

Report on the International Conference Titled 'Green Criminology and Green Deal'³

On 4-5 March 2024, an international conference on 'Green Criminology and Green Deal: Environment and climate protection – an unshiftable task for criminal law' was held in Miskolc, Hungary, as part of the Alexander von Humboldt Foundation-funded partnership project "On the systematization of criminal responsibility of and in companies"⁴ between the Universities of Heidelberg and Miskolc. The aim of the institute partnership is to systematise practical experience and knowledge on the criminal liability of companies and to discuss criminal policy responses to technological and social changes, involving academics and practitioners (legal profession, public administration and judiciary), doctoral students and law students, to analyse comparative legal and to develop new solution concepts. This conference was the fourth and final event in this partnership project. Academic and practitioner speakers came from Germany and from Hungary, which can look back on an environmentally-oriented tradition of their universities, especially in Miskolc, from Austria, which has repeatedly followed a particular path in the implementation of Union law requirements in criminal law, and from Liechtenstein, an EEA state. The fourth conference aimed to provide a framework for a knowledge-based inter- and intradisciplinary discourse on green criminology and the European Union's Green Deal.

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2 | Prof. Dr. Judit Jacsó is professor at the Faculty of Law of the University of Miskolc and at the University of Economics and Business of Vienna.

3 | This report is originally published in *Europäische Zeitschrift für Wirtschaftsrecht (EuZW)*, 2024/24,1153-1158. This report is translated by Dr. Roland Lindt, assistant lecturer at the Faculty of Law of the University of Miskolc.

4 | The papers presented at the first and the second Humboldt meeting are published in *European Integration Studies* Vol. 17. No. 1. (2021) and Vol. 19. No. 2. (2023) (<https://ojs.uni-miskolc.hu/index.php/eis/issue/view/33> and 169).

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1. Contributions on environment and climate protection

The conference was opened by Prof. Dr. Péter Szűcs, Vice Rector of the University of Miskolc, and Prof. Dr. Csilla Csák, Dean of the Faculty of Law of the University of Miskolc. In his opening speech, Prof. Dr. Jan C. Schuhr, Dean of the Faculty of Law at the University of Heidelberg, highlighted the specific relationship between environmental protection and criminal law and emphasised that criminal law has a special place in the legal system. Therefore, the autonomy of criminal law must always be respected. Moreover, administrative law plays a central role in climate and environmental protection, and therefore the issues of administrative accessory of environmental criminal law and the treatment of offences that circumvent it require comprehensive and in-depth discussion and consideration.

The project leader, Prof. Dr. Dr. h.c. Gerhard Dannecker, Senior Professor at the University of Heidelberg, presented the concept of the meeting. He emphasised that, in addition to a discourse between different legal disciplines, an interdisciplinary approach is essential to make knowledge-based decisions. We need to go beyond the mere juxtaposition of scientific perspectives if a fruitful gain in knowledge is to be achieved. The aim of this last conference within the framework of the institute partnership was to address the current problems of environmental and climate protection and to develop research perspectives and approaches for solutions to improve the protection of the foundations of life, including enforcement by the member states of the European Union (see point 4). The European Union has shown that a union can be brought about through law. This requires the pursuit of a utopia, for which criminal law is particularly well suited because of its strong value orientation.

2. Presentations

2.1. Environment and climate protection an interdisciplinary perspective

The first section of the event, entitled 'Climate protection in interdisciplinary discourse', chaired by Prof. Dr. Dr. h.c. Gerhard Dannecker, was opened by Prof. Dr. Péter Polt, Prosecutor General of Hungary, who presented the current situation in the fight against environmental crime in Hungary, thus providing a comprehensive insight into the practice and experience of the Hungarian prosecutors. Environmental criminal law is characterised by the fact that it is often a form of organised, cross-border crime, requiring international cooperation by law enforcement authorities to gain access to documents and information, especially registers, and to acquire expertise in the field. In addition, Hungarian experience shows that environmental crime is often linked to serious crimes such as human

trafficking, terrorist financing and cybercrime. Criminal organisations play a significant role in this. In order to combat this effectively, there is a need for a well-functioning exchange of information within the European Union, especially at the level of administrative authorities, and for coordinated prosecutions in the countries concerned. In the light of such findings, there is no doubt that even the Member States of the European Union, which generally follow national paths in pursuit of Union law objectives, are committed to the common goal of protecting fundamental sources of life, particularly in the field of climate and environmental criminal law.

