ACADEMY "ȘTEFAN CEL MARE" OF THE MINISTRY INTERNAL AFFAIRS OF THE REPUBLIC OF MOLDOVA
DOCTORAL SCHOOL OF CRIMINAL SCIENCES AND PUBLIC LAW

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C.Z.U.: 349.6(043.2)=111

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LEGAL LIABILITY FOR VIOLATION OF WASTE MANAGEMENT LEGISLATION

SUMMARY OF THE DOCTORAL THESIS IN LAW

Specialty: 552.04 – Land and Environmental Law

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CHIȘINĂU, 2025

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The public defense will take place on May 19, 2025, at 11:00 a.m., at the "Ștefan cel Mare" Academy of the Ministry of Internal Affairs (address: Chișinău, Gh. Asachi Street, no. 21, , in the Council Hall of the "Ștefan cel Mare" Academy of the Ministry of Internal Affairs).

The dissertation and the abstract can be consulted at the National Library of the Republic of Moldova, the "Tudor Roșca" General Library of the "Ștefan cel Mare" Academy of the Ministry of Internal Affairs, on the website of the National Agency for Quality Assurance in Education and Research (www.cnaa.md), and on the website of the Doctoral School of Criminal Sciences and Public Law (https://academy.police.md/).

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CONCEPTUAL FRAMEWORK OF THE RESEARCH

Relevance and Importance of the Addressed Topic

In ensuring the effectiveness of the waste management process, the primary role belongs to the liability mechanism for violations of the relevant legislation. Thus, the relevance of this research topic stems from the reality that legal liability for breaches of waste management laws has become a pressing issue, especially given the severe consequences that may result from neglecting rules on waste collection, transportation, treatment, and disposal. Violations of these legal provisions may entail various sanctions and consequences depending on the severity and the jurisdiction. Therefore, legal liability for such violations has become a key component of the overall legal responsibility system, in all its forms.

Amid these concerns, there is an increasing effort to promote compliance with waste management legislation through education and raising public awareness about the environmental impact of waste. However, without adjusting the regulatory framework regarding liability, the intended outcomes of such efforts cannot be achieved.

Despite the existence of a more comprehensive legal framework than before—largely aligned with EU legislation on waste management—there are still considerable deficiencies in its practical implementation, particularly in the area of liability. This calls for broader alignment with environmental law standards. Additionally, there is a need to develop new legislative mechanisms to sanction activities that disregard legal provisions in waste management—a goal that cannot be attained without reconsidering certain liability application concepts.

These factors, together with the continuous process of aligning national legislation with international—particularly EU—standards, highlight the need for an in-depth study of the potential impact and contradictions between EU requirements and national concepts of criminal, administrative, or civil liability for environmental violations. Furthermore, it is necessary to investigate the causes and conditions that led to the inefficiency of legal liability mechanisms in this field, as well as to identify the key obstacles to effective enforcement. From this analysis should emerge viable proposals for transposing EU Directives in a manner compatible with the specific needs and fundamental interests of the Republic of Moldova regarding legal relations in the waste management sector.

Scientific investigation of liability for violations of waste legislation has a particular relevance, dictated by the continuous increase in the volume and variety of waste, their environmental impact, technological developments in waste collection and recycling, and the evolution of regulatory standards requiring responsible conduct in waste genera-

tion and collection processes. Despite this, a preliminary analysis of the enforcement of liability for illegal waste management reveals a certain reluctance to pursue minor cases, even as the state of the environment deteriorates daily due to the presence of waste particles in soil, water, and air. Against this backdrop, a doctoral study on liability for violations of waste management legislation becomes indispensable, necessary, and timely, especially in the context of the Republic of Moldova's aspirations for European integration.

Description of the Research Field and Identification of the Research Problem

Starting from the premise that any legal regulatory framework requires thorough scientific substantiation, this paper takes into account the views previously expressed by the academic community on the quality of legal regulations in the field of waste management, as well as the particularities of the liability mechanisms applicable to violations of legal provisions in this area. Therefore, in the section dedicated to the study of national doctrine, particular attention was given to the works of authors such as I. Trofimov, G. Ardelean, P. Zamfir, A. Crețu, A. Capcelea, I. Țeruș, M. Boșcaneanu, Al. Borodac, S. Brânză, V. Stati, X. Ulianovschi, S. Botnaru, and R. Perciun.

A special focus was placed on the works of Romanian authors concerned with environmental protection, especially regarding the application of liability for breaches of environmental and waste management legislation. Notable among these are M. Duțu, A. Duțu, E. Lupan, V. Rojanschi, D. Marinescu, Gh. Durac, R. Jurj, V. Drăghici, M. Gorunescu, S.V. Bădescu, C. Oneț, L.R. Boilă, A. Corhan, A.I. Dușcă, T. Iliescu, A. Ilie, G.I. Ioniță, E.M. Mihuț, I. Nicolau, M. Preda, G. Suciu, T. Prida, and F. Tudor.

The research also includes a review of significant doctrinal works from other European countries, such as those authored by M. Prieur, J.F. Renucci, G. Richier, J.I. Senou, A. Van Lang, A. Dugue, and B.M. da Cruz.

The inefficiency of the current liability mechanisms for violations of waste legislation necessitates an examination of international case law in the same area. This provides both a model and a starting point for enhancing regulatory effectiveness, especially since the current national legal framework does not fully meet international community standards regarding the proper and effective enforcement of waste-related legislation.

The purpose and objectives of the research are defined by the need to revise the normative framework governing liability for breaches of waste management rules, in order to identify new solutions that enhance the monitoring of waste flows and improve mechanisms for tracking those responsible for violating the law.

To achieve the proposed goal, the following **research objectives** were outlined:

▪ To examine national and international doctrine on the waste management regime, with particular focus on legal liability for breaches of legislation in this area.

▪ To analyse the conceptual foundations that underlie the regulation of liability for violations of waste management law.

▪ To identify regulatory shortcomings in holding individuals or entities accountable for breaching waste management norms, in the context of inefficiencies observed in certain forms of legal liability.

▪ To highlight the specific features of criminal policy in relation to the criminalisation of acts committed in connection with the management of hazardous waste.

▪ To determine the legal nature of administrative (contraventional) liability for environmental offences arising from violations of the waste management regime, taking into account its distinction from criminal liability applicable to the same field.

▪ To systematise administrative liability norms by consolidating them into a limited number of articles that consecutively provide for liability in relation to different categories of infringements defined by special legislation.

▪ To assess the extent to which civil liability principles align with environmental law in the process of ensuring compensation for damage caused by breaches of waste-related legislation.

▪ To reconceptualise the mechanism for monitoring compliance with environmental protection standards in the waste management process.

▪ To identify new categories of sanctions applicable to authorities responsible for waste management oversight.

Research Methodology. To achieve the objectives of this study, several research methods specific to the legal field were employed, including: the *analytical method*, used to examine the national and international doctrinal framework on liability for breaches of waste management legislation; the *comparative method*, aimed at developing a general overview of international legal frameworks governing liability for non-compliance with waste regulations; the *systemic method*, extensively applied in the study of all forms of liability related to waste legislation infringements; the *empirical method*, used to analyse national and European judicial practice regarding the application of liability in the waste management field; and the *prospective analysis method*, applied in assessing the compatibility of legal liability norms with environmental and entrepreneurial legislation, particularly concerning waste traceability from generation to recycling and reuse.

Scientific Novelty and Originality. The scientific novelty of this thesis is reflected, at a theoretical level, in the development of new conceptual approaches to liability for breaches of waste management law.

At a legislative level, the originality lies in the proposed amendments to specific legal provisions, including: Art. 2 points 9) and 12), Art. 31(1), Art. 10(2)(d), and Art. 11(1) of Law No. 109/2016 on Waste; Art. 1(4)(d) of Law No. 131/2012; Art. 2(a) of Law No. 1515/1993 on Environmental Protection; and Art. 29(1)(i) of Law No. 436/2006.

