the conclusions and classification at JOLDZIC, Dr. Vladan [1995]. **Ecology Criminality in Law and Reality**, 2nd. Edition, pp. 109-110, Belgrade, Yugoslavia: *Ecologica*.

[61] This attitude represents DUPUY R. J. at **The future of the International Law of the Environment**, p. 20.

[62] Thus, for example, register monastery Studenica [1986] and Natural and Cultural-Historical Region of Kotor [1979], cultural heritage of the Serbian people, at the **Register of the World Cultural Heritage**, insuring them international-law protection in peace and war. See: UNESO - World Heritage List, at *http*://whc.unesco.org/pg.cfm?cid=31.

A.] Sort,
B.] Amount of importance,
C.] Time of validity,
D.] Competence to pass them.

They can also be observed as:

A.] General regulations, so called *Lex generalis*,
B.] Specific regulations - *Lex spetialis*, and
C.] Single regulations - *Lex singulum*.

Into *lex generalis*, when we are talking about ecology matter, can be classified general laws on the protection of nature (or environment, as have been formulated by some parliaments[63]).

Lex spetialis includes those normative constructions that more thoroughly, with more details, deal with certain questions, generally treated by norms from some of the *lex generalis*. For example, such are laws that treat: National parks, waters, air, or the preservation of some natural resources.

Within so-called complex states (federal and confederate), where, for example U.S.A, Germany, or Switzerland belongs (all named as federal), ecological rules can be classified according to the bearer:

First, as the rules of central authority (federal and confederate), and
Second, republic, or cantonal (i.e. rules made by parts of the complex state).

Some of them can be native legislatures' product of central authority of certain state, or its separate elements (if the state is complex), while others can be brought into the legislature through the process of ratification, or the some of the other legal ways – i.e.

A.] Through the affirmation of the acceptation, and by
B.] Taking documents of the International Law within domestic positive legislature.

We should be aware of the fact that ecological rules, which serve to regulate relations toward any of group objects, previously mentioned, can be located within:

A.] Laws, and
B.] Within sub-legal acts just as well. In such a case, they are additions to the law's norms themselves.

Rules of the law that need and have the additions, are called *complex – blanket norms*, while sub-legal acts have function of their blankets – *addendum*-s. Or, to say

[63] For example, such law is **Environment Protection Act** [1990] of Great Britain.

with another word: Supplements. Supplements without legal norms are useless, as well as complex legal norms without their supplements, located in the sub-legal acts, acts which help us to see complete picture of actually observed reality and form adequate legally based decision (for example, as inspectors, judges, *et cetera*).

Beside these norms of the complex law being, there are also norms that have simple being – the logical entirety, and therefore do not require blankets (*addendum*s) in any form, form of sub-legal acts also.

Starting from the Manaster's attitude that "everything that comes from the nature (we shall add: Just as values made through the human work) has to be respected and preserved[64]," we can group ecological norms, also considering the effect, or effects, they possess, or produce, as:

A.] Preventive, which most of them are, but, also,

B.] Norms that have been used for rehabilitation of ecologically negative effects, and as

C.] Disciplinary, used to punish ecology offenses.

Ecological norms can also be classified, according to the sort of protection that they provide, as:

A.] Medial - those norms that establish adequate protection for certain mediums from bad consequences,

B.] Causal - norms that regulate protection from certain bad consequences, caused by different causes, such as: Noise, radiation, dangerous, poisoned, radioactive, or other materials,

C.] Integrative - norms that, with their positive construction, provide, at the same moment, the protection of a number of different objects (water, soil, environmental values made through the human work, *et cetera*).

Preventive norms prescribe desired sort of behavior – behavior by whom will not be endanger, or violate, any ecology value or right.

Penal norms have been developed in order to protect ecological values and laws, by prevention, or by punishment, of the: Violations, any risk, or purposely produced danger. Legislators in modern states incriminate and sanction activities opposite to the norms that regulate desired behavior, simultaneously taking in consideration the possible amount of danger, or violation, which can be produced for those ecological values that are legally defined and established.

[64] Manaster [1977]. Law and the Dignity of Nature; Foundation of Environmental Law. In **Depaul Law Review**, p. 743.

