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**The Creation of Markets for the Protection of Biodiversity in the EU policy**

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**Abstract**

The environmental problem started to occupy the societies, when certain movements that have characterized as “ecological” began to dispute the predatory and exhaustive rhythm with which the states, the colossal multinational enterprises and individual in combination with the followed production systems use the wealth-producing resources of ground.

The observed world deterioration of environment in combination with the configuration of new consciences start to create a new science, the environmental science and new terms were coming in the limelight as sustainable development, biodiversity, protection of this and consecutively configuration of policies in international, EU and national level with further aim the protection of the nature and the fauna.

**Key words:** Biodiversity, European Union (EU), Environmental, Markets, Subsidiary, Environment Policy, Member States (MS)

**Introduction**

As it is known the economic development of the states is determined - influenced by certain factors which are:

- a. - Quality and quantity of natural resources.
- b. - Quantity and quality of human resources.
- c. - Level of technology.
- d. - Distribution of work and scale production increase

The combination of all the above for the achievement of development, the development of the technology, the population increase, the high standard of living that is seeking by the citizens, the urbanization of population and in general the configuration of modern super consumer societies led to the configuration of a problem that dominates worldwide the last fifty – sixty roughly years in the citizens reflections, the environmental problem<sup>1</sup>.

One of the main objectives for which EU was established is forecasted expressly in the preamble of its treaty and is the elevation of EU citizens’ standard living.

The affair of nature maintenance in Europe tends to be a very complicated affair because continuously are involved international

organizations and political initiatives, simultaneously with the interventions of national states and of citizens, autonomously or via various institutions.

Aim of this study is to present the European and international policies that are related with the biodiversity, meaning that has been developed in the last decades and more specifically the European prospect of this in the frame of the European Common Market.

Keeping in mind the above the methodology that will follow is: Initially will be analyzed the meaning of biodiversity in the European legal framework and following will be examined this meaning via the International Conventions. Afterwards it will be examined what is in effect in the EU from the aspect of the common market and then will follow the description of the most important statutes that concern biodiversity in European level and the operation of market in combination with biodiversity. In this framework is essential the examination of EU environmental policy and how this has been structured - developed in the frame of one of the most basic principles, the principle of subsidiary.

Finally this shortly work will finish with the

formulation of conclusions that resulted from the analysis of all the mentioned subjects<sup>ii</sup>.

### **The meaning of biodiversity**

It must be mentioned that have been counted officially more than 12 published definitions of biodiversity. From these definitions the most important and perhaps the best-aimed is the one that was included in the RIO Convention and concretely in article 2.

This Convention in article 2 reports: "As biological diversity is fixed/ meant the diversity that appears between to the live organisms of all species, the land, marine and other aquatic ecosystems and ecological clusters in which these organisms belong. The definition includes the diversity in a type as that, between different types and between the ecosystems".

More simply the biodiversity is the diversity of life in all its expressions. In its wider dimension the biodiversity incorporates all the types, the levels and the combinations of the differentiation of fetuses' beings in the nature.

There have been distinguished four different levels of biodiversity which each one has different importance but into practice they constituting piece of integral total. These are:

- a. - Genetic biodiversity, which expresses the breadth of hereditary changes of concrete type.
- b. - Biodiversity of species, which is expressed with the crowd of species, plants and animals that answer in a concrete region.
- c. - Biodiversity of ecosystems which is expressed with the number of combinations of species of plants and animals that are met in a concrete region.
- d. - Biodiversity of landscapes which is expressed with the number of types of landscapes that are presented in a country or in a region.

The convention of Rio which has been ratified by the EU and a lot of other states constitutes recognition of biodiversity value, but at the same time and unfortunately recognition of its worrying loss. Its protection constitutes one of the bigger challenges of the human in the future aiming at the protection of the rights of future generations in the frame of the sustainable development as this was fixed in

the Mproutlant Report<sup>iii</sup>.

### **The European frame**

The convention on the biological diversity was ratified by the EU and started to be in effect from December 1993. The Member States (MS) of the EU presented an intense interest but also mobility in order to support this convention. More concretely were developed the following initiatives:

#### **Pan-European strategy for the biodiversity and the diversity of landscape.**

This activity was developed by the Council of Europe in 1995 and its objective was the inversion of the degradation of biodiversity and the diversity of landscape in Europe. Its innovation was the effort for attendance of the public in its protection mainly via the development of policies in national and regional level.

#### **The environment for Europe**

This document was signed on 1995<sup>iv</sup> from 49 ministers of environment and from the EU. It underlines the need for completion of environmental items in all the individual policies, so the economic development keeps pace with the sustainable development. In this document the ministers ratified also the "Pan-European strategy for the biological diversity and the diversity of landscape". The last one had the following directions:

- a. - The essential reduction and as could be possible the removal of modern threats for the biodiversity and the diversity of Europe's landscapes.
- b. - The increase of possibility of European diversity re-establishment of landscape and types.
- c. - The intensification of Europe ecological cohesion as total.
- d. - The guarantee of complete attendance of public in the maintenance of various aspects of biodiversity and diversity of landscapes.

#### **The declaration of Brabant<sup>v</sup>**

An effort in order to be determined likely bilateral, multinational and international mechanisms of financing with accent in the briefing of public became from the participants

in the congress in Eindhoven of Holland in June 1996. There was overwhelmed an effort as national governments, institutions, institutes etc to help each one with suitable means and ways.

### **Helsinki document**

The forests constitute a sensitive department for the biodiversity. The states of EU had been committed for sustainable development and management in the frame of AGENDA 21<sup>vi</sup>. Thus was published in Helsinki a special resolution that deals with the biodiversity and the forestall ecosystems.