Dr. Kinga Szabó-Tóth, Head of the Institute of Applied Social Sciences of the University of Miskolc, then discussed the sociological aspects of climate protection, especially the interventions in nature and their perception, as well as the communication about the sociological aspects of climate protection, in particular social interventions in nature and their perception as well as communication about the consequences of these interventions in society. She highlighted the need for sustainability and resilience from a social perspective, which must be taken into account in addition to economic considerations. Sociological aspects shall also be included, for example, on cooperative decision-making processes between the state, the private sector and civil society actors regarding inequalities in access to of resources and their distribution. These are interdisciplinary issues which, due to the dynamics of the environment and sustainability, can no longer be dealt with by sociology alone or only at a national level. Socio-economic systems need to be adjusted to the changed context, moreover, environmental and risk sociological expertise needs to be broadened: changed conditions require a changed approach. However, changing the status quo is not an easy undertaking because abandoning learned and well-established behaviours requires a new attitude that is no longer unilaterally oriented towards profit maximisation, but rather focuses on social goals such as social inclusion, job creation, sustainability, etc. However, a significant part of the population in Hungary denies climate change, so social acceptance of new approaches is low.

Dr. Tekla Szép, Deputy Head of the Institute of World and Regional Economics of the University of Miskolc, subsequently analysed the economic perspectives of climate protection. She emphasised that the current way of doing business is destroying or at least endangering the natural basis of economic activity, and that a green economy in harmony with nature and the environment is needed: a model that takes account of social impacts and no longer focuses solely on criteria of growth and profit, to the detriment of future generations and social impacts. The aim must be economic development for social well-being, in which environmental protection and economic development are not seen as opposites, but rather as mutually interdependent. In this regard, the need for interdisciplinary discourse with engineering and materials sciences became particularly clear here, for example in terms of the need to increase energy and material efficiency

and with regard to the pressure to increase the use and further development of environmental and efficiency technologies, which are important for international competitiveness. Furthermore, economic opportunities in future green markets depended on sustainable water management, mobility, environmentally sound waste management and recycling. The speaker rightly stressed that a positive overall balance is crucial, rather than a narrow economic balance. However, very little progress has been made until now in the field of climate and environmental protection in Hungary.

Dr. Lajos Szalontai, an engineering scientist at the Earth and Environmental Protection Faculty of the University of Miskolc, then addressed the requirements of engineering sciences for the preservation and development of human living and production spaces. On the one hand, this involves responses to fundamental and structural ecological problems, leading to large reductions in energy and resource consumption, and the environmentally friendly use of resources as a response to climate change and ecosystem disruption. On the other hand, there are technical problems that require the development of specific engineering solutions. Specific tasks were presented to illustrate the challenges of developing scientifically and technically sound solutions for efficient and sustainable resource management. Based on several projects led by the research group to which the speaker belongs, and which has been awarded seven Horizon projects, successful initiatives such as the development through international cooperation of a 'Robominer' for the extraction of minerals from former mines, and a monitoring system for the monitoring of water-soluble rocks leached by surface and groundwater were presented. At the same time, it became clear that the ecological planning and implementation of infrastructure, technical installations and buildings clearly depends on a clear social and legal framework.

Under the chairmanship of Prof. Dr. Ákos Farkas, full professor of the Department of Criminal Procedure and Correctional Law of the University of Miskolc, the focus was placed on climate change.

Ethicist and psychologist Prof. Dr. Monika Bobbert, Director of the Seminar on Moral Theology of the University of Münster, highlighted the open questions and possible debates in the application of the precautionary principle in the field of climate change. Firstly, she underlined that the precautionary principle in politics and law aims at risk avoidance; however, it should be distinguished from the areas of aftercare and risk prevention. Overall, the precautionary principle requires new forms of scientific cooperation between the disciplines concerned. New procedures must be developed for constructive discussion of scientifically controversial issues relating to risks and effective measures, to ensure that the open questions and uncertainties in risk analyses and precautionary measures can be reliably identified, so that decisions can be taken that are neither biased by vested interests nor require excessive precaution. In most cases, however, there are no clear-cut right solutions, only potentially better and worse ones.