2.2.3 Processes through Which the Ecology – Legal Relation is Declared

Having in mind everything previously said about logic and structure of the Ecology Law, its general object, as well as group objects of ecology-legal relations' regulation, just as well as about rules (norms) which thereto contribute:

Their structure,
Mutual classification, and
Differences between observed rules,

I think that contemporary law, both on the level of:

Sovereign states' positive legislations, and
The international law level,

For adequate treating of the general ecological relation, must be developed through three mutually connected processes.

(1.) Above all, it has obligation to arrange ecological relations. This, mostly, means: Building of regulative Ecology Law norms. At first place: Rules of Administrative Law specified for ecological problems. If we have wish to possess such norms, as a real mass of norms in legal life, in any country, not only as a mass of frozen – abstract norms on paper, to say on the other way: To have as the respected mass of legal norms, legal values treated by them must be completely protected. Protection can not be offered by administrative rules themselves.

(2.) Any part of legislation which regulates something needs specific kind of protection. Protection, at first place, means threatening of the unwanted behavior by sanctions - unwanted behavior that can endanger, or violate, any of values treated by "regulative" norms. Therefore, we have to adopt this fact: That the Ecological Penal Law should be parallel developed as systematized entity. This process has been going on, until now, only at the national law levels, not on the international community level. There were two phases characteristic for it:

First, in which states have formed:

(a) Incriminations, and
(b) Sanctions,

for protection of values important for the environment. In this phase sovereign states not only formulated their native norms, but they also have taken obligation, based on ratified conventions, to include, in their legal systems, rules specifically formulated for protection of the environment, great number of its elements, as well as for adequate legal treatment of any:

(a) Right,
(b) Obligation, or

(c) Duty,

connected with the environment, or mentioned environmental elements.

Second phase is characteristic for little more than last few years. In this time, in the aim of protection of values important for the environment, forming of disciplinary rules has started inside the international law itself. Specific for this process is that those countries that are subjects of ratification on the ecology conventions, which includes penal norms, think that those norms must be valid also towards the countries that haven't even signed texts of ecologically oriented conventions, not to mention their ratification. We must have that in mind.

(3.) We must also know that, in order to have adequate legal treatment of ecological relation as alive being, it requires forming of the legal norms necessary for administrative apparatus functioning. Functioning of the part of administration obliged to realize all those ecologically oriented legal rules. Therefore, within managing administration, there should be clearly indicated departments (or their parts) that will do this job. Considering Republic Serbia, we should have in mind two mutually supplemental points:

1. Our increased legal obligations on international level, and
2. Process of social and national changes that has been going through more than last 15 years - through period of transition from SFR Yugoslavia, trough S.R.J., Serbia and Montenegro State, to the moment of Sovereign Republic Serbia forming.

We also have to be aware that ecological relation, as social and legal, is global, so it should be observed in its interaction duality: As internationally - legal, inseparably connected to inner - legal relation. Considering clearly its complex nature, we must approach it with elaborated methodology, starting from clearly defined objects and aims, but, not necessarily, with systematization of all those norms that treat them, by unique codifying act - some kind of the Ecological (Environmental) Legal Code[65]. Such approach - approach of codifying, in many states will be to early step, thus making this branch of law and legislation, unnecessarily stiff and lifeless at the national law level[66].

[65] Work of the codification can be done not by only one, but with series of texts "that, in their totality, put in order some law branch", as have been explained by LIBSIC [1984], in his text: **Development of Law** - Development of legislature [At the Russian language: Либшиц Р.З.: "Отраслб права - отраслб законодателбства]. In: *Советско государство и право, No.* 2, p. 96.

[66] But, not in all the states. For example, states, as Australia is, have good basement for codification. From this reason Australia has ecologically oriented codifying act. See: Environment Protection and Biodiversity Conservation Act 1999, Act *No.* 91 of 1999, as amended.