### **EU and the framework for the biodiversity**

For the enforcement of international conventions but also in the frame of action for the protection of biodiversity, EU via its bodies published enough legal documents. More concretely:

- a. – Directive of Council 79/409[EU] on the conservation of wild birds.
- b. – Directive of Council 92/43[EU]<sup>vii</sup> on the conversation of natural's habitats and the wild fauna and flora.
- c. - Network Nature 2000<sup>viii</sup> that had as aim to ensure the regime of good maintenance of certain types of natural habitats through mechanisms that remain under the responsibility of MS. This means that the states are called to materialize national policies with the publication of law - administrative meters.
- d. - Configuration of Common Agricultural Policy<sup>ix</sup> that aimed in the simplification of complicated agricultural systems in various regions of EU. The tools that were going to be used were the guarantees in the prices and protectionism in the imports - exports.

### **The strategy of EU for biodiversity**

The European strategy was definitive in February 1998. Its aim was to forecast, to prevent and to face the causes of important alleviation or loss of biodiversity in the source. It determines a frame for the action that is essential in order to be achieved the legal obligations of EU in the frames of the Convention on the biodiversity and it requires the development and application of special action plans in which imposed to be based the

existing policies and the programmed initiatives from the MS, in order to ensure the cohesion and the complementarily.

The subjects of European strategy were four:

- a.- Conservation and sustainable use of biological diversity.
- b. - Distribution of utilities that reveals from the use of genetic resources.
- c. - Research, reading, recording and exchange of information.
- d. - Education, training and briefing.

It's remarkable the upgrade of research in same levels with the other elements of strategy. Thus the biodiversity is rendered relevant with regions of policy as: agriculture, fishery, conservation of natural resources etc<sup>x</sup>.

### **International Conventions**

#### **General**

The international conventions constitute the eminently legal act on the regulation of relations in the frame of international community. The subjects of international law in order to determine a lot of items use as organ the international conventions. With the term treaty we mean any conventional relation that is contracted between subjects of international law and aims in the production of legal results. At the same time can be used and other terms as convention, agreement, protocol etc. The importance of conventions is big and multifaceted, as governments try to come in agreement with other governments as also in contact with not governmental organizations (GOs). But sometimes do not befall agreement between the interesting bodies.

In the last years worldwide the conventions focus their attention in the environment, providing thus in the humanity the possibility via public discussion conservation the nature<sup>xi</sup>.

#### **The conventions on the conservation of nature and wild fauna**

In the last decades is observed an intense change in the strategy for the nature conservation. This change takes place via the activation of the international organizations but also via collaboration among them, with result nature to be protected via a lot of legal actions. Regarding the EU the nature conservation in the past few years has

advanced with rapid rhythms with the publication of many legal actions. In this development helped the course that conventions have received internationally pointed out that the numbers of them in the last years have been increased.

The most important international conventions are the following:

#### **Ramsar Convention**

Convention Ramsar concerns the protection of wetlands was placed in force in December 1975 and it was the first convention that was reported exclusively in the protection of biotopes. The contracting parts undertook to delimit suitable wetlands in the limits of their territorial territory that will be included in a list of Wetlands of international importance<sup>xii</sup>.

#### **Washington Convention**

The convention on the international trade of endangered species (is usually reported with the acronym, CITES)<sup>xiii</sup> was signed in 1973 and apart from that it connects the conservation of wild life with the economic activity, the trade, corresponds to a large extent in the expectations and the policy of EU. Objective of the convention is to regulate the international trade of wild animals and plants that come head-on or can come head-on with the disappearance or that in certain countries are registered as «over exploitation». The annexes cover three rungs of classification.

Annex I contains a list of flora and fauna from the all species that generally speaking threatened with disappearance, while annex II is reported in the species that are not contained in Annex I, but very early probably will face the disappearance if are not taken measures. Annex III contains a list from types that separate the states wish to protect (which are also covered by the national legislation) and which have not been recorded by the international community. The member states that participate in the convention finance a permanent secretariat that directs the system of authorizations that is used in order to be regulated the trade. EU has corresponded in the CITES with the publication over of 100 action that aim to ensure the official enforce of the convention. Regulation 362/82 constitutes

also the base for the enforcement of the convention. The next regulations correspond mainly in changes that became in the initial treaty. The EU did not participate in the Treaty but required from all its members to become shareholders - part of CITES activity. EU submits reports in the Secretariat on behalf of all the MS. A movement that can create problems because it withholds the trade between the MS. The EU reaction in individual and collective level is likely, because the competence of EU evidently and categorically covers questions of trade. Any meter that can risk the trade, can participate in the EU legal processes and any member that wants to advance beyond this to impose stricter national legislation regarding the trade can do it freely.

#### **Paris Convention**

This convention on the Prevention of Marine Pollution by sources of land was organized and signed in Paris in 1974<sup>xiv</sup>. While this convention does not concern exclusively the conservation of wild life or nature, is very important in the development of international conventions and simultaneously it was the answer in the concern on the pollution from the rivers affecting the wild life of Northern Sea.

#### **Barcelona Convention**

This convention was signed in 1976 from the Governments of States that are around of Mediterranean<sup>xv</sup>. An important protocol that is related with the convention was adopted in 1982 and it was named Protocol for Specifically Protected Regions. Its aim was to offer special protection in the Mediterranean types that were found at risk as well as in the biotopes that are considered important for their conservation.

#### **Bern Convention**

It was signed in September 1979 and was in force in June 1982<sup>xvi</sup>. The contracting members are compelled to activate for the conservations of wild life populations, to check the pollution as also and other factors for the wild flora and fauna giving particular importance in the corruptible species and in them that they are in danger. More concretely the obligations of each contracting part are the

following:

- a. - The adoption of suitable legislative or even administrative meters that will ensure the conservation of biotopes of wild flora and fauna as well as the conservation of natural biotopes that are threatened.
- b. - The States to give particular attention in the protection of regions which are important for the migratory types and that are in suitable place related to the migratory roads in order to be used for relaxation, reproduction etc.
- c. - The States to prohibit from intention damage or destruction places of reproduction of types of Annex II. Annex I includes list of plants. Annex II is a long list of strictly protected species of fauna and includes big part of European wild bird.