Innovative proposals are also introduced for several norms relating to liability for violations of waste management legislation, including: Art. 223 of the Criminal Code; Art. 113(2), Art. 115(4), Art. 154(41), Art. 154(8)(i), Art. 154(18) (c), and Art. 405 of the Contraventional Code. Furthermore, the thesis proposes introducing new contraventional provisions to address previously unregulated actions that undermine the legally established order in waste management.

The theoretical value of this thesis lies in clarifying the legal nature of waste management regulations; proposing distinct theses in addressing the application of civil, administrative, and criminal liability for violations of waste management rules; resolving jurisdictional conflicts in monitoring and enforcing waste legislation; and scientifically substantiating the applicability of patrimonial liability for environmental and personal damages caused by breaches of waste law.

The applied value is reflected in the development of a practical framework aimed at guiding legislators in aligning waste legislation with environmental requirements and international standards. Furthermore, the recommendations provided can serve as a foundation for environmental authorities and enforcement bodies in holding liable those responsible for environmental harm due to improper waste management.

The main scientific results presented for defense are distinguished by the resolution of the following issues: systematization of contravention liability norms by consolidating them into a limited number of articles that consecutively regulate liability for various categories of infringements established by specialized normative acts; reconceptualization of the mechanism for ensuring compliance with environmental protection standards in the waste management process; identification of new categories of sanctions applicable to the authorities responsible for waste management.

Implementation of Scientific Results. The ideas, arguments, and opinions expressed in this work, as well as the proposed recommendations, are intended to be taken up and used in other research projects focused on environmental liability. Furthermore, the solutions proposed in this paper can serve as a scientific foundation for the development of legal norms in the field of environmental protection, as well as for the amendment and completion of legislation in the area of waste management.

Approval of Results. The research results were presented in several scientific papers published in recognized national and international journals. A significant portion of these results was discussed at international conferences held both domestically and abroad, covering topics such as the enforcement of law in the field of waste management, environmental protection, and legal liability for acts that harm environmental quality.

The scientific results obtained throughout the elaboration of this doctoral thesis were submitted to the legislator during the review of several legislative drafts aimed at regulating waste management, environmental liability, market surveillance of products, as well as extended producer responsibility.

Publications on the Topic of the Thesis. The theme of the doctoral thesis is reflected in the content of 10 scientific articles published in specialized scientific journals both in the country and abroad.

Keywords: waste, pollution, environmental protection, waste management, legal liability, extended responsibility, environmental policies, ecological control, recycling, high-impact products.

CONTENT OF THE DISSERTATION

The Introduction presents the key ideas underlying the relevance of the researched topic, as well as components such as the aim and objectives of the thesis, the research hypothesis, scientific methodology, scientific novelty, the solved scientific problem, theoretical importance, practical value of the work, and a summary of the chapters of the dissertation.

Chapter I, titled "*Analysis of the Doctrinal Framework Addressing Liability in the Field of Waste Management*", focuses on the doctrinal study of liability for the breach of legislation regarding waste management, both at the national and international levels. The goal is to provide a general perspective on the extent to which the issue of liability in this field has been researched.

This section begins with the identification and analysis of doctrinal materials addressing the legal regime of waste management, especially liability for violating regulations in this domain. Naturally, the study starts with an analysis of national doctrine and then proceeds to international sources to highlight key scientific findings that could serve as a foundation for integrating international concepts into Moldova's national waste management legislation.

One of the most prominent national authors who has extensively studied the legal regime of waste management and environmental liability is *Igor Trofimov*, PhD in Law, Associate Professor. As early as 2002, in his environmental law textbook [32, p. 83], he dedicated a distinct chapter to the legal regime of waste management, emphasizing the importance of environmental and contravention liability for illegal acts that harm the environment through non-compliance with waste legislation.

Significant contributions also come from *Grigore Ardelean*, whose numerous works have substantially developed environmental legal doctrine—particularly the issue of environmental damage reparation, including cases of incorrect or improper waste management.

As an example, in his doctoral thesis, he points out that "*the disposal of waste in a public pond, causing minimal changes in the color or composition of water but still allowing it to be used without significant consequences, constitutes pollution (ecological imbalance). Even if such pollution may be naturally remediated without human intervention, the act still gives rise to contravention or criminal liability for the person who caused it*" [4, p. 43].

The author also conducts valuable research in other works focused on the role of public authorities in implementing environmental protection measures [5, p. 157] and on legal liability in the field of environmental protection, where he argues that this represents a distinct form of liability [2, p. 46], capable of more effectively holding violators

accountable and ensuring environmental restoration at the polluter's expense [3, p. 75].

A meaningful contribution to the issue of liability for the breach of waste legislation also comes from ***I. Țeruș***, who states in one of his works that "*environmental protection must be approached more comprehensively, through a new concept that also considers the consumer's role—not only regarding the amount of waste generated but also in managing the negative impacts of all goods consumed*" [6, p. 145].

In terms of contravention liability for environmental pollution, A. *Crețu* contributes significantly to national doctrine through his doctoral thesis entitled "*Contravention Procedure in Cases of Environmental Offenses*" [16, p. 72-83], and other important works where he discusses situations that exclude contravention liability in environmental matters [17, p. 31-35].

Another Moldovan author renowned for his research in the field of environmental protection is Professor Arcadie Capcelea, who dedicated a separate section of his work to the legal regime of waste management [11, p. 159].

Important concerns regarding liability for violations of the waste management regime are also found in studies by criminal law scholars. We mention here S. Brînză, V. Stati [9], and X. Uleanovschi [33, p. 13-19], who have made significant contributions to the development of criminal law doctrine on environmental offenses, including those related to waste and toxic substances management.

Examining international doctrine, we find significant research on waste management carried out by Romanian authors concerned with the legal protection of the environment, as well as those focused on environmental criminal law.

Thus, notable contributions to the development of environmental doctrine in the field of waste management also come from the distinguished Professor Mircea Duțu. In one of his recent works [19], he provides a detailed description of environmental liability, presenting the latest mechanisms for applying civil, administrative, and criminal liability for unlawful acts against the environment, including those involving illegal waste management.

The issue of liability for environmental pollution through waste is also explored in Romanian doctrine by Daniela Marinescu, who has authored numerous works on the subject, one of the most comprehensive being the *Treaty on Environmental Law* [24].

Other Romanian authors have also made significant contributions to this area, including Gh. Durac [18]; Ernest Lupan [23]; R. Jurj and V. Drăghici [21]; C.M. Scală Rotaru [31, p. 49]; Oana-Maria Hanciu [20, p. 73], and others.

A crucial contribution to the development of environmental doctrine

in the field of waste management and liability for non-compliance with legislation has also been made by French authors, who have introduced some of the most innovative protective measures at the European level.

For instance, in one of his works, French author Van Lang states: "In French jurisprudence, to relieve the burden of proving the causal link between the act and the damage, the concept of risk creation was invoked, which, in the context of a hazardous activity, is capable and sufficient to explain the occurrence of the damage" [34, p. 286]. Other French contributors to environmental doctrine include M. Prieur [26] and F.J. Renucci [29, p. 385].

Important contributions to the development of Russian doctrine on environmental protection and liability, particularly for violations of waste management regulations, come from authors such as S.A. Bogoliubov [35], M.M. Brinciuc [36], and B.V. Erofeev [37].

After closely examining both the doctrine and legislative framework in the field of waste management, we identify the following deficiencies, which also represent the source of the objectives proposed in this doctoral research:

1. In the area of waste management competencies, there is a lack of coordination among public authorities responsible for waste control and management, allowing those who collect, store, transport, or recycle waste to evade liability.

2. Although legislation transposing EU Directives on extended producer responsibility exists, there are still shortcomings in its implementation, particularly regarding packaging and packaged products.

3. There is a lack of interpretation of the EU Directive provisions transposed in 2017–2018, especially regarding the promotion of separate collection to ensure prudent, efficient, and rational use of natural resources.

4. There are no regulations in place to support a deposit-return system for packaging, or to incentivize consumers to return reusable packaging or single-use packaging waste and other waste types.