2.3 Aims of the Ecology Law Development

Mentioning anthropocentrically oriented nature of Ecology Law – part of law that protect the environment for present and future human generations, its perception as integral part of law science in general, which deserves, at the same time, educational and scientific approach, we have said that the aim that we have set to ourselves, on the base of perception of the real position of the Ecology (Environmental) Law in the process of its incarnation (not only at the territories of ex Yugoslavia, now sovereign states), is following:

1.] To make an parallel, but suitable, legally-political view on its future treatment as a part of positive legislation (in our case in Serbia), with
2.] Simultaneous approach to it, as to the multi-disciplinary subject of law science.

We think that this is necessity, and that all conditions have matured.

When we speak on legal politic and its views on certain complementary parts of entire totality of actual law rules, we must have in mind its simultaneous dual nature. Its aim, actually reason for its existence, is, according to Lopez Rey: "Reaction against denial of social values[67]." Therefore, the aim of law policy is efficient legal organizing of state. To be really effective, law policy must have certain fund of knowledge about elements that make the existing entirety of legal relations:

Between precisely defined subjects,
At accurately allocated territories,
And in explicitly defined time[68],

relations that need adequately formed policy of regulating, as well as threatening in reality. In case of ecologically-legal relations, then this legal picture has to be, at the same time, supplemented by the knowledge on the norms that arrange it on national and international level, just as well as by elements of knowledge about the logic of their further development. The only way of accomplishing this is by exploring the object of ecological relations in global, which means: All of those relations that are, by their nature, ecological relations, at the same time defined by norms of administrative, international, economic, criminal and the other branches of law, and with ecological problems connected sciences. In order of this we have duty to form adequate methodological apparatus adjusted for this function. From this reason next step in our text is pointed precisely at the apparatus of the methodology adapted to the Ecology Law researching, those elements that we consider as necessary.

[67] Paraphrased Lopez-Rey, M. [1966]. Considération critique sur la criminologie contemporaine. In **Anales de la Faculté de droit de Liège**, Liège, France.

[68] Minimal needed condition for such explicit defining of time, in any law policy text – not only environmental-law policy text, is to specify start time in general, or for its fundamental parts; its not needed to precise final threatening time for observed law policy problem.

3 Methods Necessary for Complete Perceiving Of the Ecology Law Relation as the Subject Matter Of the Scientific Researching and Practical Treatment

3.1 Adopted Principles of the Methodology Access

What will be revealed in some concrete scientific researching depends, after all, on choosing adequate methods for researching; methods, beginning with those for collecting facts, to one or more method(s) for making conclusions, have to be optimally adjusted to the subject of accurately defined scientific effort and aim - aim which is precisely nominated. From all this reasons, which can be considered as principles for entrance in scientific researching, entering into parallel and mutually connected process of formulating and developing the Ecology Law, as, at the same time, scientific and legal discipline, we have to be conscious about the fact that realizing of this aim insists upon building of special, at the same time integral, methodological instrument, exemplar to the subject of our research: the Ecology Law.

Observing, individually, norms that are aimed to regulate ecology relations, for each of them we will notice characteristics, which separate them from the other such law constructions. By researching its larger quantity, we can notice certain moments, which are in common for the most, or even all, ecologically oriented norms, even if we observe heterogeneous law creations. Similarly, our view is changing even if we narrow, or widen, the time, or the place, of observing. Certain characteristics, seen in first dash, seem important, but when the studying procedure is changed, the stress is on the other ones. All those moments can not be noticed while we are observing and studding rules individually, certainly even when there is immense number of them, so they have to be studied as a sum, surely, not as simple algebraically formed sum, but, as a new phenomenon of higher string. It has its certain characteristics and law-fullness of behavior. Fundamental aim of Ecology Law, as a branch of law science, is to reveal:

A.] By studying all its confirmed constitutive elements, as one whole object,
B.] General logic of its structuring, and
C.] Development of the researched phenomenon,

For the purpose of more effective results, in protection of elements apart (one by one), as well as the whole *ecos*. This process of studying must be continuous, having in mind that socio-economic, political, technological and the other changes, which time brings, demands constant checking of formed scientific knowledge and, on that base, continuous improvement of the international law rules, as well as the sovereign states' laws.

In scientific process of researching, the Ecology Law, topic of our contemplation, has been composed by theoretical and practical law-regulated relation toward ecosystem, especially its elements present in the law of Serbian state, where we belongs. This means that our object of studies is, at the same time, complex, but also polysemantic process, situated in concrete time continuum.