### **Bonn Convention**

In that convention<sup>xvii</sup> are enumerated the migratory species of mammals, birds, reptiles etc that are in danger and the states - members are compelled to take measures for their protection. This convention was incorporated in the EU law underlining the need of international action for the protection of birds and determines the provisions on the protection, the management and the control of all birds that are presented in wild situation in the territory of EU.

### **International Heritage Convention**

The convention on the World Heritage was in force in December 1975<sup>xviii</sup> and its objective was the protection of the cultural and natural heritage that has particular world value. According to this Convention as "Natural heritage" are considered:

- a. - Natural monuments that are constituted by natural resources or biological shaping's or teams of such shaping's that have exceptional world value from aesthetic or scientific opinion.
- b. - Geological and physiographic shaping's and precisely delimited regions that constitute biotopes threatened vital and plant types of world value from scientific opinion or base of their need of conservation.
- c. - Natural landscapes or precisely delimited regions of exceptional world value from scientific opinion or need of conservation of natural beauties.

### **Biological diversity convention**

This convention on the biological diversity (variety or diversity) constitutes work of special committee recommended from the UN in the frame of UN program for the environment (known and as UNEP). The final text was approved on 1992<sup>xix</sup>. It constitutes the most modern international text that imposes in the members - states concrete obligations of protection of total of species of wild fauna, flora and natural dwellings and in particular in connection with the utilization of biotechnology and genetic mechanics for scientific, economic aims etc., in the frame of "sustainable" development, in order their protection to be connected with the society and the life of persons and to stop having a «museum» character. The last one constitutes the big difference of international convention in question related with what existed in the international law until that time, because there was any connection with the biotechnology. USA finally and after enough scruples signed this convention. Its enforcement started in 1993 and up to today has been ratified by 160 countries.

### **Content**

The reality that constitutes the background of regulations and the spirit of international agreement on the biological diversity is that in the simplified model of North-South (developed - developing countries), south possesses the 2/3 of biological variety from which emanates the genetic material and the north possesses the scientific work and knowledge, as well as the economic resources<sup>xx</sup>. Thus their collaboration is necessary, because the south need the technology and the economic resources that do not allocate and the north needs the rich genetic material of south but with knowledge, money and means of north.

The regulations that contain are reported:

- a. - In the terms and the conditions under which the developed countries can acquire biological resources and genetic material emanating from the tropical forests and the coastal areas of developing countries.
- b. - In the terms and the conditions under which the developing countries can acquire

knowledge of technologies of environmental protection and biotechnologies that are supported in the biological resources or are emanated from them.

c. - In the subjects of economic help that should be given in the developing countries in order to take protection measures and to enforce the “sustainable” development.

d. - In the relevant problems related to the environment protection from the consequences the activity and the behavior of organizations that have suffered modification by the utilization of methods and means of biotechnology and which probably are going to release.

e. - In the subjects of guarantee and consolidation of protection of rights that emanate from the licenses and the other rights of intellectual property in general on the products of biotechnology and genetic mechanics<sup>xxi</sup>.

### **Common Market**

#### **The completion of internal market<sup>xxii</sup>**

The creation of unified economic European space based on a common market was a fundamental objective of Rome Treaty and was forecasted in the article 2 of this Treaty.

Common market that was completed in 1992 is one from the most important stages of European unification. It is based on the free circulation of merchandises, persons, services and capital. The realization of these basic freedoms allows rational and without obstacles utilization of factors of production i.e.: work and capital. All and all can be trafficked freely in the EU and concretely in the common market of this. The common market is based on freedom.

#### **The free circulation of goods**

Free circulation of merchandises means suppression of all barriers in the imports and exports of merchandises between the member states. As free circulation is meant the final passage of product from intra-EU but also from the external borders of EU and not the provisional mission of product in another country for benefit of certain Service. As merchandise is comprehended each corporal object which has a pecuniary value and can be object of commercial exchanges, independent

if it is agricultural or industrial product. The achievement of objective of free circulation of merchandises presupposes the suppression of all obstacles of intra-EC trade and concretely:

a. - Suppression of all internal tariffs.

b. - Suppression of all tariffs having tax character on the trafficked products.

c. - Suppression of all quantitative restrictions or meters of equivalent character.

d. - Configuration of government owned monopolies in a way that does not prevent the free intra-EC trade.

e. - Suppression of all restrictions relative with the inter-country payments.

The quantitative restrictions in the intra-EU trade as also and the meters of equivalent to the quantitative restrictions result, are not prohibited when they are justified by the following reasons:

a. - Public ethics.

b. - Public order.

c. - Public security.

d. - Protection of health and life of persons and animals or precaution of plants.

e. - Protection of national treasures that have artistic, historical and archaeological value.

f. - Protection of the industrial and commercial property<sup>xxiii</sup>.

#### **Existing EU legal frame for the market and the protection of biodiversity**

An important mean for the protection of species of wild fauna and flora that are threatened by annihilation is the restriction and the strict control of international trade of plants and animals that belong in these species as well as the products that are manufactured by them. From 1982, the EU enforces the Washington convention on the international trade of species of wild fauna and flora that is threatened with disappearance (CITES), which seeks to protect 2.000 species with a strict control of international trade. However the relative EU regulation has wider field of application from the convention. It distributes the protected types in four groups with protection that starts from the statistical follow-up of trade and reaches up to its complete prohibition depending on the gravity of disappearance threat of type<sup>xxiv</sup>. Particular attention is given in the reexport, in the control of commercial activities that concerns

protected types and in the determination of infringements for which the states - members should forecast sanctions.

