

Regulation and Control of Activities with Negative Environmental Impact

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Abstract

Industry has an important role to play in the transition to sustainable development. It is essential for companies to increase their responsibility regarding the environment and to adapt existing production systems to cause less environmental damage. However, the need of external regulation and control through laws and rules is not vanishing with increased responsibility. One of the unsolved problems is that the traditional legal system has failed to regulate environmental problems effectively. The legal system is, therefore, also under pressure to change its practices of decision making.

In this thesis some of the problems of legal decision making will be highlighted. This study focuses on two forms of decision making. The first one is concerned with permits and the second one with criminal sanctions. One problem is the lack of feedback between internal regulation and control (which is going on within the company) and the external regulation and control (which is exerted of the legal authorities). In the decision making process for permission licences the authorities are dependent on information from the company concerning the company's environmental impact and the possibility to improve environmental protection. Individual companies differ in their perception of acceptable levels of pollution. In this situation the risk for a lack of legal justice increases. When the decision making process for permission licences is based on information from the companies and their willingness to cooperate with the legal institutions, the limits for environmental impacts are negotiable. Without clear limits, it will be more difficult to prosecute trespassers and environmental crime. Finally, the situation may result that neither in cases of permission licences nor in cases of criminal sanctions legal justice and environmental protection can be achieved. Therefore, in order to improve regulation and control of environmental activities, and to promote legal justice and environmental protection, the connections between internal and external environmental regulation must be strengthened. Coherence between the decision making processes in cases of permission licences, and the decision making in cases of environmental crime should also be improved.

Keywords: environmental law, environmental regulation, legal norms, legal justice, green justice, environmental legal decision making, permission licences, environmental crime, environmental impact, industrial control, sustainable development.