This also means that the object of our researching is, at the same time:

A.] Phenomenon whose constituent parts, but also one of the conditions of determination and living, are ideal creations - law norms, and

B.] By the achievement of previously stated condition (formulating ecologically oriented norms), automatic realization of its essence, in observed time and space, establish their material being.

Therefore, it is apparent that the point of our scientific work is placed on the object of researching, which is at the same time:

Of the ideal, and
Material nature, and
Has its time course.

That means that it can and has to be studied and reformed in dialectical frame, also by historical and materialistic method, as a basic theoretical and methodological concept, which frame has its specific place for methods of law science. Reason for this is placed in strong need for answering on the numerous questions, emerged from subject itself, which are, before all, law questions. Necessity of using specific methods during this process, such as: formally-logic and dogmatic "do not incapacitate dialectical comprehension of law, or the use of dialectical method. Quite contrary, dialectic demands application of those (specific, comm. J. Dr. V.) methods for learning[69]" the observed phenomenon. When it comes to the subject matter of our contemplation, it has to be observed by these methods in concrete time-place, for establishing its essence in that moment, that is, each of them, because only by using this, can be perceived as a developing and dialectical stature as well. Therefore is logical to speculate law methods firstly, and after that to use methods of social sciences, as the more general ones, by whom the methodology access in studying the object, in favor for whose developing we speak about, open and close. We have to se and accept that, by offering preference to the methods of law in its access to the ecological problem, as a group of relations and circumstances based on, and emerged from, processes conceived on natural lawfulness, our law and legal way of thinking has to be based on knowledge from the other sciences, such as: Biochemistry, medicine, geology, hydrology, genetics... Only by adopting

[69] LUKIC, Radomir [Year 1977]. **Methodology of Law** [Metodologija prava], p. 19, Belgrade, Serbia, Yugoslavia: SANU - Serbian Academy for Sciences and Arts.

 their results, law can come to meritorious study of the subject and to adequate conclusions.

3.2 Methods of Law Sciences

Though law-ecological relation, in its totality, is determined by law, as a dogmatic stature, this doesn't means that law (though, by definition), regulator and protector of *existing* and not of *developing*, doesn't succumb to dialectical logic - quite contrary. The most explicate example is penal reaction, aimed at ecological offenses (L.: *delictum*). Reaction that was undergoing normative changes inside any society, in:

(a) Basic, as well as in,
(b) Subordinating criminal legislature,

parallel with appearance and developing of certain problems, which were expressing ecological, or primary ecological nature[70]. Those changes emerge from law knowledge developing[71], as well as from influence of obligations taken from ratifications of international conventions. Having those facts in mind, it must be admitted their developing nature:

(a) Normative-developing, as well as,
(b) In the field of realistic application of positive rules aimed on protection of ecological values.

All these orient us toward consideration of the types of normative methods:

(a) Law normative,
(b) Logic normative,
(c) Formally normative, and
(d) Materially normative.

Each of them, because of its specificity, is suitable to the subject of contemplation: Necessity and possibility of studying and developing of complete law protection of ecological values.

Learning on *law normative method*, we are doing it by starting from sense that law perceiving of ecological relation,

- in inside (national) law, as well as
- in international law,

is not structurally complete, nor clearly define the hierarchy of norms, no matter we are talking about national or international law. Therefore, *law normative method*

[70] This has to be clearly distinct.

[71] Helped by knowledge of many sciences, for example: medicine, hydrology, toxicology, nearly 70 of them.

turns out to be necessity, just to perceive the formal side of large number of norms that concern the matter of the ecological relations, well: Its legal force and mutual hierarchical relation. Without *law normative method* it would be impossible, and posted aim would not be realized.