The debate has made clear that the precautionary principle is firmly anchored in environmental policy and environmental law, and, despite its flexibility, it confers responsibility on different actors – individuals, companies, states and communities of states. This principle precludes any reduction of liability only in the case of particularly serious damage and thus constitutes a clear point of reference in both political discourse and environmental law. Complex causal chains often make it difficult to foresee and assess the future consequences of current actions. Therefore, public interventions are needed that lead to a democratically legitimised, proportionate restriction of freedom and are aimed at a fair distribution of burdens.

Dr. Mária Lubinszky, Associate Professor and Head of Department, Teacher Training Institute, Department of Psychology, University of Miskolc, psychologist, and Péter Fülöp, psychologist and Head of Research at Ipsos, then discussed the vulnerability of people and climate anxiety among the younger generation and gave an overview of the effects of climate change on the human psyche. They highlighted that children and young people in Hungary are particularly affected by the psychological impact of the climate crisis because they are intensely concerned about their own future. Children and young people are also a particularly vulnerable group because they are at a sensitive stage of development and their coping mechanisms are less developed than those of adults. It is also stressful when adolescents and young adults experience that the security they had hoped for is not guaranteed. This group often reacts particularly emotionally with fear, anger, frustration or helplessness. In addition, knowledge of the climate crisis can lead to exposure to environmental stress factors and cause both acute and secondary stress disorders. These empirical findings from Hungary, which are also emerging internationally, underline the need for environmental protection and the approach of the constitutional courts in the European Union, which attach central importance to the protection of freedoms and fundamental rights in the context of climate protection.

Prof. Dr. Katharina Pabel, Deputy Head of the Institute for European and International Law at the Vienna University of Economics and Business, reviewed the case law of the constitutional courts of the European Union Member States – the German Federal Constitutional Court, the French Conseil d'Etat, the Dutch Hoge Raad, the Austrian Constitutional Court and the Swiss Federal Supreme Court – and commented on the pending applications before the ECtHR. On 9 April 2024, the Grand Chamber of the ECHR found a violation of the fundamental rights of the applicant Swiss 'KlimaSeniorinnen'. The climate targets set out in the Paris Agreement played a key role in these decisions. This is because it was only by reference to these targets that the courts were able to determine the minimum standards of protection required, non-compliance with which leads to a violation of fundamental rights. It has also become clear that climate activists rely heavily on the effectiveness of the courts to achieve their policy goals of promoting

climate protection and enhancing the efforts of states to protect the climate. However, this raises the legal-policy issue of the separation of powers and the limits of constitutional jurisdiction, which may be able to control environmental and climate protection measures, but which cannot replace majority voting in a democracy.

2.2 Environment and climate protection from an intradisciplinary perspective

In the second session, Prof. Dr. Erika Róth, Head of the Institute of Criminal Justice of the University of Miskolc, and Prof. Dr. Judit Jacsó, Head of the Department of Criminal Law and Criminology of the University of Miskolc and Holder of the Chair of Criminal Law of the Vienna University of Economics and Business, discussed the perspectives of different areas of law.

The first speaker, Prof. Dr. Claudia Seitz, Professor at the Private University of the Principality of Liechtenstein, addressed the question of what mechanisms are recognised in climate and environmental law at international and EU level to address the challenges of climate change. Immediately afterwards, Dr. Anikó Raisz, State Secretary for Environment and Circular Economy at the Ministry of Energy Policy in Hungary and Head of the Department of International and Comparative Law of the University of the University of Miskolc shed light on the different mechanisms of action from a Hungarian perspective. The starting point for both presentations was that climate change requires fundamental changes in order to make the transition to a low-emission economy. This requires a structural transformation of the economy and a fundamental change in consumer behaviour.