In the enforcement of international conventions, the EU took meters with regarding to certain particular threatened types. These meters include:

a. - a directive regarding to the protection of wild birds, which determines the list of species that can become object of marketing and the list of means of hunting and arrest that are prohibited<sup>xxv</sup>.

b. - A regulation that prohibits the imports of certain products that emanate from cetaceans (whales etc), in order EU to contribute in the conservation of these types that are threatened by disappearance<sup>xxvi</sup>.

c. - A directive that prohibits the imports in the member states skins of certain seals nurslings, the barbarian killing of which scandalize each year the common opinion<sup>xxvii</sup>.

d. - A regulation that prohibits the use of traps with jaws as also the import in the EU territory furs and products that are manufactured by certain species of wild animals which emanate from countries where for their arrest are used traps with jaws and

e. - an agreement between the EU, Canada and Russia as for the international models of not brutal entrapment<sup>xxviii</sup>. The EU prohibits the issuing of authorizations of import crude or processed ivory that emanates from African elephant, in order to contribute in the pause of these species slaughter. EU is also member of European Convention on the protection of vertebral animals that is used for experimental or other aims<sup>xxix</sup>.

EU as have been reported before is member of the Convention on the conservation of habitat diversity, which was prepared under the auspices of the United Nations for Environment (UNEP)<sup>xxx</sup>. Objectives of this convention are:

- a. - the conservation of biological diversity,
- b. - the permanent use of its elements and
- c. - fair distribution of advantages that arises from the exploitation of genetic resources.

According to this convention EU undertook to determine its own strategy for biodiversity. According to the Committee this strategy should aim in the prevention and in the fighting of reasons that leads to the reduction

or to the loss of biological diversity and should be developed round the following axes:

- a. – conservation and viable use biodiversity,
- b. - common exploitation of advantages that result from the exploitation of genetic resources,
- c. - research,
- d. - determination and exchange of information,
- e. - education,
- f. - training and sensitization<sup>xxxi</sup>.

Also a directive seeks the control of deliberate liberation of genetically modified organisms in environment<sup>xxxii</sup>. The products that contain genetically modified organisms should be clearly pointed out and should exist information and consultation with the public before the release and disposal in the market genetically modified organisms and products that contain genetically modified organisms.

In international level EU strengthens technical and financing the states and the organizations that work in favor of the protection and the management of tropical forests as well as their biological variety<sup>xxxiii</sup>. Also EU has signed with the Alpine countries the convention on the protection of Alps, which aims in the safeguarding of Alpine ecosystem as well as the guarantee for the populations that live in Alps of development that respect the environment<sup>xxxiv</sup>.

### **EU Legislative frame**

Directive of Council 89/370[EU], 8 of June 1989<sup>xxxv</sup> for the modification of directive 83/129[EU]<sup>xxxvi</sup> with regard to the import in the member states skins of certain seals nurslings and products that emanate from them. With the directive 83/129[EU] as it had been modified by the directive 85/444[EU] it was forecasted that the member states take or maintain all the measures that are necessary in order to ensure that the products that are enumerated in the relative annex of directive in question are not imported in their territory for commercial aims. The mentioned before directive stopped to be in force on 1 October 1989 and the European Parliament asked to be in force indefinitely in order to be avoided the negative consequences from its suppression. The extension of this directive constituted also additional meter to the Canadian Government



to put an end to the hunting for commercial aims at specific species of seals.

**Directive of Council 90/220[EU], 23 of April 1990<sup>xxxvii</sup> for the deliberate liberation of genetically modified organisms in the environment**

The directive in question was published in the frame of treaty, based that EU action with the environment should be based on the beginning of preventive action. Besides it was taken into consideration that the living organisms that are released in the environment in big or small quantities or for experimental aims or as commercial products, is possible to repeated in the environment and they cross national borders, offending with this way the other states. Still that the consequences of similar liberation can be irrevocable in combination with the disparity of regulations that was in effect or was worked out in the member states with regard to deliberate liberation of genetically modified organisms in the environment, could or impede the competition or impede the trade of products that contained such organisms and influence immediately the operation of common market. In consequence was essential the rapprochement of legislation of member states in this sector.

It deserves to be marked that this directive is not applied in railway, road, via internal navigable roads, marine or air transport of genetically modified organisms.

Regulation of Council (EU) No. 3254/91, 4 November of 1991<sup>xxxviii</sup> for the prohibition of traps use with jaws and entry in the Community of furs and remade products from certain species of wild animals of origin of countries where they are arrested by traps with jaws or with methods that are not conform with the internationally agreed models of not brutal entrapment. The Regulation in question was published after were appreciated the followings:

a. - that the Bern Convention of 19 September 1979 regarding to the conservation of wild life and the natural environment of Europe, which had contracted the EU with the decision 82/72[EU]<sup>xxxix</sup> prohibited for certain types the use of each means that allows without choice the arrest and killing, included the traps, in the cases where these traps are used for big extent

without choice of arrest or killing.

b. - That the prohibition of trap with jaws will have positive results for the conservation of threatened with disappearance species of wild fauna, in the interior of Community as also out of EU, included also the species that are protected by the Regulation. 3626/82<sup>xl</sup>, that the research advanced for the development of not brutal methods of entrapment and that the EU will take into consideration the relative work of International Organization of Standardization.

c. - That in order to be protected suitably the species of wild fauna and in order to be avoided the distortion of competition should be ensured that the meters of external trade will be enforced uniformly in all EU and

d. – finally that it should be prohibited the use of traps with jaws in the EU and that it should be taken measures for the prohibition of import of furs from certain species of animals when they come from country where is still used the trap with jaws or where the methods of entrapment do not agree with the internationally agreed models of not brutal entrapment.

**Regulation of Council (EU) No. 3760/92, of 20 December 1992<sup>xli</sup> for the establishment of EU system for the fishery and the aquaculture**

The regulation in question was published because the common fishery policy covers the activities of exploitation that concern the living aquatic resources and the aquaculture, as well as the transformation and marketing of products of fishery and aquaculture, when they are taking place in the soil of member states or in EU fishery waters or from EU fishery vessels and aimed in the creation of frame for the conservation and protection of resources<sup>xlii</sup>.