Logic-normative method is composed for application of adequate logic rules on law norms as individual products, but also on law as a system, where all the norms belong. Through process of *logic normative method* applying, we have to comprehend logic nature of norms that we are observing, sensible connections between existing parts of legal and law system, their unity, completeness and coherence. Having in mind that ecological relation concern values, and relations connected to values, which are matters inside many states, their legal systems, where all those values represent constituent elements of legislations, but elements diffused in many branches of positive legislations, by hasty analysis is clear that until today there is no formed, in law science, one complete and systematized view on these legal properties and their systematic juristic treatment. This is the reason of using *logic-normative method*. Without it, it would not be possible to perceive complete ecology-law relation as a social, from this reason: International, by positive law defined phenomenon.

Formally normative method is necessary to contribute adequate law power of acts that are used for making norms, which regulate elements of ecological relation, or, if we look from another angle, to perceive are they:

1. International, or
2. Texts of the state positive legislature?

So, in this other case, to which class they belong:

a.) Statutory, or
b.) Under statutory (sub-law) texts?

When the point is, for example, on state in long and complex process of transition, which problem is present with the Republic Serbia State, basic question is: From which level were brought observed norms:

1. Native Republic, or
2. Ex-federal (in our example: Yugoslav) level?

Also, what is the power of the observed rules itself? When we take a look on a number of such mutually connected norms, what kind of its reciprocally established hierarchy is present too, on each of these levels, as well as in general? Answering those questions we are getting foundation for application of *materially-normative method*.

Basic task of *materially-normative method* is settling of law rules regard to its contents, in other words, creation of the law system. Namely, with this method

all rules, which regulate the same kind of law relations we can systematic together, in one group, and all such groups arrange in one (greater) logical entity, by order, determined with contents of mentioned groups. This enables norms' clearness and establishes their mutual connections. It means: Easier and effective use. This is more than desirable. To regret, when the topic is on our subject, as an object of regulative[72] and therefore penal rules[73], we can freely say that the *Ecology Law is not jet present as the system*, established by *materially-normative method* using, as the system which is obvious part of law science, or legislations, of any state. But, we can say, with just the same freedom, that such system can be done. Materiel for such effort is obviously present at many places, in form of rules, which concerned the subject matter, in sea of statutory and under statutory law acts, brought on every level. And the task of law science "is to arrange...numerous and in many ways contradictory regulations (comm. J.V.), to make of it a logical… un-contradictory whole - system[74]," which will live in full rate. Basic step in that direction is making the picture of really existing in law.

3.3 Methods of Social Sciences

By accepting operational definition of Ecology Law, by which it contains:

A.] All present aspects of national legislatures of importance for our matter, and

B.] Adopted rules of relations regulated by International Law, made in connection with eco-system,

It is clear that we have to observe these relations individually and at the same time as one group. This leads us toward using not only law, but logic methods too.

Since available matter can enable wide insight in subject itself, its constituent parts and entity, it is understandable that it is suitable for analytic elaboration. While doing this, it is desirable to observe larger parts of law relation stature, at the same time parts that had been formed, as well as parts in process of developing, from the simple reason of qualitative protection developing - protection of the elements,

[72] Using word "regulative" we want to embrace only norms that define rights and duties, and arrange legal states and relations of importance for the subjects of a law.

[73] As have been said by Binding, if you want to incriminate and punish for something, you must have strong legal reason for this steps: Being of the law values and their legal treatment. The same attitude have VOULIN, R. and Le' Aute, J. [1956]. As can bee seen in **Droit penal et criminologie**, Paris, France.

[74] LUKIC, Radomir [Year 1977]. **Methodology of Law** [Metodologija prava], p. 19, Belgrade, Serbia, Yugoslavia: SANU - Serbian Academy for Sciences and Arts, p. 141.

but also the protection of the ecosystem as entity. It simply means that we have duty to perceive not only observed elements of the eco-system, but to perceive this system in general. This kind of methodological approach demand inevitable using of *inductive method*.

For us the *inductive method* is of major importance. "Cognitive role... is not just descriptive, but explicative[75]" also. Description, especially quantitative one, can not be strictly separated from explication, which, in our case, means: Description can not be strictly separated from explaining the essence of what makes aspects of law regulation of relations, whose general topic is *ecos*.

On the other side, it is possible to observe developing of the Ecology Law relation and to bring along connections with certain elements of its structure and the other facts. That considers *deductive way* (method) of studying and bringing conclusions. Though, *inductive* and *deductive methods* are basic methods of social sciences, suitable to our object and work aim: Ecology Law and its development, they are not, and can not be, the only ones.