5. The legal framework for liability regarding waste legislation violations is inconsistent, chaotically setting out both administrative and criminal liability for offenses related to waste management. Furthermore, in terms of environmental liability, there is no specific mechanism to ensure the remediation of damage caused by such offenses.

6. The national doctrine contains few works that comprehensively address the issue of waste management, and a multidimensional scientific study on liability for violations in this field is completely lacking.

Chapter 2, titled "The General Legal Regime of Waste Management," is dedicated to the definition of waste and other notions related to waste management; the classification of waste and the role of such

classification in applying liability; the description of the legal framework for waste management activities; the identification of the importance of control in the field of waste management, as well as the examination of the impact of waste on environmental conditions, in the context of recognizing the necessity of enshrining the right to sanitation.

Following the debate on the definition of "waste," a new formulation was proposed: "Waste – *any liquid or solid substance, as well as any object subject to ownership, that the holder discards or is obliged to discard.*"

As regards the classification method, the legislator has categorized waste into hazardous and non-hazardous; however, this is insufficient and shows inconsistencies with environmental legislation and with the liability framework.

Firstly, we consider that all types of waste pose a risk to the environment, even if some have a lesser impact on the environment or human health. This point will be further developed in a later section discussing the negative effects of waste on the environment. Therefore, the first observation concerns the classification of some categories of waste as non-hazardous. As such, we suggest replacing the term "non-hazardous waste" throughout Law No. 109/2016 with the term "low-hazard waste," and defining this term under point 101) as follows: "waste which, due to its chemical, physical and biological composition, presents a reduced hazard to the environment, life, and human health."

Regarding the regime of waste management, particularly with respect to control, a brief analysis of the competencies of the Environmental Protection Inspectorate reveals that its responsibilities refer only to control and not to the supervision of compliance with the legal rules on waste management. Management implies activities that ensure proper collection, separation, transportation, and recycling, not just control. Other public authorities, such as the police, may also be involved in identifying breaches of waste regulations, but this does not mean they have competencies in waste management. Furthermore, Article 10 paragraph (2) letter d) of Law No. 209/2016 appears imprecise, as it provides that the authority may suspend the activity of economic agents in the case of very serious violations of waste regulations that may lead to environmental pollution. It is unclear how one determines whether a violation is minor, serious, or very serious, as stated by the legislator. Nor is it clear how inspectors are to assess whether a certain breach may or may not lead to environmental pollution, given that any violation of waste management legislation poses risks to the environment.

To avoid complications for the authorities that conduct control and impose sanctions, and to eliminate legal interpretations favorable to the offender, we propose simplifying the text of Article 10 paragraph (2)

letter d) of Law No. 209/2016 as follows: "suspends, totally or partially, in accordance with the procedure established by Law No. 131/2012 on state control over entrepreneurial activity, the activity of economic agents in the event of identifying violations related to waste management."

Radioactive waste has an even greater impact on the environment, although often invisible and impossible to avoid. As the specialized literature notes, "radioactive pollution has both immediate and long-term effects on all forms of plant and animal life. For the global human population, this form of pollution is the most insidious, being invisible, colorless, odorless, causing no immediate pain, and having no established or known time limits" [25, p. 53].

Thus, it is clear that the impact of waste on the environment is destructive, with direct negative effects on health and all environmental components, especially surface waters, groundwater, and the atmosphere, which can spread these effects to all water-dependent systems. Hence, it is not surprising that the European Union is moving toward proclaiming a new fundamental right – the right to water and sanitation. In this respect, the first European Citizens' Initiative to fulfill all the conditions of the Regulation of the European Parliament and of the Council on citizens' initiatives [28, p. 57], invites the Commission "to propose legislation implementing the human right to water and sanitation, as recognized by the United Nations, and to promote water and sanitation as essential public services for all" [15].

In conclusion, although theoretical and conceptual in nature, the study conducted in Chapter 2 highlights a series of issues that fundamentally affect the institution of waste management, ultimately impacting the effective application of liability for violations committed in this area.

Thus, a thorough examination of waste management, correlated with environmental and legal liability legislation, leads us to the following conclusions:

1. Some terms in Law No. 209/2016 are ambiguous and confusing, leaving room for interpretation. Although several amendments were made in 2003, including the addition of new definitions, existing ones became harder to interpret due to overlaps or contradictions.

2. National legal literature lacks comprehensive definitions for the terms "waste" and "waste generator."

3. Legal norms addressing the need to reduce waste volumes lack imperative character, even though they should impose obligations on responsible subjects to contribute to waste reduction.

4. The legal framework for waste management control does not clearly define the competencies of the relevant authorities, nor does it provide a separate legal act detailing procedures and responsibilities for

intervention by environmental bodies.

5. Environmental legislation does not sufficiently support the legal basis for the right to sanitation, which should underpin the regulatory framework on waste management, including the formulation of a distinct liability concept for violations in this field.

Chapter 3, titled "**The Concept of Criminal and Contraventional Liability Applicable for Violation of Waste Management Rules**" highlights the specifics of criminal and contraventional liability applicable for violations of waste management legislation. Thus, a first particularity of environmental liability is that the danger and gravity of actions that pollute the environment, especially those that violate waste management rules, do not need to be proven, as it is already a known fact that environmental pollution seriously endangers the health and lives of humans, animals, and plants.

In the context of our country, when drafting the structure of the Criminal Code, the legislator included environmental crimes in a separate chapter. Nevertheless, the criminal norms incriminating environmental offenses remain ineffective due to the cumbersome procedure for application and the conceptual differences between environmental liability and criminal law, which leads to a significant discrepancy between actual criminality and that which is discovered and punished.

According to some opinions related to the inclusion of environmental offenses in the Criminal Code, "despite the bold and plausible decision at that time, the Moldovan legislator did not delve into the specific nature of environmental components and their unique rules of functioning, which require the consideration of values that form a distinct category of criminal protection, separate from social values related to individuals, even though, declaratively, Article 2 para. (1) of the Criminal Code of the Republic of Moldova states that the purpose of the criminal law is to protect not only the individual but also the environment" [8, p. 102].

Another particularity of criminal liability for environmental damage is that the response of criminal law to violations, including those of environmental law, is a repressive one, aiming to punish behavior that has already caused harm. On the other hand, in environmental protection, liability should be primarily preventive. Nonetheless, as stated elsewhere, the contribution of criminal law mechanisms must not be underestimated, especially in terms of adapting to new realities and preventing destructive actions against the common heritage of humanity. Despite current tendencies to emphasize the preventive nature of criminal liability for environmental damage, some still advocate for harsher sanctions. In this regard, some authors argue that "the role of criminal liability has increased in recent years due to the intensification of harmful actions against the environment, which have caused serious damage,

leading to the realization that harsher and more immediate penalties are necessary to stop environmental crime" [13, p. 21].

The general legal object of crimes concerning the waste regime consists of social relations whose formation, development, and protection are ensured by compliance with rules of social coexistence and environmental protection [143, p. 177].

The special legal object of the crime provided in Article 224 of the Criminal Code has a complex nature:

- The primary special legal object includes social relations regarding the legal circulation of radioactive, bacteriological, or toxic substances, materials, and waste, as well as pesticides, herbicides, or other chemicals;
- The secondary special legal object includes social relations regarding public health or environmental integrity [33, p. 18].

The objective aspect is expressed through actions, namely conducting illegal activities or violating established rules related to the production, import, export, burial, storage, transportation, or use of radioactive, bacteriological, or toxic substances, materials, and waste, as well as pesticides, herbicides, or other chemicals, if this creates a danger of causing significant harm to public health or the environment [9].

The subjective aspect of the offense is characterized by two forms of guilt: intent concerning the harmful actions or inactions and negligence regarding the consequences [3, p. 19].

The subject of the offense is special, namely the person who has an obligation to comply with behavioral rules concerning radioactive, bacteriological, or toxic substances, materials, and waste, as well as pesticides, herbicides, or other chemicals. However, the crime can also be committed by a person who does not have a special status related to waste management activities.