**Directive of Council 92/43[EU], 21<sup>st</sup> of March 1992<sup>xliii</sup> for the maintenance of natural ecotypes as well as wild fauna and flora**

This directive was published after had been appreciated the followings:

a. - that in the European territory the natural ecotypes are downgraded continuously and are increased the number of wild types that is threatened seriously.

- b. - That the threatened ecotypes and the threatened types constitute department of natural heritage of community and the threatening elements are as generally cross-border nature and is necessary to be taken measures in Community level in order them to be maintained.
- c. - That should characterized special areas of conservation in order to be materialized a cohesive European ecological network.
- d. - That as supplement of directive 79/409[EU]<sup>xliv</sup> is deliberate to be forecasted a general system of protection for certain species of flora and fauna

It aimed to contribute in the protection of biological diversity, via the conservation of natural ecotypes, as well as the wild flora in the European territory of member states where is enforced the treaty. For this aim with this directive was established a cohesive European ecological network of special areas named "NATURA 2000". In this network were included also the special areas of protection that had been categorized by the member states with the directive 79/409[EU].

Important article of this directive is article 13. According to this the member states publish the required provisions in order to be established a regime of strict protection of plant types that is reported in its appendixes and including the others prohibits: the possession, transport, marketing or exchange and offer for commercial aims samples of types in question, that have been collected by the natural environment, except those that have been collected legally before starting to produce results the present directive.

Also with article 18 are given motives for the cross-border collaboration between the member states on issues research.

**Decision of Council 93/626[EU], 25 of October 1993<sup>xlv</sup> regarding to the contracting of convention on the biological diversity**

Aim of this directive and also the convention on the biological diversity that incorporated in the EU law was and still is its conservation, the self –preservation utilization of its components and the equitable and equivalent distribution of advantages that will result from

the utilization of genetic resources, included also advisable access in the genetic resources and essential transfer of relative technologies, taking into consideration the all the rights on these resources and on the technologies and with the help of required financing. This directive was one of the most important in the legal frame of EU because fixed the following:

In article 3 that the member states, in agreement with the Chart of EU and the principles of international law allocate the sovereign right of exploitation of their proper funds depending on their environmental policies as well as the responsibility of avoiding destructions in the environment of other states or regions, beyond the limits of their national jurisdiction from various activities that raise in the jurisdiction or their control. In article 8 are included the obligations of member states as the creation of essential legal framework for the protection of threatened species and populations, are taken place meters for the except place conservation of components of biological diversity at preference in the state of origin of these components as also are forecasted the foundation and conservation of installations for the except place conservation and the research in plant and animal organisms at preference in the country of origin of genetic resources.

In article 16 are determined the relatives regarding to the access and transfer of technology. It is more concretely recognized that the technology includes the biotechnology and so the access as also the transfer of technology between the contracting parts constitute basic element for the achievement of objectives of convention and each state undertake the obligation to facilitate the access and the transport to other contracting parts of technologies that concern the conservation and the self – preservation use of biological diversity or technologies that develop the genetic resources and do not cause worthy reason damage in the environment and finally in article 19 are forecasted the relatives regarding to the biotechnology and the distribution of profits.

**Directive Council 97/62[EU], 27 of October**

**1997<sup>xlvi</sup> for the technical and scientific readjustment of directive 92/43[EU]<sup>xlvii</sup> for the conservation of natural ecotypes and wild fauna and flora**

The publication of this directive resulted from the necessity of briefing of certain categories of ecotypes and species taking into consideration the technical and scientific progress and thus are rehabilitated the annexes I and the II of directive 92/43[EU].

**Regulation of Council (EU) 338/97, 9 of December 1996<sup>xlviii</sup> for the protection of species of wild fauna and flora with the control of their trade**

The regulation in question is one of the most important. With Regulation 3626/82<sup>xliv</sup> council had been in forced the convention on the international trade of threatened species of wild fauna and flora (CITES) in the Community from 1-1-1987.

The need however to be developed the scientific knowledge that was acquired afterwards its publication in combination that it should be checked with stricter meters the trade in the borders of Community as also the controls in the EU internal which had been suppressed led to the publication of this particular regulation. With the Regulation. 338/97 was established common conditions for the publication, use and presentation of documents relative with the approval of imports in the EU of samples of types that raises in its provisions and were established special provisions on the transit of samples while for the evaluation of this course was established the report of special reports from the member states.

Of course beyond the special committees that were established in order to the work of bodies of community or of member states is not excluded the enforcement from the member states stricter national provisions.

**Decision of Council 98/142[EU], 26 of January 1998<sup>i</sup> with regard to the contracting of agreement between the European Community, Canada and the Russian Federation for the international models of not brutal entrapment and agreed proceeding between Canada and the community with regard to the signature of**

**agreement in question**

With this directive was approved the agreement between the EU, Canada and the Russian Federation for the international models of not brutal entrapment. The publication resulted from the fact that on 1<sup>st</sup> of January 1996 had not been established any international model of not brutal entrapment and that this situation meant that certain third countries did not have the possibility to guaranteeing that the methods of entrapment used in their territory for the types reported in the annex I of regulation. 3254/91<sup>li</sup> corresponds in the internationally agreed models of not brutal entrapment.

**Decision of Council 1999/575[EU], 23 of March 1998<sup>lii</sup> on behalf of the Community contracting of European Convention on the protection of vertebral animals that are used for experimental and other scientific aims**

With this Decision was approved by the EU the European convention on the protection of vertebral animals that is used for experimental and other aims.