For reason of proper knowledge of our subject -- Ecology Law, it is necessary to come into perceiving of smaller number of examples of practical expressions of Ecology Law relation[76]. Adequate method for this is "*analytical* and *inductive* - for starting from concrete cases. Only proper knowledge of processes permits talking about it[77]." Exactly this methodological approach, in studying of subject, such as our subject is, can give scientifically valid results.

In our own work at the Serbian environmental legislature as well as at the Ecology law science, we accept all the methodological rules we discussed, using at the same time elements of positive legislature of many states, but, also, elements of the International law, threatening them as the needed and useful for really qualitative scientific work. Of course, doing that, we also consider relations between Ecology Law and the other branches of law and legislature of importance for valid protection of *ecos*[78].

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75 ŠEŠIĆ, Dr. Bogdan [1974]. **Basics of the Social Sciences' Methodology [Osnovi metodologije društvenih nauka]**, p. 109. Belgrade, Serbia, Yugoslavia: Naučna knjiga.

76 So cold "Case Study."

77 GILLI, Gian Antonio [1974]. **How to Research?** See also p. 103 of Croatian edition: **Kako se istražuje?** Zagreb, Croatia, Yugoslavia: Školska knjiga.

78 Of course, relations between Ecology Law and the other branches of law and legislature of importance for valid protection of *ecos* will be material for our another scientific article.

4 Final Necessary Steps in the Establishing the Ecology Law as the Structure Element of the Positive Legislation at the example of Republic of Serbia

Thinking about the general elements of the Ecology Law, at this place we shall point our consideration on some, we think, necessary final steps in the Ecology Law, establishing as the structural element of the positive legislation of modern states, at the example of Serbia. This, especially, from the reason that become obvious, when we analyze a number of rights and proprieties, of significance for the *ecos*, that all are really necessary to be adequately treated. This means: To give them maximally precisely, by formal legal way -- with material legal norms, adequate significance and role. Only by finalizing those steps, it is possible to establish really systematized legislature - assembly of the legal norms by which *ecos* will be really protected. Significance of such norms is expressed not only by the regulating and the necessity for the regulating of the opened questions of the relation toward solid number of group elements of the ecological regulative, but also in the point that such norms will complete part of the ecology legislature that treat general questions of the Ecology Law. We can form such conclusion easily by comparing legislatures not only from the example of ex Federal Republic of Yugoslavia, but by comparing any European legislature with, for example, positive legislature of the Federal level of United States of America, from the one side, and level of the federal republics from the other side.

If we accept in the book proposed logic of the Ecology Law defining, as well as the object of Ecology Law scientific researching and methods of its treatment, these inevitable lead us to perceiving the basic logic by which the entire positive ecology legislature of the states, no matter we are talking about complex or unitary state, Serbian legislature between them too, is oriented on the life and development. This logic is absolutely clear, oriented on the man at first, his rights, duties and freedoms. Rights and freedoms expressed in such measure that do not produce trouble or harm to another man[79]. In the last years, by the ethical comprehension developing, trouble or harm not only for living, but also for the future generations. This is the essence of Ecology Law idea. From this reason, pointing out at the necessity of the continual Ecology Law systematization, reconstruction and supplementing the ecology norms of legislature, we have to start, at first place, from such premise formulated in constitutions [Serbian also]. The state, which does not possess such norm, or norms, in the constitution, practically is poor for really

[79] STOJANOVIC, Zoran [1987]. At the p. 5 of his book **Limits, Possibilities and Legitimacy of the Criminal Law Protection [Granice, mogućnosti i legitimnost krivično-pravne zaštite]**, Belgrade, Yugoslavia: Naučna knjiga.

important part of law and legislature. Modern states know this. Some of them have old constitutions, but recently reconstructed. Reconstructed by the Ecology Law elements mentioned constitutions are parallel oriented on the right of men on the healthy environment. For example: Federal Republic of Germany and India. Some other states have "younger" constitutions, but from the very beginning of their parliament formulating, oriented at the rights and freedoms, ecology rights too. Nice examples are the Constitution of the Republic of Serbia and Constitution of Switzerland[80]. Permit us to analyze and express some of the interesting elements of Serbian Constitution.