The need to diversify the punishable acts applicable to persons who harm environmental components was recognized as early as 1977 with the adoption of Resolution 28/1977/EC of the Committee of Ministers of the Council of Europe on the contribution of criminal law to environmental protection [30]. Through its content, member states were invited to examine criminal sanctions for environmental harm while maintaining traditional penalties of fines and imprisonment in the most serious cases, and specifically, to introduce particular forms of monetary penalties, such as daily fines, suspended fines, and conditional fines.

The execution of tasks concerning the protection of values safeguarded by the contraventional law derives from Article 2 of the Contraventional Code of the Republic of Moldova [14], which establishes the purpose of the contraventional law as the protection of the rights and legitimate freedoms of the individual, the protection of property, public

order, and other values protected by law, in solving contraventional cases, and in preventing new offenses.

However, a superficial analysis of Article 154 para. (10) of the Contraventional Code reveals a dualism of acts, the first referring to the violation of rules on sorting, collecting, treating, and disposing of waste, and the second to extended producer responsibility, through which Article 21 of Law No. 209/2016 is violated and should be sanctioned according to Article 1541 CC (Violation of rules on extended producer responsibility). The same situation is observed in paragraphs (12) and (13) of Article 154 CC, which should also be included in the content of Article 1541 of the Contraventional Code.

Regarding the provision in paragraph (11) of the Contraventional Code, it is considered difficult to apply in cases where the responsible person is hard to identify. When waste is illegally dumped within a locality, the obligation to undertake removal measures cannot be placed on the local public authority, particularly the Mayor. This responsibility cannot be imposed on the Mayor or the Local Council due to the lack of a concrete provision in Law No. 436/2006 [22] assigning the Mayor the duty to eliminate unauthorized waste dumps. Therefore, a legal provision mandating such responsibility is missing and could be introduced by amending Article 29 paragraph 1 letter i) of the mentioned law, which currently addresses issues related to waste management within the framework of public utility services.

To provide legislative clarity regarding the Mayor's responsibility for preventing and eliminating unauthorized waste dumps, we suggest amending Article 29 paragraph 1 letter i) of Law No. 436/2006 as follows: "i) proposes to the Local Council the organization scheme and service conditions for public utility services; takes measures to ensure proper functioning of these services; ensures the prevention of waste dumping in unauthorized locations and undertakes measures to eliminate them."

A key factor in ensuring the effectiveness of contraventional liability for offenses against the waste management regime is the sanctioning system applied, which plays a crucial role in achieving the objectives of contraventional legislation.

Therefore, applying supplementary contraventional sanctions in the absence of legal provisions, whether in the Contraventional Code or in other special laws, will inevitably lead to the annulment of the report documenting the contravention. Furthermore, the existence of supplementary sanctions in special laws does not justify their application without an accompanying description of the contravention in the same law, which must comply with the requirements of contraventional legislation as stipulated in Article 1 paragraph (3) of the Contraventional Code.

The study conducted in Chapter Three of the thesis reveals several deficiencies and difficulties in applying liability for violations of waste management rules, which are characterized by the following:

1. The absence of a distinct concept underlying the penal regulation of environmental offenses, especially those committed in the context of waste management;

2. Lack of a clear systematization of offense categories involving the use of waste as an object of environmental crimes within a single article;

3. Several provisions in the Criminal Code aiming to criminalize acts committed in waste management reference subjects who, according to criminal law, cannot be held criminally liable;

4. The penalties applicable to legal entities are insufficient to ensure the effectiveness of criminal sanctions;

5. In the field of contraventional liability, the organization of provisions in the Contraventional Code lacks consistency, with many duplications, further complicated by unclear definitions of responsible subjects;

6. There is no clear distinction between categories of liability applicable for identical acts involving violations of waste management rules;

7. Specific guidelines are lacking for the contraventional procedure in cases concerning violations of waste management legislation;

8. Contraventional sanctions for violations of waste legislation do not fully meet the necessary requirements to achieve the intended punitive objectives.

Chapter 4, titled "**Property liability for violation of waste management legislation**" begins with clarifying the essence of property liability, its legal nature, form, and affiliation to the branch of law it belongs to.

Moreover, the first and most evident issue in regulating the mechanism for repairing the damage caused to the environment by waste management contrary to the norms established by law is admitted by the legislator, when it limits itself, through the text of Article 66 of Law No. 209/2016, to stating that the damage caused to the health of the population as a result of environmental pollution with waste shall be repaired in accordance with the provisions of the Civil Code of the Republic of Moldova.

As regards the particularity of property liability for environmental damage, we do not refer strictly to the particularity of property liability, but rather to the particularity of liability for environmental damage in relation to damage of a civil nature.

A rather important aspect in the application of property liability for violation of waste management legislation is the identification of the responsible subject and their role in the waste management process.

Thus, in listing the subjects responsible for the damage caused to the environment by breaching the legal provisions governing waste man-

agement, we shall begin with the producer of the waste, and not with the one contributing to the transformation of products into waste, who is usually the consumer or the economic operator that uses them in processing.

In this context, the paper examines the legal framework for the application of property liability with regard to several categories of subjects, namely:

Liability of the producer. According to Article 12 paragraph 2 of Law No. 209/2016, extended producer responsibility represents the totality of financial and/or organizational obligations imposed on producers, individually or collectively, for the recovery and valorization or recycling of products that have been discarded or become waste.

Essentially, the cited provision also explains what extended producer responsibility consists of, when it states that *the activities for applying the extended producer responsibility concern the measures for accepting returned products and waste remaining after the use of those products, as well as the further management of the waste and financial coverage for these activities in two ways*:

a) individually – for products intended for users other than household consumers, including for products used by the producer for own purposes;

b) collectively – for marketed products intended for household consumption.

In comparing the national legislation with foreign legislation on the segment of extended producer responsibility, we identify a similar situation of accountability in European legislation as well. Thus, Directive 2004/35/EC establishes the "polluter pays" principle, set as the foundation of environmental liability in the preamble of the directive, which specifies that operators who cause environmental damage or pose an imminent threat of such damage must, in principle, bear the costs of the necessary preventive or remedial measures.

Therefore, in Community law, environmental liability lies with the operator. In comparison with other regulations, such as the principle-based approaches and the Lugano Convention, EU legislation provides additional clarifications by explicitly stipulating in the definition of the operator the inclusion of both natural and legal persons, operators being those who hold a permit or authorization for a professional activity or are registered for conducting such an activity.

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Property liability of consumers of the public municipal waste management service. In addition to the responsibility of producers for waste, special attention must also be paid to those who generate waste and manage it until it is returned to the producer or to a waste storage site. Indeed, such an approach would make members of a community, in their capacity as consumers of products and therefore as generators of waste of any kind, more accountable in covering the costs borne by the holder of the waste storage facilities, both in terms of management, storage, and recycling, as well as in fulfilling their obligations toward environmental authorities regarding the payment of pollution taxes.

Thus, we believe it would be appropriate that, in order to combat delays in payments to the environmental fund required of waste storage operators, a special liability regime should be established for both these operators and the consumers of municipal waste management public services, with the main sanction being reflected in interest for late payment of taxes. We suggest that the regulations on this matter be included in a new Chapter V of the Methodology for calculating tariffs for certain municipal waste management public services, titled: *Liability for Violation of the Regime of Payments and Charges for Waste Storage.*

Liability of the responsible official.

In the waste management process, the power to make decisions is quite important to be regulated within the environmental legislation, a topic that no one has yet dared to address, whether because it is considered part of the management system or because it relates to certain categories of relationships in which the exercise of authority may generate a greater social danger. Perhaps for this latter reason, criminal liability has placed greater emphasis on the distinct incrimination of acts committed by responsible officials. Not by chance, one of the basic criteria in distinguishing service-related crimes from other offenses that could be committed by officials was whether or not they used their service position in committing the crime — that is, the special duties conferred on them in their capacity as representatives of public authority [12, p. 36].