It was highlighted that European climate policy aims to mitigate the effects of climate change, adapt to climate change at EU level and reduce activities that are harmful to the environment and climate, and that this policy is significantly influenced by international climate policies such as the UN Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement. The 'Energy Union' strategy, developed in 2015 to address the EU's energy policy tasks, is based on the pillars of security of energy supply, an integrated internal energy market, energy efficiency, decarbonisation of the economy, and research and innovation. In order to achieve the 2030 climate and energy targets, a regulation was adopted in 2018 to standardise and restructure Member States' planning and reporting obligations on climate and energy issues. In addition, the EU Member States were obliged to develop long-term strategies for the period up to 2050, into which National Energy and Climate Plans (NECPs) can be integrated. In January 2020, the Hungarian government published an updated version of the National Energy Strategy and National Energy and Climate Plan (NECP), which includes Hungary's climate policy goals up to 2030, with an outlook to 2040.

Dr. Anikó Raisz emphasised the high level of acceptance of nature conservation in Hungary. This is a good precondition for taking and implementing effective climate and environmental measures. She mentioned climate-neutrality, the conservation of drinking water resources, the protection of biodiversity and the need for sustainable environmental protection in general, which are also followed by the European Union, as important goals, as well as the fight against plastic pollution as part of the chemical strategy and the responsibility of manufacturers and suppliers for the entire supply chain in Hungary, up to the disposal of products. There is already a high level of social consensus on this. For Hungary, however, it is important to find national solutions to achieve the targets set by the European Union that are as cost-neutral as possible in order to achieve a high level of competitiveness.

Prof. Dr. Dr. h.c. Gerhard Dannecker discussed the European Union's fundamental requirements for liability in environmental and climate criminal law, which set a binding policy objective for the European Union and a standard that Member States must meet. The presentation focused on the Green Deal, the EU Commission's initiative to strengthen the criminal law protection of the environment. The EU directive, which has recently entered into force, sets new requirements for Member States to transpose into national (criminal) law. These include the obligation to introduce new environmental offences, such as the prohibition of illegal timber trade, as well as setting minimum ceilings for criminal sanctions and a requirement to strengthen cooperation in cross-border criminal prosecution. EU Member States are also obliged to support persons reporting environmental offences. Dannecker identified the complementary nature of public administration as a potential obstacle to effective criminal sanctions and pointed to the need for measures in this respect, such as the circumvention clause. The EU Commission's call for more effective environmental criminal law is based on the central role of transnational organised environmental crime and the assumption that significant criminal profits are made in this area. It is therefore important to address the criminological side of environmental crime, i.e. green criminology.

In his presentation, Prof. Dr Robert Kert, Head of the Institute for Austrian and European Commercial Criminal Law at the Vienna University of Economics and Business, addressed the requirements of the European Union with regard to criminal, civil and administrative sanctions. His presentation focused on the proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law, replacing Directives 2008/99/EC and 2009/123/EC, which has since entered into force on 20 May 2024. He compared the sanctions provisions with those of Directive 2008/99/EC, and pointed out that the European Union is an important impulse generator for Member States' environmental criminal law. This applies in particular to a series of new criminal offences involving damage to the environment of other States only (e.g. unlawful

timber imports), the extension of penalties such as the minimum prison sentence for natural persons and the minimum fine for legal persons, and the effective enforcement required from Member States.

Prof. Dr. Anita Paulovics, Head of the Department of Constitutional Law of the University of Miskolc, and Dr. Szilvia Vetter PhD, Director of the Animal Protection Centre of the Veterinary University of Budapest, presented the specific requirements of sustainable animal welfare, which are of central importance in Hungary. In this respect, the primary focus shall not be on the protection of animals and their welfare and the avoidance of harm. It is not enough to interpret the concept of animal welfare internationally and in the European Union as meaning that no one shall cause pain, suffering or harm to an animal without a reasonable cause. Such a 'negative' approach, which only seeks to prevent harm and suffering, is inappropriate. A positive approach would be preferable, which approximates the status of animals on that of humans and aims for general non-violence. This can be justified on economic, psychological and criminological aspects, which argue in favour of a society that is comprehensively free from violence and suffering.