The necessity of Decision resulted because the provisions of convention and directive have repercussions in the conditions of production and disposal in the market of products and substances for the production of which are held the experiments and for that reason as consequence these provisions contribute in the establishment and the operation of internal market the completion of which constituted the most basic aim of Community

**Regulation of Committee (EU) No. 1476/1999, 6 of July 1999<sup>liii</sup> for the modification of regulation (EU) No. 338/97 of Council with regard to the protection of species of wild fauna and flora with the control of their trade**

With this Regulation were modified certain provisions of Regulation 338/97 which is also enough important regarding the control of trade of species of wild fauna and flora.

**Statement of EU Committee to the Council and EU Parliament, COM (2000) 20 FINAL**

This statement is reported in the indicators for

the incorporation of environmental reflections in the common agricultural policy.

**Statement of EU Committee to the Council and EU Parliament COM (2003) 821 FINAL**

This statement is reported in the enforcement on behalf of the EU of “Bonn Directions ” with regard to the access in the genetic resources and the distribution the profits from those in the frame of convention on the biodiversity.

**Report of Committee COM (2003) 845 final**

This report of Committee is relative with the enforcement of directive of 92/43 EU on the conservation of natural ecotypes as well as wild fauna and flora. The report of Committee is very interesting because as had already reported is mentioning in the enforcement of directive 92/43[EU]. In the paragraph 5.2 of this report in question it deserves to be mentioned that resulted ambiguity from the reports of many states on the enforcement of the directive related to the legal part as also to the information management. Result of these observations was the Committee in 2002 to constitute a special team of work for article 12 with view to contribute in the better comprehension of policies and proceeding that the member states follow with regard to the protection of animal types.

**Decision of Council 25 of June 2002 with regard to the contracting by the part of EU of Cartagena protocol on biosafety<sup>liv</sup>**

The protocol based on the principle of precaution fixes frame of safe transport, handling and use of living modified organisms that are produced with methods of modern biotechnology and has negative repercussions in the conservation and the sustainable use of biodiversity, taking into consideration also the dangers for the health of person and attributing particular importance in the cross-border distributions. Each member state has the obligation to take the appropriate national measures for the prevention and individually imposition of sanctions for the cross-border distributions of living modified organisms that are executed at infringement of the national meters that are taking for the enforcement of the relative protocol.

**EU environmental policy**

**The Subsidiary principle**

No other article did not cause as big discussions as this one<sup>lv</sup>. The problem that was called to resolve the EU with the specific principle is “who” and “who” is/are responsible any time in order to take the appropriate actions, EU or member states.

With the principle of subsidiary appears that all were satisfied. And those who feared the “expansionism of” Brussels because with its formulation entered brake in the extension of Community phenomenon, but also the fervent supporters of EU believed that was given an opportunity for decision-making near to n of citizen. The principle establishes a type of evidence in favor of the low level with the explanation that when the Decision is taken as much as possible more near to the interested has more probabilities to achieve. With this specific article are excluded from the principle of subsidiary the sectors that depend exclusively in the competence of EU. Because had existed problem as far as concern the discrimination between exclusive and aiding competences in the frames of EU law the European Court pronounced with case law that if the particular competence will be practiced by the EU the MS lose the possibility of intervention in the particular subject and the competence are rendered exclusive “theory of conceived space”.

The committee committed to justify the proposal that submits for voting regarding the existence of conditions that requires the principle of subsidiary. For its enforcement should satisfy the following conditions:

1st stage

It is searched if the nature of drawn action is reduced in aiding Community Competences.

2nd stage

In order EU to deal should has preceded regular research with main object if the objectives of action it is impossible to be achieved by the MS and

3rd stage

how much the forecasted action can be achieved better in EU level. The described principle can be under juridical control even if

this is enough difficult. With Amsterdam Treaty was signed protocol that facilitated the nature and the extent of EU action. Concrete the EU meters supposed that they leave margins of action in the MS or even to offer alternative ways for the achievement of objectives and meters. In the event that exists strong national constitutional hindrance for the enforcement of EU meters will must not use the principle of EU law superior but because the national difficulty the EU meter must not be received.

### **EU environmental policy**

The EU policy aims in the shaping of common environmental policy which is moved in the achievement of following objectives:

- a. - the conservation, protection and improvement of environment quality,
- b. - the protection of people's health,
- g. - the prudent and rationally management of natural resources and
- d. - the promotion in international level of meters for the confrontation of regional or world environmental problems.

The mentioned before policy of EU is examined in combination with the main environmental problems that exist in our season and which are:

a.- Change of climate, drought, rise of sea level "phenomenon of greenhouse",

B.-destruction of ozone with result the increase of radiation that offends the ground.

The policy that EU develops for the confrontation of environment pollution is not only internal but also international as EU is coming in contact with developing countries<sup>lvi</sup> in order to:

a.- to be checked the demographic elation which leads to negative attitude of person against environment (reduction of forestall extents because have been increased the needs for culture of ground, increase of industrial production in order to cover the continuously increasing needs etc),

b.- reception of the appropriate meters for protection of natural environment and conservation of natural balance,

c.- configuration of prudent development frame which will limited the logic that the poverty destroys the nature.

The EU with its policy aims at a high level of

protection taking into consideration of course and the peculiarities that exist in the various EU-MS. That of course recommends also a point of weakness of EU as MS do not face unified the environment problems something which certainly is natural because they have different interests, ideologies and culture.

In order to be faced that as long as can be possible the MS agreed that when the EU produces policy in the sector of environment it will take into consideration:

- the available scientific and technical data,
- the conditions of environment in various regions of EU,
- the advantages and the charges that can result from the action or of the absence of action,
- the balanced economic and social development of EU,

Based on the above were established principles that condition the EU social policy as:

- principle of precaution and preventive action,
- principle of destructions redress of environment with precedence in the source,
- principle "polluting pays" and
- the principle at which the needs of protection of environment should be taken into consideration in the determination and the enforcement of other EU policies.