Liability of co-owners.

An important aspect to be examined in this paper concerns the accountability for improper waste management by natural and legal persons viewed individually, but more importantly, the application of liability to co-owners, especially joint owners (spouses), who often commit illegal acts of waste dumping in the course of common household activities. Clearly, the institution of civil liability provides solutions for all cases of co-owner accountability, but in the case of criminal offenses against the environment, certain difficulties may arise. When waste is identified on jointly owned land, the issue arises as to who bears the liability, particu-

larly the property liability — the spouse who dumped the waste or both spouses, especially considering that the funds for environmental damages will be paid from the family budget and not from the personal funds of the spouse, as the law does not recognize the concept of separate accounts for spouses or their purpose in the context of legal liability.

Nevertheless, one thing is certain: based on the principle of joint liability, each co-owner is responsible for the obligations related to the entire property. Therefore, if waste is not managed properly and this leads to environmental pollution, all co-owners may be held liable, even if they were not directly or personally involved in the activities that led to the environmental breach.

Particularities of the property liability of legal persons for criminal and administrative offenses.

Given that the most important measure for restoring the condition of the environment affected by any kind of actions — including those that violate waste legislation — is of a financial nature, requiring that the costs of depollution be borne by the polluters, this section addresses the particularities of property liability applicable to environmental pollution offenses through illegal waste dumping committed by legal entities. We have chosen to address this issue given the ongoing uncertainties regarding the penalization of legal persons, although they are primarily responsible for environmental pollution through improper waste management.

Thus, in specialized legal literature, the status of legal subject is defined as the quality, capacity, attribute, competence, or possibility that allows individuals to participate, individually or collectively, in legal relationships as holders of rights and obligations [31, p. 384]. Accordingly, we find that all categories of persons, whether natural or legal, bear liability equally for their actions, regardless of whether these are of a criminal, administrative, or civil nature.

Property liability of minors for damage caused by waste.

In addition to the difficulties arising from the particular nature of environmental damage, other issues related to liability also arise, one of them being the capacity of the person to be held liable, especially in the case of minors. Indeed, there are cases in which damage may be caused by a minor who dumps waste in unauthorized places — in water basins, decentralized drinking water supply systems, etc. — and, due to their age, they cannot be held criminally, administratively, or even civilly liable.

In conclusion, we consider that, at present, legislation provides solutions for all cases in which minors cause environmental damage, with parents being those who will always be required to cover the property damage, including that caused by illicit acts in the field of waste management.

Property liability of the victim of the damage caused by waste disposal on their own land. Although in most cases landowners consider themselves entitled to deposit waste on their own land without authorization — an act which is prohibited — they will bear liability, including property liability, for breaching waste legislation. Thus, we are faced with the situation in which the landowner is both the victim of pollution by waste and at the same time responsible for repairing the damage caused to the environment.

In this regard, we affirm that in most specialized sources, the issue of the capacity to bear liability (tort or contractual) is examined through the lens of the conditions for civil liability, specifically regarding fault [7, pp. 322–325]. Considering the principle of strict liability for environmental (ecological) damage, in the field of environmental law, the issue of fault is examined only in relation to the fault of the victim. This results from the general rule applicable to environmental liability, according to which the perpetrator shall be held liable even if they acted without discernment. This is derived from the content of point (c) of Article 3 of the Law on Environmental Protection of the Republic of Moldova, which expressly provides that a person who has caused environmental damage or has allowed it to occur shall be held liable even if it was done unconsciously. Therefore, this implies the exclusion of discernment as a condition for the capacity to bear liability [32].

One of the most complex problems in applying property liability for environmental damage is the evaluation of the actual amount of damage; however, this task is not impossible. Accordingly, for a better understanding, we will first present the notion of damage evaluation in a general sense, and then relate it to environmental damage, specifically referring to damage caused by breaches of waste legislation.

Thus, after presenting the methods for assessing environmental damage, as recognized in theory, we shall examine to what extent these are reflected in the normative framework regulating this field. Naturally, we will not refer to normative acts that are still formally in force but have fallen into disuse, but to the new methodology still in the process of being approved — namely, the Draft Government Decision of the Republic of Moldova on the approval of the Regulation on the methodology for calculating the damage caused to the environment through pollution and/or the illegal use of natural resources.

Nevertheless, we note certain ambiguities in the provision stating that persons responsible for polluting forest fund lands and other lands covered with forest vegetation with waste, including hazardous, chemical or other harmful substances, are unconditionally obliged to eliminate the effects of pollution and restore the land to its original condition. Accord-

ing to the principles of environmental liability — especially strict liability — damage must be remedied regardless of fault. Therefore, there are also situations where a person may be held liable for eliminating the consequences generated by waste, even when it is not possible to demonstrate their guilt, or — as provided by the extended producer responsibility principle — even when the direct polluter or producer cannot be identified.

Additionally, in the second sentence of point 5, which states that in case of refusal to restore the polluted areas to their proper condition, it is considered a continuing violation and the compensation amount increases tenfold (10 times) for each day of delay from the expiration of the prescribed and duly notified term [27], the essence of the norm is not sufficiently clear. According to the rules on enforcement, when the debtor fails to voluntarily fulfill the obligation to remedy the damage, they will be compelled to execute it by force using all enforcement mechanisms, without the need to impose an additional sanction. Here, we would rather see a statutory penalty for delay in the execution of the obligation to remedy environmental damage. Yes, of course, it would be an inspired idea — however, under classical liability, things are slightly different, as such a rule is applicable only to contractual liability, not tort liability.

Thus, in order to admit such a form of accountability within tort liability, it would first be necessary to legally enshrine a new principle of ecological damage compensation — for instance, **the principle of pecuniary sanction for the failure to timely fulfill the obligation to remedy ecological damage.**

The study conducted in the final section of the paper allows us to draw the following conclusions:

1. Pecuniary sanctions are the most effective in the field of liability for breaching waste management legislation, both for natural persons, legal entities, and public officials responsible for waste management. Nevertheless, we do not identify scientific works or other debates concerning this form of accountability.

2. The circle of persons responsible for the damage caused by violations of waste management legislation is perceived far more restrictively than it should be identified in reality, which leads to the inefficiency of liability enforcement in this area.

3. National legislation in the field of waste management lacks a mechanism for assessing the damage caused by inadequate waste management, as well as mechanisms to ensure the repair of ecological damage.

4. The practice of adjudicating criminal and administrative cases regarding liability for neglecting waste legislation reveals very few instances where a civil procedure for the recovery of damage has been initiated.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The study conducted within this doctoral thesis made it possible to understand the current issues hindering the efficiency of the waste management organization process, the causes and conditions that lead to the phenomenon of improper waste management, the frequent reasons for violations committed by the responsible subjects, as well as the difficulties encountered by environmental authorities in supervising activities involving the generation, storage, disposal, and recycling of waste.

As **general conclusions** on the field of liability for violation of waste management legislation, we present the following:

1. Liability for the violation of waste management legislation represents a crucial aspect in protecting the environment and promoting sustainable practices in contemporary society. In this regard, waste management laws and regulations have been established to prevent environmental pollution through rational waste management, encouraging waste collection, recycling, and use — under the condition of applying liability for any breach.

2. The national doctrinal framework in the field of waste management research, particularly in examining concepts of liability for breaches of legal provisions in this area, is underdeveloped, with few scientific works directly addressing the liability applicable to such acts. In contrast, international doctrine contains a substantial volume of scientific research on the same issue, constantly focusing on the quality and evolution of regulations and seeking their continuous adaptation to new societal requirements in the context of unprecedented industrial development.

3. The concept of criminal policy regarding environmental offenses, including those related to waste management, does not meet the requirements of environmental law, as it is based on outdated principles centered on the protection of individuals, without considering the specific components of the environment, which often prevail over individual interests.