Having in mind that Republic of Serbia is "sovereign state based on the equality of citizens[81]," along the full respecting of man's rights and freedoms, with "rights and freedoms prohibited only with the equal rights and freedoms of others[82]," as well as that "rights and freedoms are realized... and duties fulfilled on the base of Constitution[83]," respecting the rule that "everyone has right on the equal protection of his rights[84]," as that all are equal, in front of the law, starting from the basic, by the Constitution proclaimed, right of man "on healthy environment[85]," and the duty of state "to take care on healthy environment[86]," adopting the principle that "State in good measure do her obligations from the international agreements, in which is contractual side, as well as that international agreements that have been ratified and publicized, in accordance with the Constitution, and that the common international law rules are parts of the positive internal Serbian legislation[87]."

Starting from the Ecology Law tasks, defined by Constitution, protecting equally, in his wholeness, fundamental right of every man and citizen on the healthy environment, Serbia utmost care, with legal texts based on this law construction, point on:

- the protection of men' life and health from the infectious diseases that imperil all the country,
- the protection of animals from the diseases that imperil all the country,
- the protection of plants from diseases and vermin,
- the protection from ionizing radiation, toxic agents, radioactive and dangerous substances,

[80] See : Constitution fédérale de la Confédération suisse du 18 avril 1999 (Etat le 19 février 2002).
[81] Constitution of the Republic of Serbia, Article 13.
[82] Constitution of the Republic of Serbia, Article 11.
[83] Supra note 1 of the Article 12, Constitution of the Republic of Serbia.
[84] Ibid, Article 13.
[85] Ibid, Article 31.
[86] Ibid, supra note 2 of Article 31.
[87] Ibid, Article 73.

as well to the other questions that are important for the protection of man's and citizen's right on the healthy environment. By these steps are in process of adequate forming basic elements of the ecology law triangle: Systematized ecology law legislation.

As we have mentioned through our text, if constitutional rules and law sciences' principles will be respected, in the aim of future more quality protection of the environment, equally destined to every man, in Serbia as our example also, and for more efficient effect toward foreign factors, legislators will be obliged to do two more necessary and parallel steps.

At first place, if we want to have properties that are treated by the positive ecology legislation as the respected, such law values have to be protected. Protection cannot guarantee norms that have exclusive regulating character only. It is necessary to guarantee that norms which threat ecologically values and relations will be respected, to guarantee this by sanctions for the unwanted imperiling or injuries of such ecological values and relations. This mean that is necessary to build, parallel, Ecology Penal Law as the systematized law entirety. Of course at the level of central government in the any complex state: federal or con-federal. Only by such legal step we shall, in future, avoid many errors done by legislators. For example: Inequality in regulative environmental protection, or penal protection[88]. From that point of view we insist that most important Penal Ecology Law part: Criminal Ecology Law has to be placed in the construction of Criminal Codes, at the way which number of states expressed by their Codes [Serbia also].

If we want to see two mentioned parts of the triangle in real life as efficient legal constructions, it is really necessary to form mechanism that will obtain this -- apparatus that will make of them parts of reality. This mean that is necessary to include in the actual administrative apparatus part aimed for such function. For this we need adequate legal norms. We call them: Norms of the Ecology Administrative Law. Aim of their creating is legal constructing and functioning of this mentioned administrative apparatus, as the particular one, or the part of some existing forms of the states' administration. For any of the mentioned forms we shall decide, we have, respecting the law-normative method, to organize apparatus hierarchically, from the supreme level (central government) to the level of communities. Only with such scheme of the organization and subordination, such ecologically needed

[88] Examples of such inequality in penal protection are numerous, to name one: Australian legislature. See: New South Wales Environmental Offences and Penalties Act, [Year 1991], which has classical criminal norm: Tier 1: Offences of aggravated pollution, and legislatures of the other constitutive parts of the Australia, which do not have such classical criminal norm, environmentally oriented, with imprisonment as the punishment.

administrative apparatus will be efficient. This is the reason why we want to see all three mentioned elements also as the elements of positive legislature at the State level of Serbia, elements that in real life give legal protection and the conditions for developing of the environment. We think that one of fundamental duties of the law science and legislature is to offer help for the ecological area in a whole.