The council decides for the EU general action based on the article of 251of EU treaty (joint decision), while at deviation of process it decides unanimously when establishes:

- provisions of mainly tax character,
- meters that concern land planning, the ground and
- meters that influence perceptibly the choice of member state between different sources of energy and the structure of its energy supply.

The MS in any case can maintain their national legislation, provided that they establish stricter specifications communicating the relative meters in the Committee. Important role in the

EU policy plays as was reported the principle of subsidiary. Finally it deserves to be marked that between the European citizens begin to be developed European environmental conscience after the reports in the responsible Committee of Parliament on subjects environmental possesses the second place<sup>lviii</sup>.

### **Conclusions**

The development of the present study became in four basic units interrelated between them in order to be developed the investigation subject. More concretely in the first unit was developed the meaning of biodiversity into the EU frame and according to the strategy of EU as this has been developed. In the second unit was developed the international frame that concerns the biodiversity and the international conventions that have been shaped for this. The development of unit was extremely essential because the EU as super national organization that is moved and acts in the current globalized environment has ratified and as a consequence incorporates in the EU law many international conventions.

Inevitably these international conventions via the EU law are enforced also in the member states. Relevantly so in the international conventions that constitute also part of EU law but also in the EU law are described also the operation of markets in which are trafficked the biodiversity. It should not be overlooked that the basic reason of EU establishment was the unified internal market. Its completion with abundance of legal action beyond that today is a reality shapes also the institutional frame for the distribution of biodiversity in combination with the peculiarities that this has as marketable good.

In the third unit after have been developed subjects as the completion of internal market and the free circulation of goods, follows a most specialized development of the study that is related with the most important legal texts EU regarding for the protection - control and simultaneously the trade of biodiversity in EU level. From this description it is obvious that it could not be absent a report in the EU environmental policy and mainly a report in the most important principle of subsidiary that

shapes a lot of fields of EU policy. EU has exhausted the configuration of policies for the biodiversity in EU level in a huge level and the member states through the EU and the contracting of international conditions have few margins for configuration and enforcement of autonomous national policy. For the operation of markets in EU and concretely regarding the biodiversity we observe that is in effect the same as for the distribution of remainder goods with issued of legal actions which are distinguished by bigger sensitivity because of the peculiarity of these products and with intensifying of controls mainly in the external borders of EU for protection of species of fauna and flora that are imported and exported.

The EU has exhausted in enforcement all the international legislation which incorporated in the EU law and also functioning with responsibility against the citizens and to the wider international community, faith in its principles of establishment, created a legal arsenal capable of the safeguarding of threatened types.

The uniformity of environmental specifications is essential not only for the maintenance of Europe environment, but also for the good operation of internal market and for the economic and social cohesion. The qualitative objectives that put the community continuously are altered because of the economic development and urbanization. The situation of environment remains continuously worrying and needs the vigilance of mainly citizens for its protection.

The need of international collaboration is much more obvious in the management of ecological resources and mainly of those of fauna and flora. In a European economy which structural is continuously altered the challenge is the development of an environmental policy that will allow a sustainable development compatible with the requirements of environment.

The environment because of population increase, the overconsumption etc continuously accepts charge. In legislative frame the EU regarding the legislation on the

biodiversity and its distribution in the unified internal market for various reasons made whatever was possible. Automatically the EU legislation was rendered also national in the member states. Independent from this it depends by them with the education and the training of their citizens on environment issues but more than that with political willingness without taken into consideration political cost and politicking profits to be enforced the legal texts for the citizens' goods but also on guarantee of rights of future generations. Besides from the responsible Committee of EU Parliament was realized that the reports of citizens of EU in this for environmental subjects possess the second place, thing which means that it has begun to be shaped European environmental conscience.

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## NOTES

<sup>i</sup> See Unified attribution of EU establishment Treaty, Brussels, 6 October 1997, Environment article 174 and next in combination with the Law 3671/2008 (A' 129). Also Korontzis, Tr (2007), "Meaning of environmental danger", Journal of Dioikitiki Enimerosi, No 44, pp 85-97, Korontzis, Tr (2008), "Vulnerability of social groups under the status of environmental pressure", Journal of Dioikitiki Enimerosi, No 45, 2008, pp 60-74 (in Hellenic).

<sup>ii</sup> See Antonakis, N (1999), Fundamental principles of economic analysis, Athens, pp 18-19, Kottis, G and Petrakis, A (1995),

Modern economic subjects, Papazisi, Athens, pp 208-209, Papagrigoriou, VI (2001), Law of Environment Protection (University Notes), department of Public Administration, Panteion University of Political and Social Sciences, Athens, pp 9-10 and 19-20, Heilbroner, R and Lester, T (1990), For the comprehension of mikroikonomikis, Papazisi, Athens, p180, Papagiannis, D (1999), Introduction in the European Law, An. Sakkoulas, Athens, p 527, Mousis, N (2001), European Union, law - economy - policy, Papazisi, Athens, p 60 (in Hellenic).

<sup>iii</sup> See Gaston, K and Spicer, J (2002), Biodiversity an introduction, University Studio Press, Thessalonici, p 24, Papagrigoriou, VI op.cit. p 18 (in Hellenic).

<sup>iv</sup> Available on <http://www.unece.org/env/europe/welcome.html>.

<sup>v</sup> Available on <http://archive.rec.org/REC/Programs/SofiaInitiatives/EcoInstruments/GreenBudget/GreenBudget5/supplement1.html>.

<sup>vi</sup> Available on <http://www.un.org/esa/dsd/agenda21/>

<sup>vii</sup> EU L 59/8.3.1996.

<sup>viii</sup> Available on [http://ec.europa.eu/environment/nature/natura2000/index\\_en.htm](http://ec.europa.eu/environment/nature/natura2000/index_en.htm).

<sup>ix</sup> Available on [http://ec.europa.eu/agriculture/publi/capexplained/cap\\_en.pdf](http://ec.europa.eu/agriculture/publi/capexplained/cap_en.pdf).