4. The structural systematization of criminal norms providing for liability in cases of violations of waste management rules is ill-considered, overlaps with certain administrative regulations, contains sanctions incapable of fulfilling the purpose of criminal punishment, and lacks balance in relation to the severity of the offense, the culpable subject, or the aggravating circumstances of the act.

5. The administrative rules sanctioning conduct that deviates from the legal provisions established for proper waste management show an excessive number of incriminations, placed chaotically across various

chapters of the Contravention Code, and waste — as an object in pollution-related acts — is often confused with other categories of substances and materials which, according to Law No. 209/2016, do not qualify as waste.

6. The mechanism of property liability for damage caused by improper waste management does not consider the particularities of environmental damage and its impact on the person and their property. Moreover, it lacks a specific mechanism for damage assessment and for reinstating the victim to their previous condition.

7. The current regulations for holding legal persons accountable — despite their prominent involvement in generating, managing, and recycling waste — allow them to evade all forms of liability. They are also difficult to apply to public authorities with decision-making powers over the development of waste management infrastructure.

As a result of the conducted study, we propose the following **recommendations**:

1. Revision of the text in Article 2, point 9) of Law No. 109/2016 as follows: **"*Waste*** *– any liquid or solid substance, as well as any object subject to possession, which the holder disposes of or is obliged to dispose of.*"

2. Definition, in the content of Article 2, point 12) of Law No. 109/2016, of the term **"waste possessor"** instead of "waste holder", and clarification of the definition as follows: **"A waste possessor** is the producer of the waste or the natural or legal person who is in voluntary possession of it."

3. Substitution, throughout Law No. 109/2016, of the term **"non-hazardous waste"** with the term **"low-hazard waste"**, including the definition of the term **"low-hazard waste"** in point 101) as follows: **"Waste** that, based on its chemical, physical, and biological composition, poses a low risk to the environment, human life, and health."

4. Introduction, in Article 31(1) of Law No. 209/2016, of the obligation of **natural and legal persons to ensure the prevention of waste generation.**

5. Simplification of the text of Article 10(2)(d) of Law No. 209/2016 as follows:

"d) suspends, totally or partially, in accordance with the procedure provided by Law No. 131/2012 on state control over entrepreneurial activity, the activity of economic agents in case of detection of violations regarding waste management."

6. Amendment of Article 10(2) of Law No. 209/2016 by adding point **f)** as follows:

"f) Within or following state control, may issue prescriptions and recommendations, apply sanctions and/or restrictive measures within

the limits and in accordance with the provisions of Law No. 131/2012 on state control."

7. Amendment of point 10) of Annex No. 1 to Government Decision No. 548 of 13.06.2018 on the organization and functioning of the Environmental Protection Inspectorate by adding point **c¹)** as follows:

"c¹) Within or following state control, may apply restrictive measures in accordance with the provisions of Law No. 131/2012 on state control."

8. Amendment of point 10) of Annex No. 1 to Government Decision No. 548 of 13.06.2018 on the organization and functioning of the Environmental Protection Inspectorate by adding point **c²)** as follows:

"c²) exercises market surveillance duties, including imposing corrective measures on economic operators as provided in Law No. 162/2023 on market surveillance."

9. Removal of the provision in Article 3(1)(l) of Law No. 131/2012, which establishes the principle of control as: **"non-interference with and/or suspension of the activity of the controlled person."**

10. Revision of the text of Article 11(1) of Law No. 209/2016 as follows: **"Local public authorities** shall allocate financial resources for each fiscal year for the performance of the following activities:"

11. Clarification of the text in Article 1(4)(d) of Law No. 131/2012 as follows: **"Controls** applied to the state border crossing process and those applied in the customs field, except for post-clearance customs audit, as well as controls regarding compliance with legal provisions on export, import, and transit of waste."

12. Revision of the text in Article 2(a) of Law No. 1515/1993 as follows: **"a)** ensuring every person the right to a healthy and clean environment."

13. We propose the following revised wording of Article 223 of the Criminal Code:

Article 223. Violation of environmental safety requirements in waste management

(1) Violation of environmental safety requirements in the establishment, operation, or decommissioning of waste management infrastructure, as well as in the transport, import, export, storage, preservation, depositing, burial, or use of waste, if this endangers human life or health or if there is a risk of causing major damage,

shall be punished with a fine ranging from 700 to 1,000 conventional units or imprisonment for up to 3 years. A legal person shall be punished with a fine ranging from 5,000 to 7,000 conventional units and may be deprived of the right to carry out certain activities for a period of up to 5 years.

(2) The acts provided for in paragraph (1), if they have caused:
a) exceeding radiation levels;
b) harm to public health;
b) damage to air, soil, or water quality;
c) death of animals;
d) large-scale damage,

shall be punished with a fine ranging from 1,000 to 1,500 conventional units or imprisonment from 1 to 5 years. A legal person shall be punished with a fine ranging from 7,000 to 9,000 conventional units and may be deprived of the right to carry out certain activities for a period of up to 5 years.

14. To eliminate potential confusion in the application of the Contravention Code when addressing violations in the field of waste management, we propose the removal of the term **"waste"** from the text of Article 86 of the Contravention Code.

15. Amend Article 113(2) of the Contravention Code by inserting the term **"unauthorized"**, resulting in the following wording: "Construction and placement, unauthorized in the water protection zone, of fertilizer and pesticide storage facilities, chemical solution preparation sites, petroleum product storage facilities, fuel supply stations, wastewater collectors from farms and livestock complexes, technical service and vehicle washing stations; the allocation of land, in such zones, for the disposal of waste of any origin; unauthorized construction of sewage systems, collectors, and wastewater treatment installations."

16. Remove the phrase: "the allocation of land, in such zones, for the disposal of waste of any origin" from Article 113(2) of the Contravention Code.

17. Amend the text of Article 115(4) of the Contravention Code as follows:

"Unauthorized dumping on loosened soil of construction materials or extractive industry waste and similar shall be sanctioned with a fine from 80 to 150 conventional units for natural persons, and from 100 to 300 conventional units for legal entities."

18. Repeal Article 147(2) of the Contravention Code.

19. Add a new paragraph (41) to Article 154 of the Contravention Code as follows: **"Intentional presentation of false or incomplete information regarding waste evacuation in the event of an accident."**

20. Clarify Article 154(8) of the Contravention Code as follows:

"The design and construction of enterprises or other facilities, as well as the implementation of materials and technologies that do not meet safety requirements for the use, processing, and evacuation of waste, if the act does not constitute a criminal offense."

21. Amend Article 29(1)(i) of Law No. 436/2006 as follows:

"i) proposes to the local council the scheme for organizing and providing communal public services; takes measures to ensure the proper functioning of these services; ensures that waste is not deposited in unauthorized places and undertakes actions to eliminate such waste."

22. Revise the text of Article 154(18)(c) as follows:

"Failure to undertake necessary actions to appoint a responsible person for the management of waste resulting from medical activities."

23. Add Article 154(19) to the Contravention Code with the following content:

"Disposal of waste along roadways, railways, or navigable routes shall be sanctioned with a fine from 140 to 200 conventional units for responsible persons or with unpaid community work from 30 to 60 hours."

24. Assign the Environmental Protection Inspectorate the authority to identify contraventions and apply the sanctions provided in Article 273(17) and (18) by amending Article 405 of the Contravention Code accordingly.

25. Clarify Article 29(4) of Law No. 209/2016 as follows:

"In cases of waste abandoned on private property, where the original waste producer cannot be identified, the costs of cleanup and environmental restoration shall be borne by the current holders if they failed to identify the author or refuse to disclose their identity."

26. Amend point 5 of Table No. 12 in the Draft Government Decision of the Republic of Moldova on the approval of the Regulation on the methodology for calculating damage caused to the environment by pollution and/or illegal use of natural resources as follows:

"Persons responsible for depolluting forest fund lands and other areas covered with forest vegetation that are polluted with waste, including hazardous waste, chemical substances, or other harmful agents, shall be unconditionally obligated to eliminate the pollution and restore the land to its original condition. In case of delay in fulfilling the obligation to restore the polluted land, a penalty shall be applied, consisting of the tariffs provided in the table, multiplied by 10 (ten) for each day of delay after the expiration of the prescribed and notified deadline."