For the European Union, Art. 13 TFEU requires that in defining and implementing the Union's policies on agriculture, fisheries, transport, internal market, research, technological development and space, the Union and the Member States shall pay full regard to the welfare requirements of animals as sentient beings. This legal solution protects the welfare of individual animals, whereas species protection only protects animal or plant populations from extinction. This protects the welfare of the individual animal, whereas species protection only serves to protect animal or plant populations from extinction. However, animal welfare is not only an EU objective that the European Union should actively promote and support. On 7 December 2023, the EU Commission proposed new regulations for the welfare of animals in transport and presented standards for the welfare and traceability of dogs and cats, setting uniform standards for the breeding, housing and handling of dogs and cats in breeding farms, pet shops and shelters.⁵ In addition, the traceability of these pets shall be improved through mandatory labelling and registration in national databases. The aim is to combat illegal trade and to better monitor the welfare conditions in establishments. Therefore, similar developments are emerging in this area at national level in Hungary, as well as in other Member States and at EU level, which give reason to expect the implementation of harmonised standards.

Prof. Dr. Csilla Csák, Dean of the Faculty of Law and Head of the Institute of Private Law of the University of Miskolc, then addressed the challenges of

5 | Proposal for a regulation of the European Parliament and of the Council on the protection of animals during transport and related operations, amending Council Regulation (EC) No 1255/97 and repealing Council Regulation (EC) No 1/2005, COM(2023) 770 final, Brussels, 7.12.2023.

agricultural policy in supplying the population. She underlined that the agricultural sector is facing a double challenge: on the one hand, it has to produce food, while at the same time it shall protect nature and biodiversity. The prudent use of natural resources in food production is also necessary. However, soil protection has a qualitative and a quantitative function: on the one hand, to maintain or improve soil quality, to counter soil erosion and to reduce ammonia and nitrate pollution; on the other hand, strives to preserve agricultural land, which is why only a small amount of land shall be taken out of cultivation. Moreover, the number of hectares under organic farming has almost doubled in recent years. In addition, the rapid growth of the world's population requires an increase food production. Furthermore, solutions must also be found for the use of expired foodstuffs. All this shows the need to balance nutritional, economic and environmental interests, as found in particular in the EU's organic regulations as a central element of the Common Agricultural Policy in the 2023 to 2027 funding period. At the same time, it is essential to maintain the level of progress achieved, including the specific legislation applicable in Hungary, e.g. on GMO-free agriculture.

Dr. Erika Csema-Váradi, Associate Professor of the Department of Criminal Law and Criminology of the University of Miskolc, gave an overview of green criminology, introducing the empirical side of criminal activity. It is surprising that the field of environmental crime has played only a subordinate role in European criminology, while in the Anglo-American area the field of green criminology has only developed in the last twenty years, yet it is covered in detail. Nevertheless, according to the speaker, there is no question that empirical knowledge is indispensable if a rational criminal policy is to be pursued. Therefore, an overview was displayed regarding the developments in the field of green criminology over the last two decades and the current challenges were outlined.

It became clear that both political and economic actors and ordinary people come into consideration and that the category of victims is too tight because not only people but also nature is affected by the consequences of environmental offenses. It has finally become clear that attempts to explain the relationship between the humanity and the environment, anthropocentrism, biocentrism and ecocentrism, lead to different answers as to how environmental crime is defined and regulated, depending on the underlying epistemological perspective. It is striking that, despite the reform agenda of Green Criminology, there is little interest in integrating the findings of environmental science, environmental economics and environmental ethics into criminological theory.

3. Panel discussions and results: research perspectives and approaches for solutions to improve environmental and climate protection

The presentations were followed by two panel discussions. In the first one,⁶ the topic of ‘Criminal climate protection as a challenge from a national perspective’ was discussed by scholars from Austria, Germany, Hungary, Liechtenstein and Turkey, while in the second,⁷ ‘National, European and International Research Perspectives’ were considered.