<sup>x</sup> Available on <http://ec.europa.eu/environment/nature/biodiversity/comm2006/2020.htm>.

<sup>xi</sup> See Roukounas, Em (1997), International Law, Volume I, A. Sakkoulas, Athens, p100 and next (in Hellenic).

<sup>xii</sup> See Papagrigoriou, VI op.cit. p 89 and next (in Hellenic).

<sup>xiii</sup> Available on <http://www.cites.org/eng/disc/what.php> and <http://www.cites.org/eng/disc/text.php>.

<sup>xiv</sup> See Decisions 75/437 and 75/438, EU L194, 25-7-1975 and <http://www.opcw.org/chemical-weapons-convention/related-international-agreements/toxic-chemicals-and-the-environment/marine-pollution-from-land-based-sources/>.

<sup>xv</sup> Available on

[http://www.unep.ch/regionalseas/regions/med/t\\_barcel.htm](http://www.unep.ch/regionalseas/regions/med/t_barcel.htm).

<sup>xvi</sup> See Decision 82/72/EU (COJ L of 10.02.1982).

<sup>xvii</sup> Available on [http://www.cms.int/documents/convtxt/cms\\_convtxt.htm](http://www.cms.int/documents/convtxt/cms_convtxt.htm).

<sup>xviii</sup> Available on <http://www.environment.gov.au/heritage/about/world/convention.html>.

<sup>xix</sup> Available on [www.unep.org/](http://www.unep.org/).

<sup>xx</sup> See Korontzis, Tr (2005), “International trade and development of south”, Journal of Exoterika Themata, No 17, pp 136-146 and Korontzis, Tr (2004), “Multinational companies and development of south”, Journal of Exoterika Themata, No 16, pp 134-147 (in Hellenic).

<sup>xxi</sup> See Papagrigoriou, VI, op.cit., pp 29-32, 89 and next, Samiotis, G and Tsaltas, G (1990), International protection of environment, Volume I, Papazisi, Athens, p 128, Grigoriou, P and Samiotis, G and Tsaltas, G (1993), The conference of United Nations (Rio de Janeiro) on the environment and the development, Papazisi, Athens, p139 and next, Papastamkos, G (2000), European external relations, An. Sakkoulas, Athens, p 141 and next (in Hellenic).

<sup>xxii</sup> Available on <http://www.europedia.moussis.eu/books/Book2/3/6/index.tkl?all=1&pos=62>.

<sup>xxiii</sup> See Papagiannis, D op.cit., pp 333-366, Mousis, N op.cit., p 77 and next, Tagaras, C (1999), The free circulation of merchandises, persons, services, capital in the European Union, An. Sakkoulas, Athens, p 27 and next (in Hellenic).

<sup>xxiv</sup> Regulation 338/97 (EU L 298/1.11.1997) and regulation 1476/1999 (EU L 171/7.7.1999).

<sup>xxv</sup> Directive 79/409 (EU L 59/8.3.1996).

<sup>xxvi</sup> Regulation 348/81 (EU L 39/12.2.1981).

<sup>xxvii</sup> Directive 89/370 (EU L 163/14.6.1989).

<sup>xxviii</sup> Regulation 3254/91 (EU L 308/9.11.1991).

<sup>xxix</sup> Decision 98/142 (EU L 42/14.2.1998).

<sup>xxx</sup> Decision 1999/575 (EU L 222/24.8.1999).

<sup>xxxi</sup> Treaty and decision 93/626 (EU L 309/13.12.1993).

<sup>xxxii</sup> COM (1998) 42, 4/2/1998.

<sup>xxxiii</sup> Regulation 3062/95 (EU L 327/



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30.12.1995).

<sup>xxxiv</sup> Treaty and decision 96/191, Mousis, N,  
op.cit. pp 360-363.

<sup>xxxv</sup> EU L 163/ 14.6.1989.

<sup>xxxvi</sup> EU L 91/ 9.4.1983.

<sup>xxxvii</sup> EU L 7/ 10.1.1991.

<sup>xxxviii</sup> EU L 308/ 9.11.1991.

<sup>xxxix</sup> (COJ L of 10.02.1982).

<sup>xl</sup> EU L 65/ 7.3.1984.

<sup>xli</sup> EU L 389/31.12.1992.

<sup>xlii</sup> See Korontzis, T (2006), The fishery policy of EU from 1983 till today, Dissertation, MSc Environmental Policy and Management, department of Environment, Mytilini, Aegean University, Hellas (in Hellenic).

<sup>xliiii</sup> EU L 59/ 8.3.1996.

<sup>xliv</sup> EU L 59/ 8.3.1996.

<sup>xlv</sup> EU L 309/13.12.1993.

<sup>xlvi</sup> EU L 305/8.11.1997.

<sup>xlvii</sup> EU L 59/ 8.3.1996.

<sup>xlviii</sup> EU L 298/1.11.1997.

<sup>xliv</sup> EU L 65/7.3.1984.

<sup>l</sup> EU L 42/14.2.1998.

<sup>li</sup> EU L 308/ 9.11.1991.

<sup>lii</sup> EU L 222/24.8.1999.

<sup>liii</sup> EU L 17/ 7.7.1999.

<sup>liv</sup> Available on <http://bch.cbd.int/protocol/>.

<sup>lv</sup> See Law 3671/2008, article 3b (A' 129) (in Hellenic).

<sup>lvi</sup> See Korontzis, Tr (2002), "Enforcement of the new colonist system in the black continent. The role of the multinational companies". Dissertation, Postgraduate circle of study: Jean Monnet "European Union and countries under development", Institute of International Relations and department of International and European Studies, Panteion University of Social and Political Sciences, Athens (in Hellenic).

<sup>lvii</sup> See newspaper City Press, 20-8-2004 p. 2 and newspaper "Kathimerini", 8-10-2002, p. 6 (in Hellenic).