27. In order to combat delays in payments to the environmental fund by landfill operators, a special liability regime should be established for them and for public sanitation service consumers. The main sanction should be reflected in late payment interest, and the relevant regulation should be included in a new **Chapter V** of the Methodology for calculating tariffs for certain municipal waste management public services, ti-

tled: **"Liability for the Violation of Payment and Fee Regimes for Waste Disposal."**

28. Replace the content of Article 66 of Law No. 209/2016 with the following: **"Environmental damage caused by waste, with or without fault, shall be remedied in accordance with the requirements imposed by environmental legislation and the Civil Code of the Republic of Moldova."**

29. Include in Law No. 231/2010 on Domestic Trade the full list of single-use plastic products banned from sale, as provided in **EU Directive 2019/904** on the reduction of the impact of certain plastic products on the environment.

30. Establish municipal incineration facilities for the treatment of medical waste in compliance with the requirements of **EU Directive 2000/76/EC on the incineration of waste**.

31. Approve checklists in accordance with Article 51(2) of Law No. 131/2012 to enable state control over business activities in relation to legal entities subject to the **Extended Producer Responsibility** mechanism.

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***2.2 In journals indexed in other databases accepted by* ANACEC**:

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2. PASCAL M., *Theoretical and Practical Aspects of State Control in the Field of Waste Management in the Republic of Moldova*. Romanian Business Law Review, no. 2/2025. *Indexed in: EBSCO, ProQuest, HeinOnline, ERIH PLUS, ISI.*

***2.3 In journals listed in the National Register of specialized journals*:**

3. PASCAL M., ROTARI D. *Management Aspects of Medical Waste Generated by the COVID-19 Pandemic*. Law and Life Journal, 2022, no. 1(S), pp. 74–76. ISSN 2587-4365. ISSNe 2587-4373. UDC: 628.47.046:34:614.4. Category C.

4. PASCAL M. *Access to Justice in Environmental Matters in the Republic of Moldova*. Public Administration Journal, 2021, no. 3(111), pp. 129–135. ISSN 1813-8489. DOI: https://doi.org/10.52327/1813-8489.2021.3(111).14. UDC: 349.6:347.9(478). Category B.

5. PASCAL M. *Combating Plastic Pollution in the Republic of Moldova.* Law and Life Journal, 2021, no. 1(S_ed.3), pp. 73–77. ISSN 2587-4365 / ISSNe 2587-4373. UDC: 349.6. Category C.

3. Articles in scientific proceedings:

***3.2. in the proceedings of international scientific conferences (Republic of Moldova)*:**

6. PASCAL M., GUGULAN E. *Conceptual Reflections on Environmental Damage in Legal Relations Involving Environmental Compensation*. In: The State, Security and Human Rights in the Digital Era, Chișinău, Moldova, December 8–9, 2022.
UDC: 343.77:504.03:347.51

7. PASCAL M. *Particularities of Applying the Tax on Goods Causing Environmental Pollution During Use*. In: The Contribution of Young Researchers to the Development of Public Administration 8, Chișinău, Moldova, February 25, 2022.
UDC: 349.6:336.226.44

8. PASCAL M. *Exercising State Control and Supervision over Waste*

Management. In: 30 Years of Economic Reforms in the Republic of Moldova: Economic Progress via Innovation and Competitiveness, Vol. 2, September 24–25, 2021, Chișinău. Chișinău, Republic of Moldova: Editorial and Printing Department of ASEM, 2022, pp. 301–306.

DOI: https://doi.org/10.53486/9789975155649.45

UDC: 005.584:658.567(478). JEL: Q5

9. PASCAL M., ZESTREA S. *Implementation of the Extended Producer Responsibility Principle in the Republic of Moldova*. In: National Regulations and International Legal Standards in the Field of Consumer Protection, March 19, 2021, Chișinău.
Chișinău: Editorial and Printing Department of the "Ștefan cel Mare" Academy of the Ministry of Internal Affairs, 2021, pp. 92–96.

10. PASCAL M. *Environmental Impact Assessment: Challenges and Opportunities*. In: The Contribution of Young Researchers to the Development of Public Administration, 6th Edition, February 28, 2020, Chișinău.

Chișinău: Moldova State University, 2020, pp. 216–218.

UDC: 351.577.6:504.064(478)

3.3. in the proceedings of national scientific conferences with international participation:

11. PASCAL M. *Current Issues in Waste Management in the Republic of Moldova*. In: Protection of Fundamental Human Rights and Freedoms in the Process of Ensuring Public Order and Security, 1st Edition, December 9, 2021, Chișinău.
Chișinău: Editorial and Printing Department of the "Ștefan cel Mare" Academy of the Ministry of Internal Affairs, 2021, pp. 270–276.

ADNOTARE

PASCAL Mihaela. Răspunderea juridică pentru încălcarea legislației privind gestionarea deșeurilor. Teză de doctor în drept. Chișinău, 2025.

Structura tezei: Introducere, 4 capitole, Concluzii generale și recomandări, Bibliografia din 255 titluri, 153 pagini text de bază. Rezultatele obținute sunt publicate în 11 lucrări științifice.

Cuvinte-cheie: deșeu, poluare, protecția mediului, gestionarea deșeurilor, răspundere juridică, responsabilitate extinsă, politici de mediu, control ecologic, reciclare, produse cu impact.

Scopul și obiectivele lucrării sunt determinate de necesitatea revizuirii cadrului normativ în materia răspunderii pentru încălcarea regulilor de gestionare a deșeurilor, în vederea identificării de noi soluții pentru eficientizarea procesului de monitorizare a circuitului, precum și a celui de urmărire a persoanelor ce se fac responsabile de încălcarea legislației în domeniu.

Pentru atingerea scopului prestabilit, au fost trasate următoarele **obiective ale cercetării:** analiza doctrinei naționale și internaționale privind regimul de gestionare a deșeurilor, în special în ceea ce privește răspunderea juridică aferentă; analiza conceptelor ce au stat la baza reglementării regimului răspunderii pentru încălcarea legislației din domeniul gestionării deșeurilor; identificarea disfuncționalităților legislative în raport cu formele de răspundere existente; evidențierea specificului politicii penale în materia incriminării faptelor săvârșite în legătură cu gestionarea deșeurilor periculoase; determinarea naturii juridice a răspunderii contravenționale pentru fapte contra mediului săvârșite prin încălcarea regimului de gestionare a deșeurilor; sistematizarea normelor răspunderii contravenționale prin concentrarea lor în conținutul unui număr restrâns de articole; evaluarea gradului de corespundere a principiilor răspunderii civile cu cele ale legislației de mediu în procesul asigurării reparării prejudiciului cauzat prin încălcarea legislației în domeniul deșeurilor; reconceptualizarea mecanismului de realizare a controlului respectării standardelor de protecție a mediului în procesul gestionării deșeurilor; identificarea unor noi categorii de sancțiuni aplicabile autorităților responsabile de gestionarea deșeurilor.

Noutatea și originalitatea științifică a lucrării se concretizează prin șirul conceptelor noi atribuite formelor de răspundere aplicabilă pentru încălcarea legislației privind gestionarea deșeurilor, iar în plan legislativ, constă în recomandarea unor noi conținuturi pentru următoarele norme ce reglementează regimul gestionării deșeurilor: art. 2 pct. 9), art. 2, pct. 12; art. 3^1 alin. (1), art. 10 alin. 2 lit. d), art. 11 alin. (1) din Legea nr. 109/2016; art. 1 alin. (4) lit. d) din Legea nr.131/2012; art. 2 lit. a) din Legea nr. 1515/1993; art. 29 alin. (1) lit. i) din Legea 436/2006. Concepte inovatoare sunt atribuite și unui șir larg de norme ce prevăd răspunderea pentru încălcarea legislației privind gestionarea deșeurilor, în ordinea ce urmează: art. 223 CP; art. 113 alin. 2, art. 115 alin. 4, art. 154 alin. (4^1), alin. (8) lit. i), alin. (18) lit. c); art. 405 C.contr.