The following highlights selected aspects of the discussions that require further research:

- (i) The recognition by the constitutional courts and the European Court of Human Rights in Strasbourg of the subjective, enforceable rights of citizens with regard to climate protection measures also affects criminal law and raises the question of the extent to which the distinction between supra-individual and individual legal interests should be further developed in the field of climate and environmental protection.
- (ii) With regard to the climate emergency, cross-border solidarity in the field of environment and climate protection is needed, which requires a new ethical and legal basis.
- (iii) The issue of resilience, which is becoming increasingly important in the European Union, should also be integrated into environmental and climate protection considerations.
- (iv) As far as climate protection is concerned, the need for criminal defense is much more difficult to communicate than environmental protection through administrative law instruments, so measures to promote acceptance are essential in the field of climate protection. In this respect, criminal law must be structured in a way that administrative law complements it and considers fundamental the principles of sustainability and precaution. In the corporate sector, reckless or negligent behaviour shall be punished alongside intentional conduct. Emphasis shall also be placed on the criminal liability of legal persons, with the threat of fines, confiscation of assets and reparation, the latter generally not in the form

6 | Moderated by Prof. Dr. Dr. h.c. Gerhard Dannecker with the participation of Prof. Dr. Csilla Csák, Prof. Dr. Robert Kert, Dr. Efser Erden Tütüncü (Istanbul Kültür University), Prof. Dr. Anita Paulovics, Prof. Dr. Claudia Seitz, Dr. Erika Csema-Váradi and Dr. Szilvia Vetter.

7 | Moderated by Prof. Dr. Claudia Seitz with the participation of Prof. Dr. Wolfgang Brandstetter (Vienna University of Economics and Business), Prof. Dr. Ede János Szilágyi (University of Miskolc, Ferenc Mádl Institute of Comparative Law), Dr. Lajos Szalontai, Prof. Dr. Judit Barta (University of Miskolc, University of Public Service) and Prof. Dr. Judit Jacsó.

of restitution but of the application of the most environmentally friendly solution.

- (v) Environmentally destructive practices that take place outside EU Member States (e.g. exploitation of rainforests) shall be criminalised in the Member States, so that natural and legal persons under their jurisdiction that commit offences in non-EU countries can be prosecuted in the European Union. It is not enough to extend national rules on the territorial scope of criminal law, since double criminality, domestic and foreign criminality, is often a precondition for the application of criminal law tools.
- (vi) There are significant deficits in the field of green criminology, both in terms of quantitative and qualitative surveys. However, the lack of quantitative data is less significant than is often assumed, because for legal policy measures it may be sufficient if the existence of criminal behaviour can be demonstrated by qualitative studies, such as the expert surveys often carried out by EU institutions, even if the frequency of such behaviours remains latent or the *modus operandi* and other relevant circumstances of perpetration is often unclear, for example whether and to what extent organised crime is involved.
- (vii) From the perspective of legal policy, it has proved particularly important that the protection of the foundations of life cannot be interpreted as a purely national problem, so that environmental law issues arise in the conflict zones between international law, EU law and domestic law.
- (viii) The accessory nature of environmental criminal law requires administrative law provisions that eliminate gaps in enforcement. This requires specific rules on unlawfully obtained authorisations, on the registration of acts that circumvent the law, and on the cross-border effects of environmental law authorisations and their limits.
- (ix) The issue of the protection of human rights beyond human beings should be pursued further and made fruitful for criminal law.
- (x) Considerations regarding introduction of an international criminal law definition of ecocide should be continued and deepened.
- (xi) The establishment of a due diligence obligation imposed on companies by the UN and the OECD should be used to promote environmental compliance and resilience.
- (xii) The requirements of supply chain responsibility is strongly aligned with French legislation (*Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre*), which was favoured by NGOs and therefore needs to be reviewed and complemented from a legal point perspective.
- (xiii) Member States of the European Union, such as Poland and Hungary, which tend to follow their own paths in the European Union and rely on their own legal culture, do not question the need for common protection of the

foundations of life, especially in the field of water protection. This makes it easier to achieve a uniform and coordinated european approach than in other policy areas where the speed of 'Europeanisation' may vary. This opportunity shall be used to achieve a common and consistent approach in the field of climate and environment protection.

- (xiv) The international dimension of the issue, which is particularly evident in the debates on the establishment of an international ecolcide crime, should be taken into account by making greater use of experience and expertise in the field of international negotiations to implement an international environmental and climate protection policy that goes beyond the European Union.