Accepting what has been until now expressed, return our thinking on the actual practical question of the Ecology Law development at the example of Serbia. We think that is, in the time of numerous and complex ecologically oriented legal constructions, the only logical and real legal solution to make systematization of present mass of the unsystematic legal and under-legal (so cold sub-law) texts, in which anyone can see two types of mistakes:

A.] Mutual gossip, and

B.] Uncovering of many aspects of the ecological relation's.

This mean: To make a coherent entirety of the ecologically oriented legislation. This task requires continual researching and developing of the Ecology Law also as the course at the universities. By such effort will be produced material necessary in such great measure for the process of developing the Ecology Law, as the efficient and systematized branch of legislature; systematized in measure and by logic that has been suggested by us at the previous pages. In Serbia, of course, ecologically oriented legislature based on the "Law on the protection of the Environment," as *lex generali* and, in future, from this law as the source and fundament, with a number of laws from *lex spetialis* category, that will treat some narrower questions, by this efforts contributing to the protection of the *ecos* in a whole. We think that all conditions for such steps are present.

Finalizing our text, thinking about the need for the Ecology Law development as the course at the high schools of law, we mean that are really near to us last of the elements for the forming of the Ecology Law subject topic -- elements that have been, for example, implemented in the Yugoslav "Federal Law on the Fundaments of the Protection of Environment." It's developing has been intensive for five years. We had worked on this project by the invitation of Federal Government - Ministry for the Environment and Ministry for the Development, Science and the Environment. We had endeavor to implement in the "Proposed Draft of the Federal Law on the Environment[89]" as the "Draft of the Federal Law on the Environment[90]" also, preparing text for the so cold "phase of harmonizing" in this

[89] See: **Bulletin [Bilten]** [1994]. *No.* 5, pp. 87-137, Federal Ministry for the Environment of the S.R. Yugoslavia.

[90] See: "**Draft of the Law on the Environment, of the Federal Republic Yugoslavia**," Archive of the Ministry for the Science, Development and Environment [March 1995].

process, those principles and elements that have been in detail described in our book: Ecology Law. From this reason we think that it will be positive to express one sketch of this law structure. Especially having in mind that the "Federal Law on the Fundaments of the Protection of Environment" is the first such federal law in Yugoslavia, after the Yugoslavia State cancellation in force at the level of Serbian State for next four year, as the law with its elements, which is jet really rear example in states in transition, and, even, in some modern legislatures.

Mentioned Law has built, until the Year 1998, nonexistent elements at the area of legal treatment of the *ecos*, at the Balkan area, with its structure of eight chapters:

I – Basically Regulations;
II – Principles and Criterion of the Environmental Protection;
III – Measures of the Protections;
IV – Supervision of the Environmental Condition;
V – Financing;
VI – Responsibility for the Pollution of the Environment;
VII – Sanctions; and
VIII – Final Norms.

Our team, that formed this exhibited structure, has justified respecting:

1. The Ecology Law principles and obligations from the International Law that were incorporated in the positive legislature by ratification more than 60 eco-conventions, and
2. That idea to form one basic ecology law, also open area for a number of *lex spetialis,* for deeper and more efficient treating of complex ecology matter.

We think that with such complex process of building the law and legislature, ecology matter in future will get really efficient rules, and, as legislation, norms for the protecting of all the ecological values. By such formal constructions, to make environmental protection in reality, it is quite necessary to do few more steps:

At first, it is necessary to develop ecological consciousness.
Second, developing the Ecology Law, we have to transfer it from cabinets of scientists and politicians to amphitheatres of high schools. We have to present the Ecology Law to students of: law, biology, forestry, chemistry, geology... *et cetera.* To present them elements of the International Ecology Law, as well as the elements of national ecology legislature, treating all group objects and with them connected relations that have been mentioned in our book.

Only at this way we shall form and develop, as present and useful, this necessary knowledge, for really quality regulating and living of the ever developing ecology relation.

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