Semnificația teoretică a lucrării constă în clarificarea naturii juridice a răspunderii pentru încălcarea normelor de gestionare a deșeurilor, fundamentarea științifică a aplicabilității după reguli specifice a răspunderii patrimoniale pentru prejudiciile aduse mediului.

Valoarea aplicativă a tezei se face observată prin soluțiile distincte în abordarea problematicii cu privire la aplicarea răspunderii civile, contravenționale și penale pentru fapte ce încalcă ordinea de gestionare a deșeurilor dar și soluționarea conflictelor de competențe în exercitarea controlului privind respectarea legislației cu privire la deșeuri.

Implementarea rezultatelor științifice**.** Ideile, argumentele, și recomandările propuse în conținutul lucrării vor fi utilizate în procesul instruirii subiecților ce au implicație în activitatea din domeniul gestionării deșeurilor, precum și în cadrul cercetărilor științifice necesare fundamentării reglementărilor în materia răspunderii pentru încălcarea legislației privind gestionarea deșeurilor.

ANNOTATION

PASCAL Mihaela. Legal liability for violations of waste management legislation. doctoral thesis in law. Chișinău, 2025.

Structure of the thesis: Introduction, 4 chapters, General Conclusions and Recommendations, Bibliography with 255 sources, 153 pages of main text. The obtained results are published in 11 scientific papers.

Keywords: waste, pollution, environmental protection, waste management, legal liability, extended responsibility, environmental policies, ecological control, recycling, impact products.

The purpose and objectives of the works are determined by the need to revise the regulatory framework regarding liability for breaches of waste management regulations, in order to identify new solutions for streamlining the monitoring process of the waste circuit, as well as for tracking the individuals responsible for violations of the legislation in this field.

In order to achieve the established aim, the following **research objectives** were outlined: analysis of national and international doctrine regarding the waste management regime, particularly with respect to legal liability; examination of the concepts underlying the regulation of liability for violations of waste management legislation; identification of legislative shortcomings in relation to existing forms of liability; highlighting the specific aspects of criminal policy in relation to the incrimination of offenses associated with hazardous waste management; determination of the legal nature of administrative liability for environmental offenses committed through breaches of waste management regulations; systematization of administrative liability provisions by consolidating them into a limited number of articles; assessment of the degree of alignment between civil liability principles and environmental law in ensuring compensation for damages caused by violations of waste-related legislation; reconceptualization of the control mechanisms for enforcing environmental protection standards in waste management; and identification of new categories of sanctions applicable to authorities responsible for waste management.

The scientific novelty and originality of the work are manifested, by the series of new concepts attributed to the forms of liability applicable for breaches of waste management legislation, and, on the legislative level, by recommending new contents for the following norms regulating the waste management regime: art. 2 pt. 9, art. 2 pt. 12; art. 31 para. (1), art. 10 para. 2 letter d, art. 11 para. (1) of Law no. 109/2016; art. 1 para. (4) letter d of Law no. 131/2012; art. 2 letter a of Law no. 1515/1993; art. 29 para. (1) letter i of Law no. 436/2006. Innovative concepts are also attributed to a wide range of norms stipulating liability for breaches of the legislation regarding waste management, in the following order: art. 223 of the Criminal Code; art. 113 para. 2, art. 115 para. 4, art. 154 paras. (41), (8) letter i, (18) letter c; art. 405 of the Code of Contraventions.

The theoretical significance of the work consists in clarifying the legal nature of liability for breaches of waste management norms; the scientific foundation for the specific rules applicable to patrimonial liability for the damages caused to the environment.

The practical value of the thesis is reflected in the distinct solutions it proposes regarding the application of civil, administrative, and criminal liability for acts that violate waste management rules, as well as in resolving competence-related conflicts in enforcing waste legislation.

Implementation of scientific results: The ideas, arguments, and recommendations proposed in the thesis will be used in the training of stakeholders involved in waste management activities, as well as in the scientific research necessary to underpin the regulations regarding liability for breaches of waste management legislation.

АННОТАЦИЯ

ПАСКАЛ Михаела. Юридическая ответственность за нарушение законодательства в сфере управления отходами. Диссертация на соискание ученой степени доктора права. Кишинёв, 2025.

Структура диссертации: Введение, 4 главы, Общие выводы и рекомендации, Библиография из 255 наименований, 153 страниц основного текста. Полученные результаты опубликованы в 11 научных работах.

Ключевые слова: отходы, загрязнение, охрана окружающей среды, управление отходами, юридическая ответственность, расширенная ответственность, экологическая политика, экологический контроль, переработка, продукты с воздействием.

Цель и задачи работы определяются необходимостью пересмотра нормативной базы в области ответственности за нарушение правил управления отходами с целью выявления новых решений для повышения эффективности процесса мониторинга оборота отходов, а также процесса привлечения к ответственности лиц, нарушающих законодательство в данной сфере.

Для достижения поставленной цели были определены следующие **задачи исследования**: анализ национальной и международной доктрины управления отходами, в частности юридической ответственности за нарушение законодательства; исследование концептуальных основ правового регулирования; выявление законодательных пробелов в существующих формах ответственности; уточнение особенностей уголовной политики в сфере обращения с опасными отходами; определение правовой природы административной ответственности за экологические правонарушения, связанные с отходами; систематизация норм о правонарушениях в сфере отходов путём их концентрации в ограниченном числе статей; оценка соответствия принципов гражданской ответственности нормам экологического права при возмещении ущерба; пересмотр механизма контроля соблюдения экологических стандартов в процессе обращения с отходами; определение новых видов санкций в отношении органов, ответственных за управление отходами.

Научная новизна и оригинальность работы проявляются, в ряде новых концепций, касающихся форм ответственности за нарушение законодательства в сфере управления отходами, а с законодательной точки зрения – в предложениях новых формулировок следующих норм, регулирующих режим управления отходами: ст. 2 п. 9), ст. 2 п. 12; ст. 31 ч. (1), ст. 10 ч. 2 бук. d), ст. 11 ч. (1) Закона № 109/2016; ст. 1 ч. (4) бук. d) Закона № 131/2012; ст. 2 бук. a) Закона № 1515/1993; ст. 29 ч. (1) лит. i) Закона № 436/2006. Инновационные концепции также предложены в отношении ряда норм, устанавливающих ответственность за нарушение законодательства в области управления отходами, а именно: ст. 223 УК; ст. 113 ч. 2, ст. 115 ч. 4, ст. 154 ч. (41), ч. (8) бук. i), ч. (18) лит. c); ст. 405 КоАП.

Теоретическая значимость работы состоит в уточнении юридической природы ответственности за нарушение норм управления отходами и научном обосновании применения имущественной ответственности за ущерб, причинённый окружающей среде, по специальным правилам.

Практическая ценность диссертации проявляется в предложении отдельных решений по применению гражданской, административной и уголовной ответственности за нарушения порядка обращения с отходами, а также по разрешению конфликтов полномочий при осуществлении контроля за соблюдением законодательства в этой сфере.

Внедрение научных результатов. Идеи, аргументы и рекомендации, изложенные в работе, будут использованы в обучении специалистов, задействованных в сфере управления отходами, а также в научных исследованиях, направленных на обоснование нормативного регулирования ответственности за нарушение законодательства в данной области.

PASCAL Mihaela

LEGAL LIABILITY FOR VIOLATION OF WASTE MANAGEMENT LEGISLATION

Specialty: 552.04 – Land and Environmental Law

Summary of the doctoral thesis in law

Approved for printing: 16.04.2025
Offset paper. Offset printing
Pattern sheets: 2.25.

Paper format 60×90/16
Edition 50 ex.
Order no. ___.

Printing executed at „Clic Media Grup" SRL
M. Kogalniceanu street, 58, Chisinau, MD 2012,
Republic of Moldova