

The role of European Human Rights Court in Combating crimes that affect the environment in a regional level. Ramil Iskandarli

Par. 87 of the Kyoto declaration refers to the commitment of Member States to adopt effective measures to prevent and combat crimes that affect the environment. One of the most powerful regional mechanisms for the protection of human rights, is the European Court of Human Rights.

However, should we consider the Court strong enough to protect the environmental rights of people as an autonomous right? The Court does not make any specific reference to the protection of the environment.

The Court's case-law provides for indirect protection of a right to the environment by sanctioning only environmental violations that simultaneously result in an infringement of other human rights already recognized in the Convention, such as the right to life (Article 2), right to private and family life (Article 8).

In the case of major offenses against the environment, like the massive spilling of oil by ships, a strong legal interest of the public exist to prosecute those responsibly. Consequently, environmental damage can be of a degree that justifies arrest and detention, as well as the imposition of a substantial amount of bail. The Court states that bail should not always be determined on the individual capacity of the accused to provide for it [it can be paid by ship-owner's insurers).

In the cases of dangerous activities, where public authorities fail to take measures that are necessary and sufficient to avert certain risks which might involve loss of life, Article 2 require that those responsible for endangering life be charged with a criminal offense or prosecuted.

PACE called for drafting an additional protocol to the European Convention on Human Rights concerning the right to a healthy environment. Such a legal text would finally give the Court "a non-disputable base for rulings concerning human rights violations arising from environment-related adverse impacts on human health, dignity, and life".